



Appeal Decision

Site visit made on 15 December 2020

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2021

Appeal Ref: APP/U4610/D/20/3260671

27 Brownhill Green Road, Coventry CV6 2AP

- 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 Gurcharan Rabidas against the decision of Coventry City Council.
 - The application Ref HH/2020/0979, dated 25 April 2020, was refused by notice dated 24 July 2020.
 - The development proposed is the installation of a dropped kerb and footway crossing for a vehicular access at the above property.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the locality with particular regard to the proposed removal of a mature roadside tree.

Reasons

3. The appeal site lies in a predominantly residential street of consecutive short terraces set behind front gardens which accommodate landscaping and/or parking areas. The street benefits from a broad width on account of a carriageway bordered by verges and pavements. Along with the front garden spaces these provide a sense of spaciousness between the rows of buildings.
4. The streetscape along the substantial length of Brownhill Green Road is enhanced by well-spaced mature roadside trees set within the grass verges. These are a positive element in the streetscape and contribute significantly to the character of the locality. In this and other parts of the road, the mature tree cover has been augmented with later periods of planting to reinforce this character.
5. The proposal to install a dropped kerb and vehicle crossing to enable a vehicle to pull onto the front of the site would require the removal of one of the mature trees. Despite management of the tree which has seen it pollarded in the past, the tree is of some stature and, although it was bare of leaves at the time of my site inspection, taken with the other trees will provide a significant seasonal greening in the locality. Even in dormant periods, the trees are prominent such that they are an active and attractive feature of the streetscene which contribute to the quality of the locality.

6. The removal of the tree would be detrimental to the visual amenity of the area and result in a significant adverse impact on the quality of the streetscene and there is no proposal to provide compensation for its loss. The appellant's arboricultural advisor has identified that the tree shows signs of infestation by moth caterpillars that, alongside root constraints and compaction of the root zone, could make the tree susceptible to disease and suffer a shortened lifespan. Although the report states that some early signs of infection are present, the lifespan is still estimated to be up to 20 years.
7. Whilst the assessment considers the tree to be of low quality, unremarkable and of impaired condition, this does not undermine its contribution to the streetscape either individually or as part of the consecutive sequence of trees. The constraint of the roots by hard surfacing and compacted verges appear to be common to the majority of the mature trees along the road and does not seem to have compromised its development. Moreover, the tree appears of a similar size and quality to other trees in the vicinity such that there is a sense of consistency and rhythm to their presence in the streetscape.
8. In support of the appeal the appellant directs me to other examples of where trees have been removed along the road to facilitate vehicular access. From the evidence provided, I note that the removal of a tree close to 204 Brownhill Green Road was set back from the highway edge and had little of the presence of scale or maturity of the appeal scenario. The circumstances of an example at 63 Brownhill Green Road where a tree of similar stature was removed are unclear, however, the resultant gap in the row of consecutive large trees would not be so great as the case before me, a case I have considered on its own merits.
9. Policy GE4 of the Coventry City Council Local Plan [2017] (LP) requires, amongst other things, that the loss of existing trees as a result of development are replaced with new trees. This is consistent with section 197 of the Town and Country Planning Act 1990 which requires that in granting planning permission for any development adequate provision is made for the preservation or planting of trees. However, it is unclear from the evidence before me whether the loss of the tree could be suitably mitigated in this locality. Accordingly, the imposition of a planning condition requiring direct compensation in the immediate vicinity of the identified loss is unlikely to pass the test of reasonableness and could nullify any benefit of a permission it might be attached to. In those circumstances and in the absence of any alternative mechanism to secure compensatory planting the loss would not be mitigated.
10. For the above reasons, I find that the proposal would cause significant harm to the character and quality of the locality through removal of a tree providing a positive contribution to the street scene. It would thereby conflict with Policy GE4 of the LP as it seeks to prevent the unacceptable loss of existing trees and/or secure replacement planting.

Other Matters

11. The appellant advises that the development would facilitate access to the dwelling for a family member with mobility impairment and it would also improve general access in the locality on account of removal of paving displaced by root growth. Disability is a 'relevant protected characteristic' and I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. This sets out the need to eliminate

unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. It does not follow from the PSED that the appeal should succeed; however, I am required to have due regard to the duty in arriving at my decision.

12. Whilst I acknowledge the benefits that would result to the appellant's family circumstances, I note that this is not necessarily dependent on the proposed development. Such benefits could potentially be achieved through implementation of alternative measures to improve accessibility including the provision of level paving across the roadside verge and within the site. Alternatively, improvements to an access to the rear of the premises emerging between 23 and 25 Brownhill Green Road could be achieved. In the case of vehicular access, this would be limited to smaller vehicles on account of the restricted width at the front corners of those dwellings. Furthermore, there is little evidence to demonstrate that any necessary illumination could not be provided without significant adverse impact on neighbouring living conditions. Benefits to the public footway could be achieved by relaying and/or regrading of the footway.
13. Whilst I readily accept that some of these changes could be impractical or provide limited improvement, it has not been demonstrated that other less impactful measures could not provide the necessary benefits. Although a refusal of planning permission may deprive the family of improved access to the front of the site, it would not necessarily prevent the ability to provide level access by other means. Moreover, the proposed development would result in the permanent loss of the tree, the harmful effects of which would endure if the current occupants should choose to move from the property.
14. Accordingly, I find those personal circumstances are not a strong justification for setting aside national and local policies with the legitimate aim of protecting trees and the quality of the streetscene in the public interest. Consequently, those matters attract no more than moderate weight in favour of the appeal scheme having regard to the particular circumstances of the case and do not outweigh the harm I have identified.

Conclusion

15. For the above reasons, the appeal should be dismissed.

R Hitchcock

INSPECTOR