
Appeal Decision

Site visit made on 23 November 2022

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2022

Appeal Ref: APP/N4720/D/22/3302984

5 Church Gardens, Drighlington, Bradford BD11 1NF

- 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 Cooper against the decision of Leeds City Council.
 - The application Ref 21/09404/FU, dated 17 November 2021, was refused by notice dated 26 April 2022.
 - The development proposed is two storey extensions to side and rear of property, new entrance porch/canopy to front and new gate in boundary wall.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original refusal reason referred to adjacent trees protected by a Tree Preservation Order (TPO) (T1 & T2). However, the Council have advised that T1 (Cherry) is not covered by the TPO. Their concerns therefore relate to T2 (Common Lime) which is covered by the TPO.
3. Following on from the original refusal of the application a Statement¹ was submitted alongside the results of an air spade investigation². Having considered these, the Council no longer have significant concerns regarding any impact of the two storey extensions upon the Root Protection Area of T2.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, including its effect on T2 with particular regard to construction methods and development drainage as well as longer term impacts.

Reasons

5. T2 sits within the garden of a modern residential dwelling. Along with other trees close by on both sides of Church Lane, it makes a significant positive contribution to the character and appearance of the area both within its own right and as part of the wider grouping.
6. Given that as a result of current and past ground conditions there appears to be limited scope for the foundations of the extension to conflict with roots

¹ Tree Care Consultancy Arboricultural Consultants, Statement of Stephen Waterson.

² Tree Care Consultancy Arboricultural Consultants, Airspade Investigation Plan 06/07/2022.

associated with T2, it is unlikely that it would be reasonable to require special methods of construction within the RPA of T2.

7. Equally, there is nothing before me to suggest that conditions and an Arboricultural Method Statement/Tree Protection Plan could not be used successfully to both require details of drainage and service runs. These are said to run to the other side of the site where a gated section of Church Gardens provides the development access.
8. However, despite it being suggested that the tree would clear the height of the extension at the current time, there is an acknowledgement that future growth of the tree may cause the foliage to come into close contact with the structure³. The BS⁴ advises that structures should be designed/located with due consideration for the ultimate growth of the tree so as to reduce the need for frequent pruning/maintenance.
9. When considering this matter, I am also mindful of the potential longevity of the tree. The AIA⁵ states the life expectancy as 20 to 40 years on the early mature tree, but Lime Trees can have a useful safe life expectancy of 200-300 years under garden conditions.
10. Further, I am mindful that the existing occupants appear to be comfortable to have part of their dwelling in extremely close proximity to the tree. They appear accepting of its physical presence and any light limitations and residue produced by the tree.
11. However, the ownership of the dwelling could change many times over the remaining life expectancy of the tree, and for others, being beneath an ultimately large tree may prove a significant source of concern. The need for frequent pruning could also prove a cumbersome burden to other future occupiers.
12. As a result of the resultant close proximity of the tree and the extension, there could therefore be significant future pressure to remove the tree if the extension were permitted in the location proposed. The loss of the tree would have a significant adverse impact on the character and appearance of the area.
13. The proposal would therefore fail to accord with Policy P12 of the Leeds Core Strategy (2019) (CS) and Policy LAND2 of the Natural Resources and Waste Local Plan (2013). Amongst other things these policies require the protection of Leeds Townscapes and Landscapes and development that should conserve trees wherever possible.
14. Saved Policy LD1 of the Leeds Unitary Development Plan Review (2006) appears to relate to landscape schemes only and I do not find it directly applicable to the matters before me.

Other Matters

15. There are concerns that the Council did not work positively with the appellant during the course of the application. However, this is a separate matter beyond the scope of my considerations of the planning merits.

³ Tree Care Consultancy - Response to Council Appeal Statement 14 December.

⁴ BS 5837:2012, Trees in relation to design, demolition and construction – Recommendations.

⁵ Arboricultural Impact Assessment, Report Reference TCC-1511-1, Appendix 3.

16. The inclusion of tree, hedge and shrub cover at the site by the appellant does not justify the proposal and I afford this matter limited weight. There is nothing compelling to suggest that the proposal will enhance security in the area. The design quality of the proposal does not provide justification for it.

Planning Balance and Conclusion

17. There is nothing to indicate that the decision should be made otherwise than in accordance with the development plan and I therefore conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR