

Appeal Decision

Site visit made on 2 February 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2021

Appeal Ref: APP/P4605/W/20/3262867

6 Parklands Drive, Sutton Coldfield B74 2QU

- 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 S Sabzevari against the decision of Birmingham City Council.
 - The application Ref 2020/01256/PA, dated 11 February 2020, was refused by notice dated 13 May 2020.
 - The development proposed is demolition of existing dwelling house and erection of new dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development has been taken from the appeal forms and the decision notice, which more accurately describe the proposal compared to the application forms. The appeal has been dealt with accordingly.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The site is located along Parklands Drive, which comprises large detached dwellings that are varied in appearance, comprising a mix of materials and proportions without unifying designs. These are generally set amongst large plots with mature trees, hedgerows, and ornamental landscaping features prominent to the front and the rear of each dwelling. This creates a leafy vernacular, which is afforded protection by a number of tree preservation orders in the area. It follows that natural boundary treatments associated with the majority of dwellings in the area have the effect of softening the built form, and on my site visit the presence of hard boundary treatments was muted with only limited examples in the vicinity, sites being mostly open in appearance.
5. The site is consistent with the character and appearance of the wider area insofar as it comprises a substantial number of mature trees protected by tree preservation orders. These trees are located in close proximity to the existing dwelling to the north and south. Indeed, the tree constraints plan demonstrates the existing dwelling already extends an appreciable distance into the root protection areas of these trees. Alongside the trees, ornamental landscaping, such as manicured hedgerows, other vegetation, and a large front lawn, help soften the prevailing built form of the existing dwelling.

6. The proposal would introduce a new retaining wall along the western boundary, together with new sliding gate and metal railing. This would be in conjunction with a high metal railing along the southern boundary. These engineering works and hard boundary treatments would erode the effect of existing landscaping in softening the new dwelling's built form at the site, whilst also enclosing the site. Consequently, it would be incongruous with the existing arrangements at the site and the open and leafy character and appearance of the wider area more generally.
7. The proposal would also introduce a larger dwelling at the site. The proximity between the existing dwelling and trees on the site would mean that the proposal would extend further into the root protection areas of several trees subject to tree preservation orders. This would erode the integrity of the root protection areas, which serve to ensure that the roots and integrity of the trees themselves are not put at risk.
8. The appellant contends it is sometimes acceptable to allow for root protection area encroachment of up to 10%. However, it is somewhat vague in its suggestion and it is not therefore clear in what scenario this would be appropriate. In any event, based on the information submitted, it appears such an approach is taken from a superseded version of the current relevant standards comprising BS 5837: 2012 and carries limited weight under the appeal.
9. The structural report demonstrates that the existing foundations would support the proposed dwelling, however whilst this may be the case it does not necessarily demonstrate the larger footprint of the dwelling would not impinge on the integrity of root protection areas of trees subject to the tree preservation orders.
10. Altogether, there is a lack of convincing evidence that any built form should be allowed within the root protection areas identified, as a matter of principle. For example, although the proposal may minimise excavations, it has not been clearly set out that building over root protection areas is less harmful by comparison, or that this is in line with the provisions of BS 5837: 2012.
11. In conjunction with my site visit, it has also been demonstrated in evidence that dwellings in the area vary in design. Consequently, even though the proposal would introduce a somewhat unique arrangement of materials and less common design features, there is no one consistent vernacular which would be restrictive to new design proposals. Furthermore, the finer detail of the materials could be secured by planning condition, in order to ensure finishes are appropriate, amongst other things. In this context, I cannot conclude that the design of the main building comprised in the new dwelling would be incongruous in character and appearance.
12. Nonetheless, and altogether, the proposal would still erode the integrity of trees subject to tree preservation order by building over root protection areas and diminish the existing soft landscape character through hard boundary treatments and other forms of engineering. Overall, the proposal would harm the leafy character and appearance of the area. It would therefore conflict with Policies PG3, TP7 and TP27 of the Birmingham Development Plan 2017 and saved Paragraph 3.14C of the Birmingham Unitary Development Plan 2005. Among other things, these seek to maintain and expand a green infrastructure network, including trees, throughout Birmingham.

Other Matters

13. The limited scale of the proposal would generate similarly limited socio-economic benefits which would not outweigh the harms identified under the main issue or conflict with the development plan, which carries substantial weight.
14. Notwithstanding the contentions about the existence of permitted development rights, there is no lawful development certificate in front of me demonstrating that this is the case. Consequently, these contentions carry limited weight.
15. The Council's administration of the original planning application in the context of the pandemic is not a matter for me to deal with under the appeal, which has been determined based on the evidence presented and in accordance with the development plan and other material considerations.

Conclusion

16. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR