



Appeal Decision

Site visit made on 03 October 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16.10.2023

Appeal Ref: APP/P4605/D/23/3324995

10 Ladywood Road, Sutton Four Oaks, Sutton Coldfield, Birmingham B74 2SN

- 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 Nock against the decision of Birmingham City Council.
 - The application Ref 2023/01427/PA, dated 03 March 2023, was refused by notice dated 27 April 2023.
 - The development proposed is the erection of single storey forward and side garage extension with storage room in roof space.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the appeal property and the Four Oaks Conservation Area.

Reasons

3. The appeal site comprises 10 Ladywood Road, a large, detached dwelling with a double gabled roof design and a pitched roof garage to the side. The dwelling is located in a private road of substantial, detached individually-designed dwellings which are set back from the road within large landscaped plots.
4. The site is located within the Four Oaks Conservation Area (CA) which covers the residential suburb to the east of Sutton Park. The prevailing character of the area is formed by large, detached houses set in densely landscaped grounds within tree-lined private avenues. This contributes to the verdant and spacious character of the CA, which, along with the quality of architectural design, appears to be part of its significance. Whilst the appeal property is set back within the plot, it is visible from the street scene where it's architectural quality, along with its setting within landscaped grounds, make a positive contribution to the character and appearance of the CA. Trees within and adjoining the appeal site have a high amenity value which positively contribute to the verdant qualities of the street scene and the CA.
5. The trees within and adjoining the appeal site are protected by reason of being in a conservation area. The proposed extension would be located close to the eastern site boundary shared with 8 Ladywood Road, along which there are a number of substantial trees, some of which overhang the appeal site.

6. The proposal would result in a single storey forward extension with a single gabled roof design. This roof form would be consistent with the appeal property's double gabled roof design. The extension would be constructed using materials to match those used in the host property and the window design and proportions would be consistent with those in the existing dwelling.
7. The ridge and eaves levels of the proposed extension would sit below that of the main dwelling and the extension would appear subservient to the appeal property. Whilst the extension would project forward of the principal elevation of the dwelling and would be visible from the front elevation and wider street scene, given its subservient scale, sympathetic design, and the siting of the dwelling within the plot, it would not cause undue bulk in the street scene or imbalance the composition of the existing dwelling. Additionally, given the variety in dwelling design in the street, the proposal would not undermine the continuity of the street scene.
8. The appeal proposal is supported by a tree survey and supplementary report dated 04 February 2021 (SR). The SR states that 3 trees which border the appeal site overhang the site boundary by between 4 and 8 metres. The SR concludes that the extension can be achieved by using less invasive foundations that will minimise potential damage to the tree roots of the oak trees and beech tree which border the site. A letter from A. L. Smith, Chartered Arboriculturist, dated 15 March 2021 (supporting letter), states that these trees would need pruning back, and that the proposal can be constructed without placing the health and future wellbeing of the trees at risk.
9. However, the SR and supporting letter appear to relate to an earlier proposal¹ which was smaller in height than the appeal proposal. Given the greater height of the appeal proposal and the height and siting of the branches in relation to the proposed extension, there are significant differences between the appeal submission and the earlier proposal. These differences may result in alternative effects on these trees. Therefore, I attribute limited weight to these documents. Additionally, whilst it is asserted that the extent of pruning required as a result of the appeal proposal would not be significantly more than that required by the previous proposal, evidence of this has not been provided.
10. Whilst the affected trees are set back from the site frontage, nonetheless the pruning of them required to facilitate the proposal has the potential to reduce their positive contribution to the verdant qualities of the CA. Consequently, the effect of the proposal on these trees needs to be fully understood before making a judgement on the proposal. Thus, it is not appropriate to approve an arboricultural method statement for the safeguarding of these trees by condition.
11. Additionally, whilst it may well be the case that these trees currently place a burden on the occupiers of the appeal property, and that they may require pruning back in any event, I have not been presented with any particular evidence that the level of general pruning that would be required would be of the same extent as that required to facilitate the appeal proposal. Therefore, there is no evidence that the general maintenance of these trees would result in the same harmful effects on the CA as the appeal proposal.

¹ Reference: 2021/06164/PA

12. The site is within the Four Oaks Conservation Area, and I have a duty to have special regard to section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Whilst I find that the design and scale of the proposed extension itself would not result in harm to the character and appearance of the appeal property and the CA, nonetheless it has not been satisfactorily demonstrated that the proposal can be carried out without harm to trees which contribute to the special qualities of the CA. Consequently, the proposal would detract from the distinctive character and appearance of the CA and would fail to preserve its significance. I find that the harm would be less than substantial in this instance but nevertheless of considerable importance and weight.
13. Under such circumstances, paragraph 202 of the National Planning Policy Framework (the Framework) advises that this harm should be weighed against the public benefits of the proposal. There would be limited economic benefits during construction of the proposed development but there is little substantive evidence that this, or the primarily private benefits of the proposal, would be sufficient to outweigh the less than substantial harm that I have found.
14. Whilst I have found that the design of the extension itself would not result in harm to the character and appearance of the appeal property or the CA, nonetheless, as a consequence of the effect of the proposal on trees which make an important contribution to the character and appearance of the CA, the proposal is contrary to those aims of Policies PG3, TP7 and TP12 of the Birmingham Development Plan (2017), and the Birmingham Design Guide Supplementary Planning Document (2022). These policies and guidance state that great weight will be given to the conservation of the City's heritage assets and proposals should aim to ensure that development reinforces sense of place and responds to the site conditions including green infrastructure and tree assets, and state that site layouts must be informed by a clear understanding of tree assets within and adjacent to a site, and that where pruning is proposed to existing trees, details of this should be submitted. I also find conflict with the Framework, which states that great weight should be given to the conservation of heritage assets.
15. Whilst referenced by the Council in the reasons for refusal, I find no conflict with Policy DM2 of the Development Management in Birmingham Development Plan Document (2021). This policy relates to the amenity of occupiers and neighbours.

Other Matters

16. The appellant has referred to a planning permission² that has been granted for a similar proposal. There is no dispute that this permission could be implemented although I have limited information about whether there would be an intention to build that extension if this appeal were dismissed. However, there would seem a greater than just theoretical possibility that this alternative would take place.
17. Based on the information provided to me this extension would project forward within the plot the same amount as the appeal proposal. However, the appeal proposal would have a ridge height higher than the approved extension. Therefore, if implemented, the approved extension would not result in the

² Reference: 2021/06164/PA

same effects on the trees which border the appeal site and consequently would not have the same harmful effect on the character and appearance of the CA. I therefore give it limited weight in this decision.

18. Additionally, the appellant has drawn my attention to other properties within the area which have been extended to the front elevation³. I have not been presented with any details regarding the circumstances of these extensions. Nonetheless, there is no particular evidence that these extensions necessitated the pruning of trees of amenity value to the CA. Therefore, on the basis of the limited information before me and my observations on site, I find that these proposals do not appear directly comparable, and they do not provide a justification for the proposal, which in any case must be considered on its individual merits.
19. The Council raised no objections to the proposal on grounds of the effect on the living conditions of the occupiers of neighbouring properties and based on my observations I see no reason to take a different view. Nonetheless, compliance with relevant planning policies on this matter would be required in any case and does not therefore weigh in favour of the proposal.

Conclusion

20. I find that the proposal conflicts with the development plan. No material considerations have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Nichola Robinson

INSPECTOR

³ 12 Ladywood Road and 20 Ladywood Road