



Appeal Decision

Site visit made on 21 July 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2022

Appeal Ref: APP/A2280/W/22/3294539

83 Fleet Road, Rochester ME1 2PX

- 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 Ms Diana Davis Pulikoden against the decision of Medway Council.
 - The application Ref MC/21/2767, dated 13 October 2021, was refused by notice dated 31 December 2021.
 - The development proposed is described as: 'change of use of amenity land for the creation of a vehicle crossover with associated hard standing for off road parking'.
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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 adjacent street tree.

Reasons

3. The appeal site is located along Fleet Road, a straight residential street comprising of predominantly semi-detached dwellings. The pavement to either side of the road is wide, often incorporating a grassed verge. Street trees of a consistent height and form, growing within the verges, form a loose avenue to either side of the road. Many of the properties have off street parking with hardsurfaced front gardens and crossings over the verges. The consistent trees and verges are attractive and unifying features of the streetscene that give Fleet Road a verdant character.
4. Unlike its neighbours to either side, 83 Fleet Road has no off street parking at present with a front garden enclosed by a low brick wall. This abuts the pavement beyond which is a grassed verge that includes a street tree. This is set away from the boundary line with the adjoining dwelling and makes an important contribution to the streetscene as part of the wider group.
5. It is proposed to hardsurface the driveway and form a vehicular crossing over the verge following the removal of the brick wall. Due to the position of the tree forward of the existing front garden, the proposed verge crossing would pass very close to its trunk. I have not been provided with details of any Root Protection Area (RPA) or any indications as to the extent of the root plate,

however in accordance with the proposed site and block plan¹, the crossing would extend well beneath the existing canopy of the tree.

6. On the basis of the evidence before me, at least a degree of excavation and hardsurfacing would in all likelihood occur within the tree's root plate. Damage to the root plate could adversely affect the health of the tree potentially causing its failure. Any loss of the tree would adversely affect the verdant character of the area. Having regard to the above, there is no robust evidence before me, such as an arboricultural impact assessment, to establish if or how the wellbeing of the street tree would be safeguarded and that harm to character and appearance would be avoided.
7. There are a number of properties that have driveways that cross the verge occupied by trees. However, unlike the appeal site, in many cases these trees are set to one side of the frontage of the dwelling, broadly in line with the side boundary between adjacent properties. In these circumstances there is more space to form an access away from the roots of the tree. Furthermore, I have not been provided with details of any grant of planning permission relating to these examples, and so I cannot be certain that the circumstances are the same or whether protection measures were incorporated into those schemes. Nevertheless, I have considered the appeal proposal on its own merits, and moreover I would note that existing harm is rarely justification for additional harm.
8. On the evidence that is before me, I am not convinced that the proposed development could be constructed without causing harm to the street tree. The proposed development would therefore be contrary to Policy BNE43 of the Medway Local Plan (2003) which seeks to ensure new development retains trees, woodlands, hedgerows and other landscape features that provide a valuable contribution to local character.

Other Matters

9. On the evidence that is before me, I have no doubt that the proposal would be of benefit to both the appellant and her parents providing ease of access and electric vehicle charging opportunities. However, these are essentially personal benefits as opposed to the public harm I have identified above. Furthermore, there is no compelling evidence before me that attaining those benefits is reliant on this particular scheme, without any arboricultural impact assessment.

Conclusion

10. For the reasons given above, having considered the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR

¹ 1267-02