



Appeal Decision

Site visit made on 27 June 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2023

Appeal Ref: APP/V2004/W/22/3312307

22 Strensall Road, Hull, East Yorkshire HU5 5TD

- 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 and Mrs Cichal Aslan against the decision of Hull City Council.
 - The application Ref 21/01587/COU, dated 4 July 2022 was refused by notice dated 9 September 2022.
 - The development proposed is described on the application form as to build a garage as per plan and also buy the land to the side of the house. With 3 trees on (the trees will be staying). Also widen the dropped kerb to allow easy access as to the narrow road access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has not raised concerns about the proposed garage, and I have no reason to take a different view. My decision therefore focuses on that part of the proposal relating to the area of open space.

Main Issues

3. The main issues are the effects of the proposal on the character and appearance of the area including nearby trees; and on the provision of open space.

Reasons

Character and Appearance

4. The area of open space that is the subject of the appeal is laid to grass and contains three trees. It is located at the junction of Strensall Road and Dayton Road. A similar area of open space sits on the opposite side of Dayton Road.
5. The open space is one of several such areas in the surrounding area which provide visual relief and a sense of openness within an otherwise well-developed area, contributing positively to the character and appearance of the area. The trees further add to the verdant appearance of the open space and make a significant positive contribution to the visual amenity of the area, especially when viewed in conjunction with the other nearby street trees.
6. The proposal would comprise the portioning off of the open space to provide an enlarged garden area for the dwelling at 22 Strensall Road. The area would be enclosed by a 1.8 metre high fence along the back edge of the pavement on Dayton Road and along the rear boundary of the site, and a short length of 1.2

- metre high fencing to the front facing towards Strensall Road. The area would therefore be separated from the public realm both functionally and visually.
7. Notwithstanding that a small area to the front would remain open, the fencing would bring a noticeable sense of enclosure to this part of the street which would detract significantly from its positive open characteristics.
 8. The existing side boundary treatment at 22 Strensall Road comprises a timber fence of similar height to that proposed. The dwelling that sits across Dayton Road from the site also has a similar height of fence along its rear garden. However, while timber is a material present in the street scene, these fences are set back from the road, sitting to the rear of the open spaces rather than the back edge of the pavement. Consequently, they do not have the same enclosing effect as the proposal would.
 9. I appreciate that the fencing would only affect a relatively short stretch of Dayton Road when the street is considered as a whole. Nevertheless, the fencing would be in a prominent location and due to its height, length, and positioning, would appear as a dominant and incongruous feature that would detract from the open and verdant character and appearance of the street scene.
 10. The tops of the trees would remain visible above the fencing. However, part of their value to the character and appearance of the area is how they are seen with the other street trees. This would be noticeably disrupted by their enclosure, and consequently their value to the visual amenity of the area would be materially diminished.
 11. Furthermore, the proposal would involve works close to the trees, and so there is a risk that they could be adversely affected by works within their root protection areas. No assessment of the effects of the proposal on the trees has been submitted and so I am not able to conclude that there would be no unacceptable harm caused. Given the important contribution that the trees make to the character and appearance of the area, it is important to understand the possible effects before a decision is made on the acceptability of the proposal, and so it is not a matter that should be dealt with through a planning condition.
 12. Although enclosing the area of open space would have a significantly harmful effect on the character and appearance of the area, I am not persuaded that its scale would be such that it would have an unacceptable adverse effect on the risk or fear of crime.
 13. For the reasons stated above, I conclude that the proposal would have an unacceptable effect on the character and appearance of the area, and it has not been adequately demonstrated that the proposal would not harm the nearby trees. Accordingly, it would conflict with the requirements of Policies 14 and 45 of the 2017 adopted Hull Local Plan 2016 to 2032 (the Local Plan) where they seek to secure development that supports the delivery of a high-quality environment and only allow for the loss of trees of significant amenity value where there is deemed to be an immediate hazard to public safety. There would also be conflict with the design objectives of the 2021 National Planning Policy Framework.

Open Space Provision

14. Policy 42 of the Local Plan recognises that open space, sport, and recreation and play facilities are important to the quality of place and to people's overall wellbeing. The policy therefore seeks to protect such areas from development.
15. I appreciate that the site is small in comparison to other areas of open space noted as being available elsewhere within the area and is smaller than those specifically listed in table 12.4 of the Local Plan. However, Policy 42 also seeks to protect other existing areas of open space including amenity green space which is described in table 12.1 of the Local Plan as grassed areas for informal recreation set around housing areas. I have no reason to consider that the site does not provide some value to local residents for informal recreation. Given that access would be denied to the public as a result of the proposal which would change its use to domestic garden, the option for residents to use the area as informal space would be removed. Moreover, as stated above, the open space makes a positive contribution to the character and appearance of the area.
16. Policy 42 of the Local Plan states that existing areas of open space, including all open space that meets the criteria in table 12.1, should not be built on unless certain circumstances are met. There is no evidence before me to indicate that the open space is surplus to requirements or that an equivalent or better provision would be made. The proposal is not for an alternative sports or recreational provision. The proposal would not therefore satisfy any of the exceptions for development on open space in Policy 42.
17. I therefore conclude that the proposal would be harmful to the provision of open space. As such, it would conflict with the requirements of Policy 42 of the Local Plan as summarised above.

Other Matters

18. I appreciate that the proposal would provide an extended garden which would enable the parking of vehicles at the property to help protect them from damage. However, this does not alter or outweigh my conclusions on the harm that would be caused by the proposal.

Conclusion

19. The proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR