



Appeal Decision

Site visit made on 26 March 2025

by **S Burch BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 June 2025

Appeal Ref: APP/P4605/W/24/3355791

516 Flat 2 Kings Road, Oscott, Birmingham B44 9JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Puttri Khyam against the decision of Birmingham City Council.
 - The application Ref is 2024/05104/PA.
 - The development proposed is described as 'application for drop kerb at front of property.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There have been changes to the National Planning Policy Framework (the Framework) since the determination of the planning application. Having reviewed them, I am satisfied that as far as their substance relates to the main issue in the appeal, further consultation with the main parties would not be necessary since they have not materially affected or prejudiced the cases of the parties. I have proceeded on this basis, with reference to the 2024 version of the Framework.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, with particular reference to its effect on a highway tree.

Reasons

4. The appeal site is an end of terrace dwelling which is set back from the highway by a grass verge and a pedestrian footway. There is a small parking area to the front of the dwelling. There is a large mature tree situated on the grass verge between No's 516 and 518 Kings Road and the road is lined by mature trees. The trees, along with the grass verges and grassed central reservation, contribute positively to the verdant character of the area.
5. The appeal would result in the creation of a dropped kerb on the grass verge to the front of No.516. The kerb would be in close proximity to the large tree between No's 516 and 518 and the Council have raised concerns regarding the impact to the tree as a result of the works.
6. Whilst I acknowledge that the appellant has advised that the tree would not be removed, without a detailed supporting arboricultural report on the tree and the impact, if any, of the necessary demolition work, ground works and surfacing associated with the development, the impact on the tree's health cannot be adequately assessed.

7. Therefore, the absence of sufficient information means I cannot rule out potentially unacceptable damage to, or loss of the tree and the consequential harm upon the visual qualities of the appeal site and surrounding area.
8. I conclude that there is insufficient information before me to provide certainty that the proposed development would safeguard the highway tree so as to not have an unacceptable effect on the character and appearance of the area. The proposal therefore fails to accord with Policies PG3 and TP7 of the Birmingham Development Plan 2031 (2017) and Policy DM4 of the Development Management in Birmingham Development Plan Document (2021). Collectively these policies seek to ensure high quality development that is in keeping with the character of surrounding areas and does not have an adverse impact on retained trees.

Other Matters

9. No concerns regarding visibility or encroachment on a visual gap have been raised by the Council. Nonetheless, these are neutral factors and do not weigh in favour of, nor against the proposal.
10. The appellant draws my attention to other dropped kerbs in close proximity to trees along the road. However, I have not been provided with any further information regarding those developments, such as addresses. In any event the fact that similar developments have evidently occurred over the years is not a reason on its own to allow unacceptable development. I do not know the circumstances under which they were developed or their status with regard to planning permission and therefore cannot draw any direct comparison with the proposal that would weigh in its favour. The presence of these does not overcome the harm that I have otherwise found.

Conclusion

11. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be determined other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

S Burch

INSPECTOR