



Appeal Decision

Site visit made on 1 October 2019

by Stephen Wilkinson BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2019

Appeal Ref: APP/W2465/D/19/3232178

131 Anstey Lane, Leicester LE4 OFG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Rogerio J A Desa against the decision of Leicester City Council.
 - The application Ref. 20182003, dated 11 September 2018, was refused by notice dated 25 April 2019.
 - The development proposed is construction of a dropped kerb/access to a domestic driveway.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the local area.

Reasons

3. The appeal site comprises an area of highway on the frontage of 131 Anstey Lane, a semi-detached two storey residential property. This is a classified road with houses set well back from tree lined verges on both sides of the carriageway. A large number of properties have cross overs from this road.
4. The appeal proposal is for the construction of a dropped kerb cross over, 3.6m in width, to enable vehicular access to a parking space which would be located in the front garden of this property.
5. The main issue between the parties is whether the works involved in creating the crossover would impact on the health of a lime tree which lies next to the site resulting in its loss. The appellant submitted a Tree report with the appeal which advises that because the tree has been pollarded for many years this has resulted in a reduced rooting zone limited largely to the area of the grassed verge. Furthermore, it is argued that the proposed works would be limited in scope and would affect only those areas which are already covered in hard surfaces. This would mean that the works could proceed without any damage or consequential loss of the tree.
6. The regular spacing of trees along this part of Anstey Road add to the character of the whole street scene. Saved policy UD06 of the City of Leicester Local Plan

(2006) seeks, amongst other matters to protect landscape features with amenity value.

7. Although the City Council has suggested that in the event of this appeal being allowed a condition requiring 2no. replacement trees should be included it is considered that these would take many years to mature to the extent that they could contribute to the street scene as the existing tree does. The Tree report does not set out with any certainty the extent of excavation required to create the cross over and the depth to which the ground would be disturbed. Furthermore, notwithstanding the advice included in the report there is no substantive evidence to demonstrate conclusively that the root systems of the tree are confined to the grass verge. Consequently, there is a possibility that they could extend to under the pavement and be damaged by the proposed engineering works required to create the crossover.
8. Based on the evidence before me there is an unacceptable risk of harm to the tree which would be detrimental to its long-term health. Given the importance of the tree to the street scene and applying a precautionary principle the appeal should be dismissed to avoid the possibility of the loss of the tree and in this way undermining the character and appearance of the street scene contrary to save policy UD06.

Other Matters

9. The Appellant has stated that there are other street trees close to other crossovers along Anstey Lane. I do not know the history of these sites and cannot comment. However, every appeal has to be determined on its own merits.

Conclusions

10. For the reasons given above and having taken into account all other matters, I hereby dismiss this appeal.

Stephen Wilkinson

Inspector