



Appeal Decision

Site visit made on 19 September 2023

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th October 2023

Appeal Ref: APP/Z4718/D/23/3322153

4 Weavers Close, Skelmanthorpe, Kirklees, Huddersfield HD8 9UT

- 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 & Mrs Simon and Fiona Allott & Wainwright against the decision of Kirklees Metropolitan Council.
 - The application Ref 2023/62/90262/E, dated 25 January 2023, was refused by notice dated 6 April 2023.
 - The development proposed is remove the existing garage and new build two-storey side extension with single-storey rear projection.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted an Arboricultural Report and Impact Assessment (ARIA) with their appeal submission, dated April 2023. However, the Council's decision was based on an ARIA, dated January 2023. Therefore, the April 2023 ARIA represents new information. The appeals procedural guide¹ makes it clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. I am not aware that the Council or interested parties have had sight of the revised ARIA. On this basis, I have determined this appeal based on the January ARIA.
3. In September 2023 the Government published a revised National Planning Policy Framework (the Framework). Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issue

4. The main issue is the effect of the proposed development on protected trees.

Reasons

5. The appeal property is a detached dwelling, set within a spacious plot at the end of Weavers Close, a residential cul-de-sac of similar designed residential dwellings. The property has a single detached garage with a pitched roof to the side with a front parking area. The rear garden area extends to the side and

¹ Procedural Guide: Planning Appeals – England (2023)

rear, behind the existing garage. A row of 3 mature trees, within the rear gardens of properties on Armitage Close, overhang the site and are subject to a tree preservation order. They are tall, attractive trees that have a high amenity value and contribute significantly to the character and appearance of the area.

6. The proposed 2-storey side extension would be joined to the south-eastern gable elevation of the dwelling and would replace the existing detached garage at the side. The Council has not raised concerns about the effect of the proposed extension on the character and appearance of the area, or the living conditions of neighbouring occupiers. I see no reason to disagree with this conclusion. However, the 2-storey height of the proposed extension and its increased footprint, compared to the garage to be replaced, would result in built development being closer to the crown spread and overhanging branches of the protected trees.
7. The ARIA identifies the trees as two mature Sycamores and one early mature Oak tree, and shows the canopy spread of the 3 trees, which extends a reasonable distance into the appeal site. I also observed on my site visit that the tree branches had a significant overhang into the side garden of the appeal property, in close proximity to the existing detached garage to be replaced.
8. The ARIA concludes that the trees should remain largely unaffected by the proposed development, but the Council's tree consultant has raised concerns about the accuracy of the crown spread detailed in the ARIA. They also identify that the branches of the overhanging trees would need to be reduced back by 2 metres to allow reasonable clearance for the construction of the proposed development and that the Sycamore trees are unlikely to react well to the crown reduction necessary, which will need to be continuously repeated in the future.
9. The trees significantly overhang the site and the proposed development, due to the increased footprint and 2-storey height, will result in a requirement for a reduction to the crown spread of the trees in order for the extension to be suitably accommodated on the site. There is a lack of specific and accurate detail within the ARIA, regarding the actual crown spread of the trees, the amount of works necessary to accommodate the proposed development, and their impact, along with any potential mitigation measures and long-term management. Therefore, on the evidence before me, I am not persuaded that the proposed development could be accommodated on the appeal site without causing harm to the protected trees and their longevity.
10. Consequently, the proposed development would be harmful to the protected trees and would therefore fail to accord with policies LP24 and LP33 of the Kirklees Local Plan (2019), which together, amongst other things, seek to ensure the retention of valuable or important trees that contribute to public amenity.

Conclusion

11. For the reasons given above, I have found that the proposed development would conflict with policies contained within the development plan. Whilst it may not conflict with other policies, I consider that it would conflict with the development plan as a whole. I have found no other material circumstances

that would outweigh that conflict. As such, I conclude that the appeal should be dismissed.

N Bromley

INSPECTOR