



Appeal Decision

Site visit made on 29 October 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2019

Appeal Ref: APP/K5600/D/19/3235294

16 Eldon Road, London W8 5PU

- 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 Mr Kola Lawal against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/19/02096, dated 25 March 2019, was refused by notice dated 11 June 2019.
 - The development proposed is described as 'Demolition, rebuilding including basement, third floor mansard and two story side extension and internal alteration works'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the De Vere Conservation Area, having particular regard to protected trees.

Reasons

3. The appeal property comprises an end of terrace dwelling located in the De Vere Conservation Area (CA). To front of the appeal dwelling is a cherry tree (the tree) which is the subject of a Tree Preservation Order (TPO). It is proposed to fell this tree, along with several others and vegetation, in order to facilitate the proposed extensions and other external works to the appeal dwelling. The appellant has provided an independent arboricultural assessment, within which the tree is assessed as having moderate quality and value.
4. A conservation area appraisal for the CA has not been submitted, but from my site visit and the evidence before me, I consider that the significance of the CA derives, in part, from the presence of large, ornate period properties and their respective gardens, landscaping and boundary features. The cherry tree is one of a number of notable trees close to the appeal site which are prominent in the street. As such I find that it has a high amenity value. Combined, these elements give the area a notable sylvan character and appearance, which complements its architectural and historical richness, contributing to the suburban character of the area and significance of the CA.
5. The advanced position of the tree within this corner plot, close to the junction of Eldon Road and Stanford Road, means it is eminently visible within the wider

street. Furthermore, even though my site visit was carried out during the autumn, the tree was a notable feature of the street and, according to the pictorial evidence submitted by several third parties, it appears even more striking and colourful during the spring time when it is in blossom. I find that the tree is highly valued and is a recognised natural asset in the street, this is recognised through its inclusion as a TPO.

6. The appellant and Council states that the tree has been pruned poorly in the past. With this in mind, it is put to me that a replacement tree in the same location would be of higher quality and would preserve the streetscape. However, I find that the height, canopy spread and overall shape and form of the tree contributes to the setting of the appeal property and the visual amenity of the area. Trees of such maturity, condition, and appearance would not be replicated by immature planting and, in the long-term, cannot easily be replaced, particularly within the urban environment.
7. Even though a new tree may have a longer lifespan than that it would replace, there is nothing in the evidence before me to suggest that the existing tree would not continue to make a significant contribution to the area for many years to come. Consequently, I find no justifiable reason for the tree to be removed and a replacement tree would not satisfactorily compensate for the loss of the tree in this case.
8. The harmful effect I have identified, in accordance with the National Planning Policy Framework (the Framework), would result in less than substantial harm to the CA. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that this matter carries considerable importance and weight. The redevelopment of the appeal property, including an increase in its internal floorspace, would increase the size of the dwelling which would improve the living environment, with direct and indirect benefits to the local economy through its construction. I have applied modest weight to this, in the context of paragraph 196 of the Framework, as they can be considered as public benefits. However, the public benefits in this case would not be sufficient to outweigh the less than substantial harm, for the reasons I have identified.
9. For the foregoing reasons, I conclude that the development would not preserve or enhance the character or appearance of the CA, having particular regard to protected trees. The development would be contrary to Policies CL3 and CR6 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan 2015 which requires, amongst other matters, that the loss of trees is resisted unless the tree has little or no amenity value, the tree is causing significant damage to adjacent structures, or there are good arboricultural reasons for removing it. In all cases the removal of a tree should preserve or enhance the character or appearance of the CA, which is not the case here. In accordance with paragraph 193 of the Framework, I have applied great weight to the conservation of the significance of the CA.

Other Matters

10. I appreciate that the Council's officers recommended that the application be approved, only for it to be subsequently refused by the planning committee. In reaching my decision I have taken into account the Council's officer report, along with the responses from consultees including the Council's arboricultural officer, but I find unacceptable harm for the reasons given.

11. Third parties have raised additional concerns including, but not limited to, the impact of the proposal on car parking and on the living conditions of nearby occupants, the design and appearance of the proposed extensions, and the potential for the area to flood due to the proposed excavations. Whilst the Council did not object to the proposal on these grounds, it has not been necessary for me to consider these matters further given I am dismissing the appeal on other grounds.

Conclusion

12. For the reasons given above, the appeal should be dismissed.

Matthew Woodward

INSPECTOR