



Appeal Decision

Site visit made on 3 August 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2020

Appeal Ref: APP/R2520/D/20/3248762

Bottom House, Chapel Lane, Harmston, Lincoln LN5 9TB

- 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 Michael Brereton against the decision of North Kesteven District Council.
 - The application Ref 19/0585/HOUS, dated 25 April 2019, was refused by notice dated 19 December 2019.
 - The development proposed is erection of two storey front extension and two garages to include annex accommodation at first floor level.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents. I consider that subsequent description to accurately represent the proposal and I have therefore used it within this decision.

Main Issue

3. The main issue is the effect of the proposal on a protected tree.

Reasons

4. The appeal site is located in the Harmston Conservation Area (CA). The extension to the front of the dwelling would be located within the root protection area (RPA) of a tree which is protected due to its location within the CA. There is some uncertainty as to the species of this tree, but the Tree Report¹ submitted by the appellant concludes that it is a Dawn Redwood and based on the evidence before me I see no reason to disagree.
5. The tree is in a prominent location on the boundary between the dwelling and an area of open space. The CA Assessment² identifies the open space as an Important Space and the tree as part of an Important Tree Grouping. This also identifies this area of Chapel Lane and Hill Top as being an Important View. As a prominent feature within the streetscape, I saw that the tree makes a

¹ CBE Consulting, 10 May 2019, Ref: P1800/0519/01

² Harmston Conservation Area - An Assessment of the Character and Appearance of the Conservation Area 2007

significant contribution to these important elements of the CA as well as to its wider verdant character.

6. The amenity value of the tree has been compromised to a degree by a crown lift which has removed the lower canopy. The evidence suggests that this has resulted from a historical unauthorised crown lift, with a subsequent consent to tidy up the unauthorised works, as opposed to an agreed management strategy for the tree. However, even within that context, I saw that the tree continues to make a positive contribution to the streetscape and the character and appearance of the CA. This reflects the conclusions of the Tree Report which identifies the tree as a category 'B2', this being a tree whose retention is considered desirable and is in such a condition as to make a significant contribution.
7. The appellant emphasises that his concerns relate to the effect of the tree on the extant property, irrespective of the decision regarding the proposed extension. He refers to cracking on the rear wall of the house, which may reflect structural issues concealed by render as well as cladding on other elevations. However, the evidence provided by the appellant is not conclusive on whether this cracking results from the protected tree.
8. In the Tree Report, the arboricultural consultant states that he cannot see any sustainable way of maintaining the tree in this position and that removal of the tree would be the only practicable option. However, these comments were made in the relation to the effect of the projection of the extension into the RPA, rather than the effect of the tree on the extant property.
9. The Structural Appraisal³ concludes that it cannot categorically state that the tree is or has caused significant damage to the property, although nor does it state that it won't cause damage in the future. The comments in the Structural Appraisal are therefore advisory rather than representing substantive evidence which justifies the removal of the tree.
10. Similarly, although the RICS Home Buyer Report expresses concern about the proximity of the tree, it only advises further investigation and does not include substantive evidence in respect of existing or future damage. The Mortgage Valuation Report includes general comments on the management of nearby trees but also indicates that cracks are not considered to be serious or progressive, subject to the limited nature of the inspection.
11. The guidance from the Royal Horticultural Society and the NHBC is also set out in general terms and does not lead me to conclude that the tree has, or will lead to, cracking or other structural issues.
12. The tree canopy projects towards the roof of the existing dwelling to the extent where it is touching the roof slope. However, whilst this is not ideal, the overhang is not excessive and does not justify the removal of the tree. In any event, there is no evidence that this issue cannot be managed through judicious pruning of the canopy. I note the comments from the arboricultural consultant⁴ that the tree is in the wrong place and far too close to the original house. But this does not lead me to a different conclusion in the absence of substantive evidence in respect of the effect of the tree on the structure of the extant property. The fact that a previous owner has undertaken unauthorised

³ Martin Osborne Design Services, 6 Oct 2019, Ref: 17/240/LT1

⁴ Chris Barker, e-mail 10 August 2019

- works also does not demonstrate that the tree is in an inappropriate location to an extent which justifies its removal.
13. Whilst the tree may not be covered by a specific Tree Preservation Order, this does not diminish the protection afforded to it as a result of its location within the CA or the weight I give to that protection.
 14. I have considered the potential for replacement planting of trees in the vicinity. However, such planting would take time to fully mature and in the short to medium term would not compensate for the loss of the protected tree. In any event, the potential replacement of a protected tree does not justify its loss without sufficient evidence to support its removal.
 15. The appellant has requested that consideration be given to a further crown lift for the tree as well as works to the roots. However, there is no substantive evidence that these would enable the retention of the tree should the proposed extension be built. Furthermore, in relation to the effect on the existing property, there are other procedures available to the appellant in this regard.
 16. Whilst the Council does not object to the design of the extension as such, a lack of harm is not a benefit and this does not outweigh my concerns regarding the loss of the tree. I note the frustrations expressed by the appellant in relation to the advice from the Council and the decision process leading up to this appeal. However, this is not a matter for this appeal which I have determined on its planning merits.
 17. I conclude that the proposal would lead to the loss of a tree which makes an important contribution to the character and appearance of the streetscape and the CA. Whilst the harm to the CA arising from the removal of the tree would be less than substantial in the terms of the National Planning Policy Framework (the Framework), there are no public benefits that would outweigh that harm. The appeal site is located within the Lincoln Cliff Area of Great Landscape Value and the loss of the tree would harm the value of this landscape, albeit to a limited degree in respect of the area as a whole.
 18. The proposal would therefore be contrary to Policies LP17, LP25 and LP26 of the Central Lincolnshire Local Plan 2017 with regards to the protection of the historic environment and important views, as well as the retention of trees. The proposal would also be contrary to the Framework in respect of achieving well-designed places and conserving and enhancing the historic environment.
 19. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR