
Appeal Decision

Site visit made on 8 August 2023

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/P4605/D/23/3321813

132 Wolverhampton Road South, Birmingham B32 2BG

- 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 George Kapositas against the decision of Birmingham City Council.
 - The application Ref 2023/00771/PA, dated 3 February 2023, was refused by notice dated 31 March 2023.
 - The development proposed is a dropped kerb to gain access to the property (driveway to be constructed).
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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 character and appearance of the local area, with particular regard to trees.

Reasons

3. The proposal is a dropped kerb that would provide a new vehicle crossover to serve the appeal property, which is a semi-detached house that is set back from the road within a mainly residential area. The new crossover would enable vehicular access from Wolverhampton Road South across a grass verge and footway to a new hard surface area immediately in front of the house.
4. The Council raises concern that the proposal may result in harm to 2 existing roadside trees; one on each side of the new crossover. As both of these trees are attractive in themselves and form an integral part of a distinctive row of trees that line both sides of the main carriageway as it passes the site, they have high amenity value. These trees, together with generous grass verges, positively contribute to the verdant qualities of the street scene to which No 132 belongs and the character and appearance of the local area.
5. The appellant states that the new access would be around 2.75 metres and placed at least 1.5-metres away from tree roots. However, this arrangement would appear to fall short of the Council's minimum separation distances between the proposed crossover and the nearest trees to it, which is designed to ensure their protection.
6. Whether or not the distance between either tree and the new crossover is similar to existing dropped kerbs elsewhere along Wolverhampton Road South,

these specimens would be close to the proposal and at least some earthworks would be required. From the information provided, and from my observations on site, I am not convinced that the proposal would meet the Council's minimum separation distance requirements. On that basis, I am unable to conclude that the proposal would not materially harm the health or longevity of either tree or that a condition could be imposed to safeguard them. If either tree were to be removed, it would result in the loss of a specimen of high amenity value. It would also introduce a harmful visual break in the row of roadside trees along this section of Wolverhampton Road South.

7. I note that the proposal has been designed to reflect the existing dropped kerb and driveway that serves No 130, which is attached to the appeal property, and which the appellant regards as to be a similar arrangement. The Council states that the dropped kerb at No 130 was approved in 2018 and was not considered to be detrimental to any roadside trees. As there is no evidence to the contrary before me, those circumstances differ to the proposal.
8. I also saw several examples of vehicle crossovers close to roadside trees further along Wolverhampton Road South to which the appellant has referred. The background details of these existing crossovers are not before me and so I am unable to confirm whether they are directly comparable with the appeal scheme. Even if the Council has been inconsistent in its decision taking by deciding to approve crossovers elsewhere and not here, this is insufficient reason to allow the appeal.
9. On the main issue, I therefore conclude that the proposed development could cause significant harm to the health and longevity of the roadside trees at the front of the site. Such harm has the potential to significantly reduce the positive contribution made by these trees to the visual amenity, character and appearance of the local area.
10. Accordingly, the proposal conflicts with Policies PG3 and TP7 of the Birmingham Development Plan, Policy DM4 of the Development Management in Birmingham Development Plan Document and the Birmingham Design Guide Supplementary Planning Document. These policies and guidance aim to ensure that development recognises the importance of street trees in promoting the character of a place and avoids the loss of, and minimise the risk of harm to, existing trees of quality. It is also at odds with the National Planning Policy Framework (the Framework), which states that development should be sympathetic to local character and add to the overall qualities of an area.
11. The appellant considers that he has been unequally treated on this occasion because other similar schemes have come forward. However, in the absence of details to clearly explain the circumstances in which these existing accesses have been introduced it is difficult to draw direct parallels with the proposal. In any event, it is a central planning principle that each case should be assessed solely on its own merits, which I have done.

Conclusion

12. Overall, the proposed development would conflict with the development plan, when read as a whole. There are no material considerations, including the policies of the Framework, which indicate that the decision should be taken other than in accordance with the development plan.

13. For the reasons set out above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR