



Appeal Decision

Site visit made on 16 March 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th April 2020

Appeal Ref: APP/U5360/W/20/3244141
35 Cazenove Road, London N16 6PA

- 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 North London Muslim HA against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2019/1361, dated 8 April 2019, was refused by notice dated 12 July 2019.
 - The development proposed is the provision of off-street parking to the front garden and demolition of part of the front boundary brick wall to form an opening for vehicular access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on the character and appearance of the area and on highway safety.

Reasons

Character and appearance

3. The appeal site is located on the north side of Cazenove Road where, in the vicinity of the appeal site, there are a mixture of terraced and semi-detached residential properties. Several properties along the road have dropped kerbs and parking areas to their respective property frontages.
4. The site is also located within the Northwold and Cazenove Conservation Area (NCCA) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
5. The Council's concern predominantly relates to the potential impact of the proposal on the London Plane tree which is located within the footway to the front of the appeal property.
6. However, the appeal application site does not include any of the footway and relates only to the appeal property itself. The Appellant also notes that the dropped kerb and works within the highway would be permitted development by virtue of the Town and Country Planning (General Permitted Development) Order (2015) (as amended). Whilst this may well be the case, the removal of

- the wall is part of the overall development which would facilitate the provision of a new access.
7. The tree itself is a large tree which contributes greatly to the streetscene. The Appellants tree survey categories the tree as an 'A2' tree which is also a clear indication of the positive visual amenity effect the tree has on the streetscene. At my site visit I observed that the footway surrounding the tree is formed of a bound gravel. However, this gravelled area is breaking up around the base of the tree particularly in the region where the proposed access would be.
 8. The proposed access would be located in close proximity to the tree, as would the dropped kerb necessary to facilitate access to the appeal site itself. As noted in the arboricultural method statement, the pavement would also need to be lowered to allow for the access to be formed. Given the visible position of the roots of the tree, in my opinion, the works would be highly likely to result in some damage and/or removal of tree roots to the detriment of the long term health and vitality of the tree.
 9. Taking all of the above into account, and on the basis of the evidence before me, I consider that the overall development would be likely to have an adverse impact on the health of the tree. Any damage to the tree, or its total loss, would also have an adverse impact on the character of the NCCA.
 10. I have also considered whether my concerns in this respect could be controlled by means of any suitably worded planning conditions. In this case, given the proximity of the access driveway to the tree I am not convinced that the harm could be mitigated to an extent that would render the overall development acceptable.
 11. The Council have indicated that the loss of part of the front boundary wall would have a minimal visual impact on the area and would adequately preserve the character of the NCCA. Given the nature of the front fencing and walling I have no reason to disagree with that view. However, given that this would only preserve (as opposed to enhance) the NCCA, this is a neutral factor in the overall heritage balance.
 12. In the context of the National Planning Policy Framework (the Framework), the level of harm I have identified must be considered to be less than substantial. Paragraph 196 of the Framework states that where a development would lead to less than substantial harm to the significance of a designated heritage asset (such as the NCCA), this harm should be weighed against the public benefits of the proposal.
 13. The Appellant has stated that the provision of two off street parking spaces would help alleviate some of the on-street parking pressures – even when the loss of one off-street space is taken into account. This must be considered to be a public benefit. However, such a benefit is clearly very modest.
 14. Taking this benefit into account, I am of the opinion that the public benefits of the development, do not outweigh the harm I have identified to the character of the NCCA.
 15. For the above reasons the overall development would harm the character of the NCCA and would conflict with Core Strategy Policy 25 of the Hackney Local Development Framework Core Strategy 2010 (CS) and Policies DM28 and DM35 of the Hackney Development Management Local Plan 2015 (LP) which

amongst other matters seek to preserve the character of the Conservation Area. The proposal would also conflict with the conservation principles of the Framework.

Highway safety

16. The proposal would result in an additional vehicular crossover over the pavement. To the front of the appeal site the pavement is in the region of 3 metres wide, although the presence of the street tree restricts the width for passing pedestrians. That said, from my site visit I saw that there was ample width to enable pedestrians to pass the site.
17. Along this section of Cazenove Road there are several properties which already have crossovers to access parking areas to the respective properties including the adjoining property 33 Cazenove Road.
18. Whilst the introduction of an additional vehicle crossover would introduce the potential for further conflict between pedestrians and vehicles, it must be said that the level of such harm is minimal to the extent that in my opinion such a small level of harm would not justify the withholding of planning permission on this ground alone.
19. In coming to that view, I acknowledge that the street is used by a large amount of pedestrians and cyclists. However, it is significant that the proposal would not generate extra traffic and would only involve a very small increase in vehicles crossing the pavement.
20. Turning to the loss of an existing on-street parking space, the proposal would inevitably result in the loss of a small area of such provision. However, as noted by the Appellant, the proposal would result in a net increase in the number of parking spaces in the area. Whilst I acknowledge that the new spaces provided would not be for public use, I consider that the proposal would not result in any tangible harm.
21. The Council have also referred to Core Strategy Policy 24 in their reason for refusal. However, this policy is a general design policy and does not particularly relate to matters of highway safety.
22. For the above reasons the proposal would not give rise to any significant harm to highway safety and would accord with Policies 6.3 and 6.13 of The London Plan (2016), Core Strategy Policy 6 of the CS and Policies DM46 and DM47 of the LP which amongst other matters seek to ensure that development should not adversely affect safety on the transport network and take full account of the needs of pedestrians, cyclists and other users.

Conclusion

23. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR