



Appeal Decision

Site visit made on 5 August 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Appeal Ref: APP/N4720/W/20/3253044

Highgate, Street Lane, Roundhay, Leeds LS8 1DF

- 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 Bill Bailey against the decision of Leeds City Council.
 - The application Ref 19/07779/FU, dated 17 December 2019, was refused by notice dated 20 April 2020.
 - The development proposed is described as "The re-submission of the withdrawn planning application 19/02748/FU/NE withdrawn on the 02-10-2019. The proposed construction of new residual three bedroom with mezzanine level property. The demolition of the existing detached garage and the reconstruction in the same location of the new detached garage. The proposed property is set within the rear garden of Highgate".
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, including the Conservation Area, with particular regards trees within and adjacent to the appeal site.

Reasons

3. The appeal proposal would result in the development of a substantial independent dwelling and the subdivision of the rear garden of the appeal property. The dwelling would be constructed on special foundations and be situated under the crown spread of the prominent existing trees within and adjacent to the site.
4. The appeal site is situated within Roundhay Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
5. The significance of this part of the CA relates to the number and quality of period residential properties, set in large plots with mature trees creating a verdant suburban character. The trees within and adjacent to the appeal site are particularly prominent features within this part of the CA and make a positive contribution to the character and appearance of the CA.

6. At the site visit I saw, and from the evidence before me, it is clear that the proposed development would take place in very close proximity to the existing trees, including beneath the crown spread of the trees and well within the root protection area (RPA) identified by the appellant's Arboricultural Impact Assessment Plan. It is the appellant's case that, in this regard, "technical details developed for the proposed property will negate the risk of any detrimental impact to the existing trees".
7. The technical details submitted by the appellant consist of the use of screw piles with foundation slabs above, subject to individual siting and digging by hand. The submitted plans nonetheless show that a considerable number of foundation points would be required to support the proposed structure that would in turn cover much of the root protection areas and sit beneath the crown spread of the of the trees.
8. The appellant refers to BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations'. Which the appellant states "detail trees protection requirements and outlines various protection methodologies, that may be adopted to help ensure the retention of existing trees close to proposed development, even when the development is within the Root Protection Area."
9. I have not been provided with a copy of the document but from previous experience I am aware that the document recommends that in circumstances where alternative design solutions are not available, such that construction is proposed within the RPA, technical solutions that might limit the damage to the retained trees may be available, but the default position nonetheless is that structures should be located outside of the RPA.
10. While I have been provided with some evidence from the appellant with regards the rational for the location of the proposed dwelling on the site and the technical details that may lessen the impact on the proposed development on the trees, I am not satisfied that it has been demonstrated that the proposed development would not have a significant detrimental impact on the retained trees.
11. Furthermore, the location of the proposed dwelling, being partially located under the crown spread of more than one tree, would inevitably lead to some shading and nuisance effecting the living conditions of future residents, additionally creating a potential desire to carry out works to the trees to resolve this situation, albeit works that would require the consent of the Council.
12. On the basis of the evidence before me I am not satisfied that it has been demonstrated that the proposed development would not have a significant detrimental impact on the retained trees and thus the character and appearance of the area and thus the CA.
13. For these reasons, the proposal would neither preserve nor enhance the character or appearance of the CA. The harm caused to its significance would be less than substantial. The approach in paragraph 196 of the Framework is that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.

14. That the appeal scheme would provide a new dwelling within an existing urban area is a material consideration that weighs in favour of the appeal, but it does not outweigh the harm that I have previously identified. Harm which, given the requirements of the Act and guidance in Paragraph 193 of the Framework, carries great weight. The proposal would therefore be contrary to the aims of the Framework in this regard.
15. To conclude, the proposed development is contrary to Leeds Core Strategy policies H2, P10, P11 and P12 and saved policies N19, GP5 and LD1 of Leeds Unitary Development Plan that seek, amongst other matters, to protect natural and historic features that contribute positively to the character and appearance of the surrounding area, and the CA.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

Mark Brooker

INSPECTOR