



Appeal Decision

Site visit made on 21 January 2025

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 February 2025

Appeal Ref: APP/Z4310/W/24/3347495

100 Green Lane North, Liverpool L16 8NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Christopher Ingham against Liverpool City Council.
 - The application Ref is 24F/1138.
 - The development proposed is to remove footway at front and alter ground levels to facilitate the introduction of a vehicular driveway access located between 100 Green Lane North and the road edge on Green Lane North.
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Decision

1. The appeal is allowed and planning permission is granted to remove footway at front and alter ground levels to facilitate the introduction of a vehicular driveway access located between 100 Green Lane North and the road edge on Green Lane North, at 100 Green Lane North, Liverpool L16 8NL in accordance with the terms of the application, Ref 24F/1138, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos: Location Plan: Driveway of 100 Green Lane North Liverpool L16 8NL; Existing and Proposed Plans 100_A-x-P-00; Existing and Proposed Sections 100_A-x-S-AA.
 - 3) The development hereby permitted shall be carried out in full accordance with the measures set out in the Arboricultural Method Statement, Ref TRE/100/GLNL/RevA, prepared by C. Salisbury, Mulberry, dated 19 February 2024, unless agreed in writing by the local planning authority.

Preliminary Matters

2. On the 12 December 2024 the Government published a revised National Planning Policy Framework (the Framework). The revised Framework is a material consideration which should be taken into account from the day of publication. The revised Framework has not raised any new matters which are determinative to the outcome of this appeal. I have not therefore considered it necessary to invite any submissions from the parties on the revised Framework.
3. I have taken the description of the development from the Council and the appellant's appeal statements, as this more accurately describes the proposal than the description given on the application form.

4. The Council consider that the works shown do not constitute development that requires planning permission. However, there is nothing in the Town and Country Planning 1990 Act that restricts local planning authorities from granting planning permission for proposals which do not constitute development.
5. Although the Council did not issue a decision notice, within its appeal statement of case the Council state that due to the potential loss of two mature large-leaved lime trees and the detrimental impact upon the area's amenity and established character, the proposal would be contrary to policies within the Liverpool Local Plan 2013-2033 (2022) (LP).
6. The main issue identified below is based on my site visit and the Council's statement of appeal.

Main Issue

7. The main issue is the effect of the development on the character and appearance of the area, with regard to its effect on trees.

Reasons

8. Green Lane North is an attractive residential street. On one side of the street the dwellings are set back behind a wide grass verge. This side of the street is lined with mature trees, which despite not being covered by a Tree Preservation Order, are visually prominent and contribute significantly to the established green and verdant character of the area.
9. The grass verges are interspersed with narrow footpaths leading up from the road to the pavement beyond, which lies directly in front of the dwellings. A small number of driveways have been created over the verges, but due to the size of the verges and the presence of the street trees, the hard surfacing does not detract from the overall verdant character of the area. The proposed driveway access would therefore not be an incongruous or discordant feature in the street scene.
10. The proposed driveway access would be located between two mature lime trees, which I saw from my site visit were healthy and of a good size, and I have no substantiated evidence before me to demonstrate that the trees would be unlikely to survive on site for many years. The lime trees contribute to the 'avenue' of trees which adds greatly to the visual attractiveness of the street. Any loss of the trees would therefore harm the character and appearance of the area.
11. The proposal was accompanied with an Arboricultural Impact Assessment (AIA) and an Arboricultural Method Statement (AMS). The AIA assessed the impact of the proposals and the likelihood of the proposal encroaching into the root protection area of the two trees, in line with guidance contained within BS 5837:2012.¹ This guidance advises that any new permanent hardstanding should not exceed 20% of any existing unsurfaced ground within the root protection area. The AIA indicated that the proposal would have a minor encroachment into the root protection area of both trees, measured as 13.5%, thus falling below the 20% detailed within BS 5837:2012. As such, the AIA concluded that the proposed development would not have a detrimental effect upon the two lime trees, which could be successfully retained.

¹ BS 5837:2012 - British Standards Institution - Trees in relation to design, demolition and construction– Recommendations (2012)

12. The AMS outlines protection measures to be carried out during construction to ensure minimum damage to the trees. These include the surface layer to be scraped off by hand or very small machinery, protective fencing and the use of a geoweb perforated tree root protection system. I have not been provided with any substantive evidence to demonstrate that the construction methods suggested would not be suitable.
13. Whilst the Council is concerned that excavation works associated with the proposal would cause unacceptable root severance which would result in the decline or death of the trees, in the absence of substantive technical evidence to the contrary, I have no reason to disagree with the findings of the AIA. As such, subject to the mitigation proposed, the proposal would be unlikely to result in a significant adverse effect on the nearby lime trees.
14. The proposed development would not, therefore, harm the character and appearance of the area with regard to its effect on trees. The proposal would comply with LP Policies UD1 and GI9 which seek to ensure that development takes account of street character and avoids conflicts with trees.

Other Matters

15. I note that other permissions or licenses may be necessary in order for the development to proceed. However, whether or not other permissions or licenses are required is not within the remit of this appeal.

Conditions

16. The Council did not provide any proposed conditions in the event that the appeal was allowed. I have therefore prepared conditions in the light of the advice in the Framework and Planning Practice Guidance.
17. In addition to the standard timeframe condition, in the interest of certainty it is necessary to impose a condition requiring the development to be carried out in accordance with the submitted plans. In order to protect the health and amenity of existing trees and the character and appearance of the area, I have attached a condition requiring the development to be carried out in accordance with the measures set out in the submitted Arboricultural Method Statement.

Conclusion

18. For the reasons given above, I conclude that the proposal would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
19. As a result, the appeal is allowed.

L C Hughes

INSPECTOR