



Appeal Decision

Site visit made on 15 January 2024

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2024

Appeal Ref: APP/P4605/D/23/3334425

838 Aldridge Road, Oscott, Birmingham B44 8NP

- 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 Briana Lindsay against the decision of Birmingham City Council.
 - The application Ref 2023/04915/PA, dated 17 July 2023, was refused by notice dated 13 October 2023.
 - The development proposed is a dropped kerb and vehicle crossover to domestic dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the character and appearance of the area.

Reasons

3. The proposal would result in a new driveway across the grass verge in front of this property to provide vehicular access. The council's concern relates only to the impact of the proposal on the character and appearance of the area, with particular regard to the loss of the mature street tree within the verge. The proposed verge crossing would be located close to the tree and its canopy currently extends over and beyond the proposed works.
4. The appellant suggests that the area affected would be less than 5% of the total root protection area of the street tree and therefore well within the parameters set out in Section 7.4.2.3 of British Standard 5837:2012. Design Principle 6, of the council's Design Guide Principles Document 2022, advises that site layouts must be informed by a clear understanding of the tree and that British Standard 5837 should be applied. It requires a tree survey; tree constraints plan; arboricultural impact assessment; method statement; and a tree protection plan. These have not been provided and there is no information to demonstrate how the appellant's figure has been reached.
5. In addition to the above, site conditions do not suggest that the tree rooting is likely to have occurred symmetrically. No polygon of equivalent area has been provided. In the absence of such details and given the proximity of the road,

pavement and the changes in levels, I am not able to assume that the 5% figure referred to is correct.

6. The appellant suggests that conditions could be imposed to require no dig construction methodology as detailed in section 7.4 of the British Standard. However, that section advises that when permanent hard surfacing within the root protection area is considered unavoidable, site-specific and specialist arboricultural and construction design advice should be sought to determine whether it is achievable without a significant adverse impact on the tree. Without detailed advice that suitable and specific mitigation would be achievable, such a condition would not be reasonable or suitably precise and may not achieve the necessary controls.
7. Given the lack of evidence submitted, it cannot be assumed that these works would not result in harm to the health and longevity of this tree. Its loss would result in unacceptable harm to the character and appearance of the area. The proposal therefore represents poor design contrary to the expectations of policy PG3 of the Birmingham Plan 2031 (2017)(BP). It would also be at odds with BP policy TP7 and policy DM4 of the Development Management in Birmingham Development Plan Document 2021 which seek to enhance existing landscape character and the green infrastructure network. The *National Planning Policy Framework* 2023 also seeks development that functions well and adds to the overall quality of the area.
8. The appellant has put forward a number of matters in support of the proposal. It would allow for off-street parking which would be of benefit to the appellant. As it would require the loss of an on-street parking space, the private benefit of this would need to be set against the loss of public parking. The difference with regard to safety or access for emergency vehicles would not be significant. The proposal would allow the appellant to use home charging for an electric vehicle which is a matter that weighs in favour of the proposal. I am mindful also of the lack of concerns raised locally and the presence of other vehicle accesses in the immediate vicinity.
9. Although I have fully considered the matters put forward in support of this proposal, I am not persuaded, by the evidence, that the future health of the tree would be safeguarded. The benefits do not outweigh my concerns regarding the character and appearance of the area. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR