



Appeal Decision

Site visit made on 25 January 2022

by Elaine Benson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2022

Appeal Ref: APP/V4630/D/21/3281348

37 Gower Street, Walsall WS2 9AS

- 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 Muhammad Ishfaq against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 21/0208, dated 8 February 2021, was refused by notice dated 20 July 2021.
 - The development proposed is 1. double storey rear side extension and catslide roof with side dormer and 2. single storey side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the health and longevity of the adjacent street tree.

Reasons

3. The proposed side extension and new sewer would be within the root protection area of a healthy, mature London Plane street tree located on the pavement of Berkeley Street, adjacent to the application site. The required foundations for both extensions and the drainage run could potentially sever significant tree roots, leading to its instability, decline and/or death. As the tree is of high public amenity value, such harm to or loss of the tree would significantly harm the character and appearance of the surrounding area.
4. The appellant submitted an Arboricultural Survey and Report (ASR) in support of the appeal proposal to confirm that the proposed works would not impact the root protection area. Although the appellant states that it was not part of the planning application and it shows a different, earlier proposal and does not show the sewer/drainage details, the ASR does provide some helpful technical guidance in relation to the tree. The ASR indicates that the harm could potentially be mitigated by pre-foundation investigations leading to a foundation design decided in consultation with a foundation engineer and arboricultural consultant, as well as arboricultural supervision.
5. There is a drainage plan indicating the location of inspection chambers and their invert levels and structural calculations relating to the construction of raft foundations. I also noted the sloping ground levels. However, there is insufficient evidence to demonstrate that the presence of the adjacent tree has been fully taken into account in the design of the scheme. Furthermore, there

is no evidence of any professional or technical verification of the foundation design by an arboricultural expert.

6. To conclude, the evidence does not demonstrate convincingly that the proposed development is possible without damaging the roots of, or otherwise harming, the adjacent street tree which is important to local character. For these reasons the proposed development is contrary to the aims and objectives of saved UDP policies ENV18 and GP2 and the SPD Conserving Walsall's Natural Environment, policy NE8 and the National Planning Policy Framework (the Framework).

Other matters

7. There are other methods of improving the security of the host property which do not depend on the front/side extension shown in the appeal proposal. Moreover, subject to the receipt of the required additional technical information and appropriate mitigation measures, the proposed scheme could potentially be acceptable.
8. I have concluded that the proposal could result in harm to or the eventual loss of an important street tree, thereby harming the character and appearance of the surrounding area. Thus, the proposal could not reasonably be described as sustainable development as defined by the Framework.
9. The appellant is concerned about the length of time the Council took to determine the appeal application and the documents deemed necessary to do so. The Council's own internal procedures would be more appropriate to address these matters. This appeal decision can only be based on planning considerations.

Conclusion

10. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Benson

INSPECTOR