



Appeal Decision

Site visit made on 12 January 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2022

Appeal Ref: APP/P3610/W/21/3276399

Fennies Day Nurseries, 1A Hook Road, Epsom, KT19 8TH

- 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 Bradley Fenn against the decision of Epsom and Ewell Borough Council.
 - The application Ref 21/00041/FUL, dated 12 January 2021, was refused by notice dated 8 March 2021.
 - The development proposed is relocation of external bin store, erection of new timber fencing and new concrete slab to replace existing block paving at the entrance to the nursery school car park.
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Decision

1. The appeal is dismissed.

Main Issue

2. Whether the development preserves or enhances the character or appearance of the Adelphi Road Conservation Area including the effect on a lime tree and whether it preserves the setting of a listed building.

Reasons

3. The Adelphi Road Conservation Area is in two parts. Adelphi Road is a cul-de-sac of nineteenth century artisan cottages but there is also a more diverse group around the junction of Hook Road and East Street. This includes the appeal site which contains a former National School dating from 1840 which is Grade II listed. This is built in yellow stock brick with ashlar stone dressings and a pitched slate roof. The original building has been substantially extended.

Lime tree

4. The lime tree is in the northern corner of the site adjacent to the vehicular entrance. It is seen clearly along Hook Road from within the conservation area. As well as its intrinsic value as an attractive specimen it provides some relief to the otherwise dense development in the vicinity. The surrounding environment is affected by traffic, signage and control measures around a busy inter-section and there is also an advertisement hoarding. In this context the tree makes a positive contribution to the significance of this heritage asset.
5. The timber store has been erected to screen the bins and concrete has been laid around the base of the tree. The lime is in close proximity to an office building. As a result its scope for full growth is restricted. Pruning took place in 2012 and is likely to be required again in the next few years to avoid

- nuisance. Whilst this does not alter its importance within the local scene it does set the context for evaluating the impact of the development undertaken.
6. The appellant's arboricultural consultant accepts that a concrete pad around the lime tree is far from ideal. However, it replaced block paving to a similar depth and therefore one hard surface has been substituted for another. An area of bare soil has been retained around the base of the tree which is covered by a root protection system. The stem is enclosed by a steel cage. The concern is that moisture and gaseous exchange has been reduced as a result of the works. However, there is no indication that damage has occurred to the stem or structural roots of the tree. Moreover, limes are hardy and generally tolerant of urban situations such as this.
 7. The solid base is likely to prevent water percolation to a greater degree than the paving. However, there is no clear evidence that this would have such an adverse effect on the tree that its long-term health would ultimately be jeopardised. The undertaking of work without planning permission should not be condoned but there is also a valid point that requiring the removal of the base would be more likely to be detrimental to the tree than leaving it in situ.
 8. The evidence is that the original block paving had become distorted by the roots. This is borne out by the condition of the surfacing around the whitebeam at the front of the site. Therefore this material is not necessarily superior to concrete in this respect. It is possible that the new floor will crack over time although the appellant argues that this would occur at a slower rate compared to block paving. However, the condition of the surface is a matter of maintenance for the owner. It seems unlikely that this would lead to irresistible pressure to fell the tree.
 9. Therefore no harm has occurred to the health and vigour of this tree and there is no conflict with Policy DM5 of the Development Management Policies Document which seeks to protect and enhance trees within the Borough.

Bin store

10. The railings along the entire front boundary of the site are a cohesive feature redolent of the former Victorian school. They form an integral part of the immediate setting of the listed building as well as being significant within the conservation area. The closely spaced slats of the bin store are higher than the railings. More significantly, the timbers block views through the rails thereby seriously compromising their function and appearance. Because of its position closer to the road the structure has a greater visual impact than the previous bin and buggy stores. The palisade fencing opposite is lower and it is the only means of enclosure at the front of these properties. Therefore this does not justify the proposed store.
11. Furthermore, the solidity of the timber obscures the base of the tree. Consequently, when seen from a distance, it appears to float rather mysteriously above the ground. This would not previously have been the case and prevents a full and proper appreciation of this semi-mature lime.
12. The development is small in scale but nevertheless it is highly visible. Moreover, it is functional and utilitarian and detracts from the railings and the tree that are important elements within this part of the conservation area as

well as from the setting of the listed building. The overall effect on the historic environment is therefore negative.

Heritage balance and findings

13. In the words of the National Planning Policy Framework the development has led to less than substantial harm to the significance of these heritage assets. It has nevertheless allowed additional parking to be created to serve the pre-school nursery.
14. At face value this is not consistent with the Government's aim of promoting sustainable transport given the proximity of the railway station and bus routes serving the town centre. Transporting small children may well be easier by car but there is no evidence that the parking area was previously inadequate. Given that they would be escorted by an adult it is not obvious that arriving or leaving on foot would be inherently unsafe. The store deters litter from being poked through the railings but this could equally occur at any point along the site frontage. Therefore, having undertaken the balance required by paragraph 202 of the Framework, the public benefits do not outweigh the heritage harm.
15. Therefore neither the character and appearance of the conservation area nor the setting of the listed building has been preserved. As such there is conflict with Policy CS5 of the Core Strategy and Policies DM8, DM9 and DM10 of the Development Management Policies Document which are concerned with heritage assets, townscape character and design requirements.

Conclusion

16. The proposal does not accord with the development plan and there are no other considerations to override that finding or the harm to designated heritage assets. Therefore, for the reasons given, the appeal does not succeed.

David Smith

INSPECTOR