



Appeal Decision

Site Visit made on 11 May 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Appeal Ref: APP/W2465/W/20/3261705

Holmwood View, 15A Holmwood Drive, Leicester LE3 9LG

- 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 R Smith against the decision of Leicester City Council.
 - The application Ref 20201479, dated 10 March 2020, was refused by notice dated 14 October 2020.
 - The development proposed is new garden office single storey building.
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Decision

1. The appeal is allowed and planning permission is granted for new garden office single storey building at Holmwood View, 15A Holmwood Drive, Leicester, LE3 9LG in accordance with the terms of the application, Ref 20201479, dated 19 August 2020, subject to the following conditions:
 - (1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - (2) The development hereby permitted shall be carried out in accordance with the following approved plans: P01 B (Site Plans & Location Plan), P02 B (Plans and Elevations) and P03 A (Landscaping Detail Planting Plan).
 - (3) The approved planting as indicated on plan Ref P03 A shall be carried out in the first planting and seeding seasons following the commencement of the development hereby approved. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - (4) The development hereby permitted shall incorporate the surface water drain link to the garden office as indicated on Drainage Layout – Drawing No 100 Revision 3 and the surface water drain link shall be fully integrated into the existing drainage infrastructure on the site before the development is first brought into use.
 - (5) Before any development takes place beyond slab level, a Sustainable Drainage System (SuDS) scheme of permeable paving and water butts to serve the garden office shall be submitted to and approved in writing by the local planning authority. Once approved the development shall be completed in accordance with the approved SuDS scheme before the building is first brought into use.

Preliminary Matters

2. I have deleted the words ‘...to rear of 15a Holmwood Drive’ from the description of the proposal given they repeat the application site address and are not a description of development.

Background and Main Issue

3. Planning permission was previously granted on the site¹ (the existing permission) for the erection of a two-storey building containing 11 extra care flats (3 x 1 bed; 8 x 2 bed) (Class C2); communal facilities; associated parking and landscaping at rear of 15 Holmwood Drive. A copy of a landscape plan (drawing no 50212/002 A) has been provided which the Council advises was approved as part of the discharge of conditions related to this planning permission. This previously approved landscape scheme would require amendment to accommodate the proposed garden office building. The Council’s report confirms that the development would not have a significant detrimental impact on the visual amenity of the surrounding area. Its concerns primarily relate to the amended planting proposals which in the Council’s view would not adequately mitigate for previous tree losses on the wider site, including those that were covered by a Tree Preservation Order, in terms of a resultant loss in biodiversity.
4. Therefore, having particular regard to the above, the main issue is:
 - whether the proposal would fundamentally undermine the levels of biodiversity secured under the existing planning permission.

Reasons

5. The evidence before me indicates that the proposed garden office would be located on a part of the site which previously consisted of species-poor rough grassland and that there were no trees located within the footprint of the proposed building. The Council accepts that a Biodiversity Impact Assessment (BIA) to determine if a biodiversity net gain or other green infrastructure benefits can be achieved is not required for the proposal. From the evidence before me I find no reason to disagree. Taking these factors into account, I am satisfied that the appeal proposal would not itself result in the loss of a landscape feature of any significant biodiversity value.
6. Notwithstanding the above, the Council clearly sought to secure appropriate landscaping on the site to mitigate the loss of trees resulting from the existing planning permission. At the time of my visit, the previously agreed planting next to the rear boundary of the site had not been undertaken. The proposal would encroach into part of the previously agreed landscaping towards this boundary.
7. Some of the planting associated with the appeal proposal would be tightly positioned between the proposed garden office and the boundaries of the site. The repositioning of a heavy standard Malus ‘Golden Hornet’ would also result in new tree planting being grouped closer together next to the rear boundary than was previously approved. Even so, the overall planting numbers and specifications would be substantively unchanged as would the relationship of the new planting with the canopy of existing trees to the other side of the rear

¹ LPA Ref 20161627

boundary. There is no substantive evidence before me, to suggest that the alterations to the planting scheme would have a tangible effect on the growth of the planting or the overall levels of biodiversity secured.

8. For the above reasons, I conclude, the development would not fundamentally undermine the levels of biodiversity previously secured on the site. In that regard, the development would comply with the requirements for new development to include planting proposals and to maintain connections for wildlife, by creation of new habitats in Policy UD06 (Landscape Design) of the City of Leicester Local Plan (2006) and Policy CS17 (Biodiversity) of the Leicester City Core Strategy (2014).

Other Matters

9. The Council has drawn my attention to the Tree Survey Report dated 19 December 2018 indicating that the trees identified as T10 and T11 are to be removed as part of the development of the site. However, the proposed layout and landscaping plans submitted as part of the appeal scheme indicate that these trees are to be retained. Furthermore, the parties do not dispute that these trees sit outside the red line application site boundary. A condition can be attached requiring the appeal proposal to be carried out in accordance with the submitted drawings. Therefore, any proposals to undertake works to trees T10 and T11, would fall outside the scope of the appeal and would be a separate matter for the parties to discuss.

Conditions

10. I attach the standard timescales for implementation and an approved drawings condition in the interests of certainty.
11. I have considered the Council's request for a condition requiring a Landscape and Ecological Management Plan (LEMP). However, any conditions must be reasonable in scope and relevant to the development before me. Any concerns that previous conditions have not been complied with including the implementation of approved planting are a matter for the Council to monitor under the respective conditions under the existing planning permission. Therefore, a condition to ensure that the revised planting proposals provided are implemented within the first available planting season should development of the garden office commence is sufficient in this instance.
12. The Council has suggested detailed drainage conditions which include a requirement for a Sustainable Drainage System (SuDS) (together with long term maintenance and management of the system) as well as a further separate condition also requiring details of drainage. Conditions which require re-assessment of drainage for the whole site would be disproportionate and would not be reasonably related to the scale of the proposal before me. The Council has confirmed that there is no issue in principle with expanding the drainage network on the site to serve the proposed garden office. Therefore, I have included a condition requiring the surface water drainage link to the building, as indicated on the drainage layout provided, to be provided and fully integrated into the existing drainage infrastructure on the site.
13. From the evidence before me, the Council has gone to considerable lengths to ensure SuDS have been incorporated into the drainage solution for the wider site. I find the Council's reasoning for integration of SuDS methods into the

proposed development to be persuasive in order to reduce pressure on the drainage system. In this respect I am particularly mindful that the site is located within a critical drainage area. The measures suggested take into account the relatively small scale of the garden office. Therefore, it is reasonable to attach a condition requiring precise details of a SuDS scheme of permeable paving and water butts to serve the development to be provided and once approved implemented.

14. Given that a green roof is not proposed and that the Council has not provided any substantive evidence to justify a requirement for one, I have not included the Council's suggested condition in this regard.
15. I have carefully considered the appellant's request that no conditions are attached on the grounds that information has already been provided and that they are reluctant to enter into the process of discharging conditions given their previous experiences regarding delays in the process. However, details approved under the existing planning permission did not account for the proposal. Details of landscaping and drainage which incorporate the proposed building needs to be appropriately secured. The conditions attached do not include any pre-commencement requirements and therefore commencement of the development will not be unreasonably delayed. Whether or not there have been previous difficulties in discharging conditions on the site, this does not convince me that conditions should be omitted where they are necessary to ensure an acceptable development and have been justified on reasonable planning grounds.

Conclusion

16. For the reasons set out, the appeal is allowed.

M Russell

INSPECTOR