The Planning Inspectorate

Appeal Decision

Site visit made on 20 October 2020 by C McDonagh BA (Hons) MA MRTPI

by Susan Ashworth BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/Y5420/D/20/3249248
35C Eastern Road, Hornsey, London N2 9LB

- 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 Brendan Meehan against the decision of the Council of the London Borough of Haringey.
- The application Ref HGY/2018/3686, dated 22 November 2018, was refused by notice dated 7 February 2020.
- The development proposed is subterranean excavation of rear garden to create a below-ground swimming pool outbuilding at lower ground floor and a plant room at basement level, and associated alterations including a green roof, walk-on floorlight and balustrade at garden level.

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The effect of the development on a tree covered by a Tree Preservation Order (TPO) and any resulting effects on the character and appearance of the Fortis Green Conservation Area.

Reasons

4. The appeal site comprises a three-storey townhouse and its rear garden and is located in a well-established residential area. The proposal involves the excavation of land at the rear of the house to form a swimming pool below ground level, with an associated plant room and ancillary features.

5. The site lies within the Fortis Green Conservation Area, the significance of which is derived in part from the architectural form and character of the buildings as well as from the mature trees. The Eastern Road street scene itself is characterised by large trees which contribute to a pleasant suburban environment and, thereby, the significance of the area as a designated heritage asset. A substantial mature cedar tree, located within the grounds of a neighbouring property but overhanging the appeal site, is prominent from within the public realm and forms an impressive backdrop to the houses. It

therefore makes a positive contribution to the street scene and the character and appearance of the CA.

6. The Arboricultural Impact Assessment (AIA) submitted with the application indicates that the proposed development would be located within the Root Protection Area (RPA) of the cedar tree. Furthermore, the AIA states that the original development of the houses accounted for a 7.5% incursion into the RPA of the tree, while the proposed swimming pool would account for a further 7.9% incursion.

7. BS 5837: 2012 (BS) defines the RPA as 'the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as a priority'. The appellant's Arboricultural Method Statement (AMS) recognises this. The BS also recognises that intrusion into soil (other than for piling) within the RPA is generally not acceptable.

8. An 8m trial trench has been excavated along the length of the boundary of the site which has identified six roots, approximately 15mm to 30mm in diameter, emanating from the cedar tree. A photograph shows it is likely that this trial trench was dug with a spade and as such, it is probable that many smaller fibrous roots of the tree within the RPA have already been removed.

9. All six roots would need to be severed to implement the proposal. Given the size of these roots, together, they are likely to provide an important function for the stability of the tree and for its water and nutrient uptake. This is more so given that the RPA of the tree has previously been encroached into. Whilst it is suggested these roots could be sleeved and incorporated into the proposed green roof area, it is unclear how this would be successfully achieved and the vitality of the roots preserved, particularly given that the construction of the proposal would be likely to take some time. The BS identifies that fibrous roots are also important for the health of a tree. In light of these factors, the proposed encroachment into the RPA of the tree is likely to detrimentally affect its long-term health and life expectancy.

10. 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. The National Planning Policy Framework (the Framework) sets out at paragraph 193 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to that asset's conservation.

11. On the basis of the evidence before me, and taking into account the proposed mitigation work set out in the AMS, I conclude that the proposal would be likely to have an adverse effect on the long-term health of the tree, the loss of which would ultimately diminish the character and appearance of the Conservation Area and its significance. In terms of the approach set out in paragraph 193 of the Framework, great weight should be given to a heritage asset's conservation. Given that the proposal relates to only part of the Conservation Area, this proposal would cause less than substantial harm to its significance. Paragraph 196 of the Framework states that where a development proposal would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal. No public benefits have been advanced in this case.

12. For the above reasons, the proposal would therefore conflict with Policy SP13 of the Haringey Local Plan, Policies DM1 and DM18 of the Haringey Development Management DPD and Policy 7.21 of the London Plan. Collectively these policies seek the protection, maintenance and management of existing trees and ensure development contributes to the distinctive character and amenity of the local area. There would also be conflict with the aims of the Framework with regards to the preservation of heritage assets.

Recommendation

13. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

C McDonagh

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR