



Appeal Decision

Site visit made on 22 May 2025

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2025

Appeal Ref: APP/N4720/W/24/3356837

Land to the Rear of 389 Easterly Road, Leeds LS8 2TR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Arno Property Ltd against the decision of Leeds City Council.
 - The application Ref is 24/00586/OT.
 - The development proposed is outline planning application (with all matters reserved except access) for the erection of 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The application was submitted in outline with all matters reserved except access. The reserved matter of access includes accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes, and I have assessed the submitted plans and documents with regard to those issues. The appellant refers to the indicative nature of the plans, but access is a matter to be determined at this stage and I have considered the submitted details accordingly. However, I have treated details in respect of other reserved matters as being indicative.
4. The appellant has submitted amended plans and supporting evidence with the appeal which differ from those considered by the Council when it reached its decision. The amended plans include an extension of the access and parking area closer towards the rear of dwellings on Easterly Road. Compared to the original plans, the amended access could have a materially different effect on vehicle manoeuvres as well as on the living conditions of nearby residents, including effects on outlook, noise and disturbance, and further loss of garden space for No 389.
5. Having regard to the potential effects of the amendments within the scope of this outline proposal, the amended scheme represents a material difference compared to that submitted with the application. Although interested parties have had the opportunity to comment on the amended drawings as part of the appeal process,

such parties may not have been aware that amended plans have been submitted with the appeal. The amended plans are substantively different from the scheme which formed the basis of the planning application, and if I was to determine this appeal on the basis of the amended plans then this would be procedurally unfair to interested parties. The 'Procedural Guide: Planning Appeals – England' also advises that an appeal should not be used to evolve a scheme. I have therefore proceeded to determine this appeal on the basis of the plans which were submitted with the application and which were considered by the Council and interested parties at the application stage.

Main Issues

6. The main issues are the effect of the proposal on:

- Trees, with due regard to character and appearance, protected trees, and climate change and air pollution;
- Safe and suitable access; and
- Biodiversity.

Reasons

Trees

7. There are a number of mature and semi-mature trees close to the eastern boundary of the appeal site which the evidence suggests would be removed as a result of the proposal. Although these trees are situated within an area of rear gardens, they are readily visible from North Lane across an open aspect provided by the low-rise Oakwood Christadelphian Hall and associated open area.
8. Due to their prominence and screening effect, these trees are of significant amenity value, both in terms of views from North Lane as well as in views from the area of rear gardens. This part of North Lane is one of the principal entrance points to this residential area, which adds to the importance of these trees and their contribution to the verdant character of the area. The loss of these trees and the screening they provide would lead to significant harm to this verdant character.
9. The appellant refers to opportunities for compensatory planting and landscape enhancements to be submitted at the reserved matters stage. However, given the constraints of the site and the effect of the proposed access, I am not persuaded that compensatory planting and landscaping would be sufficient to mitigate for the loss of these trees and subsequent harm to the character and appearance of the area. Although these trees are not covered by a Tree Preservation Order (TPO), this does not lead me to a different conclusion on this issue.
10. The trees that would be lost currently contribute to addressing climate change and air pollution, although that contribution would be very limited at most. Nevertheless, the loss of these trees would fail to meet wider objectives in relation to those issues, and given the constraints of the site I do not consider that replacement planting would be able to mitigate for their loss.
11. There is a street tree on Belle Vue Avenue close to the access into the site which is protected by a TPO¹ and which has high arboricultural and amenity value. The

¹ Tree Preservation Order (No. 3) 2021: [TPO2021_03]

proposed driveway and parking area would project into the root protection area (RPA) of the protected tree, and the widening of the dropped kerb and access to the site would also lead to works within the RPA. The appellant submits that the extent of the proposed works within the RPA would be very limited, and the replacement of the existing garage and hard surfacing with a no-dig permeable construction may be of benefit to this tree. However, a significant extent of the RPA is presently covered by impermeable material within the public highway, and these site conditions may therefore affect the root spread of the tree, placing extra reliance on the garden of the appeal site as well as neighbouring gardens. Given the extent of works arising from the appeal proposal as well as possible soil compaction from the parking and movement of vehicles, I am not persuaded that the mitigation measures set out by the appellant would be sufficient to avoid harm to this protected tree.

12. Reference has been made to a previous Appeal Decision² for a detached dwelling on the site which concluded that the proposal would not harm the streetscene of Belle Vue Avenue. However, that Decision pre-dated the making of the TPO, and in any event it does not address the effect on trees on Belle Vue Avenue. Furthermore, that Decision considered only the effect on Belle Vue Avenue rather than the harm to the wider area arising from loss of trees. The previous Appeal Decision does not therefore lead me to a different conclusion on character and appearance based on the evidence before me and my own observations.
13. The appellant submits that considerations critical to tree retention and visual amenity are reserved matters to be addressed at a later stage. They consider that it is premature to conclude that the development would result in harm, as this will be resolved through a detailed landscaping scheme submitted with the reserved matters application. However, although there is some overlap between the matters of access, layout and landscaping, the consideration of access includes accessibility within the site and the positioning of circulation routes. As access is not a reserved matter, the position of the driveway, manoeuvring and parking areas and the potential effect on trees can be considered as part of this appeal.
14. Drawing the above together, I conclude that the proposal would lead to the loss of trees with significant harm to the character and appearance of the area. It has also not been demonstrated that the proposal would not harm a protected tree. The loss of and potential impact on trees would also lead to harm in respect of addressing climate change and air pollution, although the scale of this harm would be very limited. The proposal would therefore conflict with Policies P10 and P12 of the Core Strategy; Policies N25, LD1 and GP5 of the saved Unitary Development Plan (UDP); and Policy LAND2 of the Natural Resources and Waste DPD with regards to character, townscape, pollution and the protection of trees. The proposal would also be contrary to the National Planning Policy Framework (the Framework) with regards to achieving well-designed places as well as conserving and enhancing the natural environment.
15. The proposal would also conflict with the advice of the Neighbourhoods for Living SPG in respect of local character, and the Council's Guideline Distances from Development to Trees in respect of the proximity of trees to development.

² Appeal Ref: APP/N4720/A/14/2221676

Safe and Suitable Access

16. The extant site includes a garage accessed from Belle Vue Avenue. The appeal proposal would utilise this existing access although this may need to be widened.
17. The proposed block plan shows that 2 parking spaces would be located some distance within the site accessed by a relatively long driveway. It has not been demonstrated that cars parked in these spaces would be able to turn within the site, resulting in long reversing manoeuvres. A turning area may be available adjacent to a parking space proposed at the front of the site, but it has not been demonstrated that this would provide sufficient manoeuvring space for vehicles. In any event, vehicles from the 2 parking spaces manoeuvring within this area could conflict with vehicle and pedestrian movements associated with the single parking space as well as pedestrians accessing the extant dwelling. This would be likely to increase potential for collisions between pedestrians and vehicles.
18. The constricted manoeuvring space within the site is likely to lead to vehicles reversing into or out of the site from Belle Vue Avenue. This awkward manoeuvre would increase the possibility of collisions with other highway users, which would be exacerbated due to a sensitive location close to a bend near a car park and junction. Although there would be vehicle manoeuvres associated with the extant garage and driveway, including reversing onto Belle Vue Avenue, the proposal would lead to a material increase in the number of vehicle movements to the detriment of highway safety.
19. The awkward nature of the proposed access and parking for the extant dwelling may also deflect the parking of vehicles associated with no 389 onto Easterly Road, which is one of the principal routes into Leeds City Centre. The appeal site does not have a driveway or vehicular access onto Easterly Road, with the result that vehicles parked to the front would have to mount the kerb and park on a grass verge so as not to obstruct the free flow of traffic. As has been identified in the previous Appeal Decision for this site, when taking account of the nature of Easterly Road and the vehicle movements that would arise from parking to the front of the appeal site, the potential hazard to highway users would be severe.
20. The form and proximity of vehicle manoeuvres to the proposed dwelling would also be likely to lead to harm to the living conditions of future residents due to noise and disturbance.
21. Although shared surfaces may be common features within small scale residential development, this does not justify the awkward and convoluted manoeuvres that are likely to result from the appeal proposal. I am not persuaded that features such as signage and surface treatment would be able to mitigate for the poor layout of the access and parking.
22. I conclude that the proposal would not provide safe and suitable access to the site, with significant harm to highway safety and the living conditions of residents. The proposal would therefore be contrary to the highway safety, accessibility and amenity requirements of Policies P10 and T2 of the Core Strategy, as well as Policy GP5 of the UDP. The proposal would also be contrary to the Framework with regards to providing safe and suitable access as well as its unacceptable impact on highway safety. The proposal would also be contrary to the advice of the Council's Transport SPD with regards to providing usable and safe parking.

Biodiversity

23. The Council refers to the end of the temporary exemption for non-major development on 2 April 2024 in respect of the new national regime for providing biodiversity net gain (BNG). It sets out that the application was validated on 8 April 2024 and that relevant biodiversity net gain information should have been submitted.
24. However, the date given on the planning application form is 30 January 2024, and the Council states that it was submitted on 31 January 2024. The Council has not provided a reason for the gap between the dates of submission and validation. In any event, the Regulations³ refer to the date the application was made rather than validated. Based on the evidence before me, the application was made prior to the end of the temporary exemption regarding BNG, and the appellant is therefore not required to submit the information referred to by the Council.
25. Although there may still be development plan policy requirements in respect of biodiversity, this is more appropriately addressed at the reserved matters stage, notwithstanding my previous conclusions in respect of the loss of trees.
26. In conclusion on this issue, the proposal is exempt from the mandatory BNG requirements and it is not required that biodiversity information is submitted in accordance with the Planning Practice Guidance.

Conclusion

27. Notwithstanding my conclusions in respect of biodiversity, the proposal would lead to significant harm in respect of trees as well as providing safe and suitable access. The proposal would be contrary to the development plan when read as a whole in respect of character and appearance, harm to a protected tree, climate change and air pollution, highway safety, accessibility and amenity.
28. I have had regard to the benefits arising from the proposal. It would add to the supply and mix of housing in a location which provides good access to services and facilities by sustainable transport. However, the benefits arising from a single dwelling would be limited and would not outweigh the significant harm I have identified.
29. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR

³ The Biodiversity Gain Requirements (Exemptions) Regulations 2024