



Appeal Decision

Site visit made on 11 July 2025

by **B J Sims BSc (Hons) CEng MICE MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 August 2025

Appeal Ref: APP/R0660/D/25/3361846

24A Grove Avenue, Wilmslow, Cheshire East, SK9 5EG.

- 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 Mrs Adele Lock against the decision of Cheshire East Council.
 - The application Ref is 24/2788M.
 - The development proposed is the erection of a new remote-control gate and boundary wall.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new remote-control gate and boundary wall at No 24A Grove Avenue, Wilmslow, Cheshire East, SK9 5EG, in accordance with the terms of the application, Ref 24/2788M, and plans Refs 505P and 525P submitted with it, subject to the condition set out in the appendix to this decision.

Preliminary Matter

2. The appeal is retrospective but this does not affect the consideration the planning effects of the development.

Main Issues

3. I consider the main issues to be: the effect of the completed gate and boundary wall on the character and appearance of the street scene within the setting of the nearby Hawthorne Lane Conservation Area (CA) and its effect on a protected Tulip tree within the appeal site boundary.

Reasons

Character and Appearance

4. I note the concern of Wilmslow Town Council and a resident of Grove Avenue that the tall gate and boundary wall are out of keeping with the street scene of Grove Avenue. However, whilst I agree that they are a departure from the low boundary walls and more open frontages characteristic of Grove Avenue, I do not find them to be so different as to represent an unacceptable feature of the local street scene or the setting of the Hawthorne Lane CA, with its boundary a short distance to the north west and adjacent to the rear of the appeal site.
5. That is because the new low wall is constructed in similar brickwork to others in the vicinity and is surmounted by railings maintaining through-visibility between the house and the street. The appearance of the gate, gateposts and wall is softened

by the mature trees that line the street and the generally well-vegetated character of the surrounding area. I therefore agree with the Council that the gate and wall are visually acceptable in context.

Protected Tree

6. Greater concern relates to the situation of the protected Tulip tree a short distance inside the new boundary wall. The ground level around the tree is raised above that of the public footway to the front and, from inspection, it is not evident to what degree its roots and its long-term stability might have been harmed by the unauthorised construction of the wall and gate. The application did not provide full details of the method of construction of the boundary wall and associated hard standing to demonstrate the protection and long-term safety and well-being of the protected tree in question.
7. An Arboricultural Impact Assessment (AIA) submitted with the retrospective application admits that there will have been some root severance 2m from the main stem with some potential to affect the stability of the tree. New hardstanding has been constructed within the root protection area. This is likely to have caused soil compaction. However, there is no clear evidence that recognised methodology, such as no-dig cellular confinement, was used or any bridging structure installed in connection with the construction of the wall and gate.
8. The AIA asserts that the retention of the wall and gate would have no further implications for the tree, whilst its removal could cause further damage. The AIA goes on to outline mitigation proposals to achieve soil decompaction but provides no assurance that the tree will continue to remain viable. Such superficial mitigation measures would only address the issue of compaction. Any degree of root damage that may have occurred remains unclear. This leaves the determination of this appeal to a matter of judgement which, inherently, is not fully informed.
9. I do find a degree of merit in the submission of the Appellants that, despite the foregoing considerations, there is no substantive evidence that the long-term future of the protected tree has been significantly compromised in practice. There is no immediate visual evidence of this. I accept too that the new wall and gate were erected in good faith to improve domestic security in ignorance of the requirement for planning permission.
10. I also note that the Appellant places some reliance on a claimed fallback position emanating from the permitted development right to erect a front boundary wall of the same dimensions, albeit without the taller railings, gateposts and gate. However, the development as completed is now for assessment on its own merits. Moreover, this kind of operational development, with the potential to harm an important planning interest without the requisite approval cannot be condoned.

Conclusions

11. In my overall judgement though, given the circumstances that now exist and having found the development to be otherwise acceptable in planning terms, the best and least damaging way forward is to allow the wall and gate to remain but to impose a condition based upon the one suggested without prejudice by the Council. This requires the submission of evidence of root protection, a risk assessment and detailed mitigation measures to be implemented within a set timescale. I wholly agree with the Council that approval and implementation of such measures is

essential to ensure that the protected tree is retained in the interests of maintaining the amenity of the area.

12. Furthermore, in terms of the tests of national policy for the imposition of planning conditions, I consider such a requirement to be necessary, reasonable, enforceable and entirely relevant to the retention of the disputed wall and gate and to the very existence of the protected tree itself.
13. After the expiry of the time limit set by the condition, it would be for the Council to determine what action, if any, to take. However, it is not for me, in deciding this appeal, to conjecture on any current or future enforcement proceedings by the local planning authority.
14. I consider that proper compliance with this condition would bring the appeal development into line with the development plan as whole and, in particular, the relevant provisions of the adopted Cheshire East Local Plan Strategy and Allocations and Development Policies Document. These are contained within their Policies SE5, SD1-2 and ENV6, all of which are consistent with national policy in seeking sustainable development that protects trees that contribute to amenity and landscape character.
15. For the reasons and in the terms I have explained therefore, I conclude that this appeal should be allowed.

B J Sims

INSPECTOR

APPENDIX

PLANNING CONDITION

Notwithstanding any detail indicated on the plans submitted with the application and hereby approved, and having regard to the submitted Arboricultural Impact Assessment (AIA) (Lally Report No 2120_AIA.01 dated 21st November 2024) details of the following shall be submitted to the local planning authority for approval within three months of the date of this decision:

- a) Evidence of the installation of any concrete or steel bridging lintel supporting the wall and avoiding the roots of the protected Tulip tree referred to in the supporting Arboricultural Impact Assessment; and
- b) A risk assessment of the protected Tulip Tree to determine its long-term stability and safety; and
- c) A timescale for the implementation of the mitigation proposals for the protected Tulip tree and subsequent monitoring of the tree for safety, as set out at Section 6 of the submitted Arboricultural Impact Assessment and to include:
 - i. Lowering the level of mounded topsoil within the root protection area (RPA); and
 - ii. Removal of remaining stone and hardstanding from the RPA; and
 - iii. Relief of compaction and aeration of the soil within the RPA, and
 - iv. Replacement of topsoil to appropriate depth.

Following approval by the local planning authority of the above submitted details, the mitigation and monitoring measures shall be fully implemented in accordance with the approved timescale.