



Appeal Decision

Site visit made on 9 January 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th February 2024

Appeal Ref: APP/Q5300/W/23/3324748

44 & 44A The Chine, Enfield, Southgate N21 2ED

- 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 Farran Harris against the decision of the Council of the London Borough of Enfield.
 - The application Ref 22/02390/FUL, dated 5 July 2022, was refused by notice dated 27 January 2023.
 - The proposed development is described as "works are for 2 No vehicle crossover and dropped kerbs at 44 & 44a The Chine, London, N21 2ED. For this, we propose the introduction of Marshalls Grassguard Drive / Permeable Grid to provide a suitable standing area to allow electric vehicles to be charged overnight, please refer to drawings where further details are provided."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address on the application form only refers to 44 The Chine. However, it is clear from the submission that the proposal relates to 44 and 44A The Chine and was considered by the Council on that basis. Accordingly, I have used the address from the Council's decision notice, which accurately describes the site.
3. A revised National Planning Policy Framework (the Framework) came into force on the 19 December 2023 with a further change published on 20 December. The revised Framework is a material consideration which should be taken into account from the day of publication. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.
4. As part of the appeal and in response to my request for comments on the potential loss of the street tree on the character and appearance of the Conservation Area, the appellant has submitted a Tree Survey within their Supporting Statement, dated January 2024.
5. Annexe M of the Procedural Guide – Planning Appeals – England advises that if an applicant thinks that amending their application proposals would overcome the Council's reasons for refusal, they should normally make a fresh planning application. The appeal process should not be used to evolve

a scheme. In considering whether to accept the additional information, I have had regard to Holborn Studios Ltd¹.

6. In the appeal before me the additional information results in a fundamental change to the application over what was considered at the planning application stage. Moreover, the Council and the statutory consultees have not had an opportunity to comment on the information provided in the Tree Survey. The interested parties are not aware that this appeal includes the additional information and would, therefore, be prejudiced. Consequently, I have not accepted the Tree Survey for the purposes of this appeal. In the interests of natural justice, I have determined the appeal on the basis of the plans and information submitted to the Council.

Main Issue

7. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Grange Park Conservation Area, with particular regard to trees.

Reasons

8. The appeal site comprises the front gardens and pavement outside 44 and 44A The Chine (Nos 44 & 44A). The site lies within the Grange Park Conservation Area (the Conservation Area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides, at section 72(1), that with respect to any buildings or other land, in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of that area.
9. An understanding of the importance of the Conservation Area is supported by the Grange Park Conservation Area Character Appraisal, June 2015 (the CAA) which details the historic development of the area and the characteristics which are of special architectural or historic interest. In so far as it is relevant to the appeal, I consider that the significance of the Conservation Area is derived in part from the planned layout, the cohesive group of houses and the green setting of trees and gardens.
10. The street is tree-lined with mature trees set within narrow grass verges. The street trees are part of the positive character of the Conservation Area and contribute to the verdant, leafy, suburban character along with the backdrop of trees beyond the housing. The CAA notes that the street trees, and garden trees, become more prominent each year and that this increasingly softens views. The CAA also advises that the loss of street trees and the conversion of front gardens to parking, with unrelieved hard-standing and loss of front boundaries has had a negative effect on the Conservation Area.
11. The appeal site currently makes a positive contribution to the significance of the Conservation Area as one of a group of similar designed houses with a low brick wall to its front boundary. The existing mature street tree outside the site is of high amenity value and, along with the other street trees on The Chine, contributes significantly to the character and appearance of the Conservation Area.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

12. No 44 & 44A currently do not have any off-street parking and rely on the availability of on-street parking. However, at the time of my visit I did not see any evidence that parking was not available in the street.
13. The proposal would introduce two new vehicle crossovers and dropped kerbs to serve two new driveways, one for each property. The driveways would be finished in a grassed paving system and would retain an area of garden in front of the properties. A section of low brick wall would also be rebuilt between the two driveways. As such the proposal would not result in the total loss of the front garden or the brick boundary wall and, in this regard, the proposed works within the front gardens would not harm the Conservation Area.
14. However, on the basis of the evidence submitted with the planning application, the works proposed for No 44 would be within the canopy and roots of the tree. The roots currently protrude above the ground level and have resulted in the paving slabs outside the appeal site having to be replaced with tarmac. Tree roots are very susceptible to damage and the substantial works that would be required to provide the proposed vehicle crossovers would be likely to damage the roots. Any significant damage to the roots would be likely to result in the loss of the tree.
15. Moreover, based on the evidence submitted with the planning application, I am not convinced that the roots could be pruned and that such work would not also result in significant damage to the tree and ultimately to its loss. The loss of the tree would be harmful to the character and appearance of the Conservation Area.
16. The harm to the Conservation Area as a whole would be less than substantial within the meaning of paragraph 208 of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.
17. The appellant has sent details of the current energy performance of the two properties and information on the Government's support for EV charging and the use of electric vehicles. The Government target, as set out in the Department of Transport information provided, is for the end of the sale of new petrol and diesel cars by 2030. There is no Government requirement for households to have off-street parking with EV charging facilities. However, the proposal would have environmental benefits which would be a public benefit. I attribute moderate weight to this benefit.
18. Contrary to the appellant's assertions, in my judgement, the proposal would not result in substantial improvements to the appearance of the front gardens or to the natural environment. The current garden and boundary wall does not detract from the Conservation Area and the development would not provide public benefits in this regard.
19. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the level of potential harm. The public benefits of the proposal are afforded moderate weight and, therefore, would not outweigh the harm to the Conservation Area and its significance, which in accordance with the Framework, is required to be attributed great weight.

20. For the above reasons I find that the proposal would fail to preserve or enhance the character or appearance of the Grange Park Conservation Area. The proposed development is, therefore, contrary to Policy DMD 46 of the Enfield Council Development Management Document, adopted November 2014 (DMD) which seeks to resist vehicle crossovers and dropped kerbs where there is a negative effect on the existing character of the area and where there is loss of street trees.

Other Matters

21. The appellant has drawn my attention to four examples where other properties on The Chine have vehicle crossovers close to trees and I also saw others at my visit. I have not been provided with any of the details of whether the vehicle crossovers referred to by the appellant have planning permission. Moreover, three of the examples only have a vehicle crossover on one side of the tree and retain the grass verge on the opposite side. None of the examples put to me have the same extent of root lift as the tree outside the appeal site. None of the examples provided would have the same likelihood of damage to the tree as the appeal before me and are all materially different to the appeal. In any event, each scheme must be considered on its own merits.
22. That the main parties have not raised any issues with regard to highway safety or the design of the proposed development are neutral matters and weigh neither for nor against the proposal. That the existing tree has resulted in the replacement of the paving slabs with tarmac is not determinative in this appeal and damage to the front wall of the appeal site is not justification for removing the tree. Furthermore, that a vehicle parking adjacent to the tree is unable to open the door closest to the tree is a matter for the vehicle driver to consider in choosing where and how to park.
23. I also do not have sufficient evidence before me that a replacement tree would have the space to grow, should the appeal proposal be allowed, and the examples provided by the appellant of new tree planting have wider grass verges retained to both sides. As such I am not able to give any weight to the suggestion of planting a replacement tree.

Conclusion

24. For the reasons given above I have found that the proposal would be contrary to the development plan. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

K Townend

INSPECTOR