
Appeal Decision

Site visit made on 25 April 2023

by A Caines BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2023

Appeal Ref: APP/R5510/D/22/3313002

44 Ickenham Road, Ruislip HA4 7DQ

- 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 Rishi Verma against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 76824/APP/2022/1899, dated 13 June 2022, was refused by notice dated 5 October 2022.
 - The development proposed is vehicular crossover with turntable.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this appeal is whether the development would safeguard the long-term health and survival prospects of nearby street trees in the interest of the character and appearance of the surrounding area.

Reasons

4. The appeal site forms part of a tree-lined grass verge along Ickenham Road. Despite not being covered by any tree preservation order or conservation area designation, the trees within the verge are important features that make a significant positive contribution to the street scene in this location.
5. The proposed vehicular crossover is required to facilitate the use of the front garden of No 44 as an off-street parking space. The parking provision for No 44 is currently an in-curtilage garage at the rear which is accessed via a service road off Sharps Lane. The service road also serves the neighbouring properties, but some have additional vehicular access from Ickenham Road. This includes No 42 where a new crossover was granted on appeal in 2017¹. However, as the main issues in that appeal did not relate to the effect on trees, and there is no highway safety objection from the Council in this case, the decision has limited bearing on this appeal.

¹ Appeal ref: APP/R5510/D/17/3166570

6. The crossover would be taken over the verge through a narrow gap between two 'category B' trees. The appellant's tree report² identifies an incursion into the unsurfaced Root Protection Areas (RPAs) of these trees by up to 21.32%, but suggests that the impact would be negligible due to the special construction techniques and protection measures that have been prescribed in the report. In short, this involves a raised, no-dig, structurally competent formation supporting the section of driveway across the verge, and for pavement levels to be raised slightly to meet the driveway where it crosses the footway adjacent to the front boundary wall.
7. Whilst such techniques might be part of established practice, the incursion into the RPAs in this case is greater than the maximum 20% recommended in BS 5837:2012, albeit marginally. Moreover, the default position of BS 5837:2012 is that structures should be located outside of RPAs, and only where there is an overriding justification for construction within the RPA should technical solutions be considered to prevent root damage. For reasons discussed later in this Decision, the personal circumstances advanced in this case are not an overriding justification.
8. Furthermore, the Council's landscape officer and highways delivery manager have both questioned how the recommendations of the tree report will be implemented at the site due to the notable change in ground levels between the property and the highway, as well as the visible presence of roots close to the surface. From my own observations at the site, I consider these to be reasonable concerns.
9. In the absence of any detailed cross sections and root investigation to address these concerns, there is uncertainty about the full extent and impact of the construction works. I am also not satisfied that the long-term impacts of the use of the crossover have been addressed. Consequently, I am unable to rule out the possibility that the proposal would result in significant damage to or the future loss of the trees due to root damage or disturbance. It would not be appropriate to leave such matters to be resolved at a later date through planning conditions as they are fundamental to the acceptability of the scheme.
10. In addition, I note that the site is highway land. The indications from the Council are that their highway specifications do not allow for the proposed construction techniques. Whilst this is primarily a matter between the parties, the appellant's lack of control over the works does raise serious doubt over the prospect of compliance with the prescribed construction methodology and the enforceability of any related planning conditions, if the appeal were to be allowed. The consequences could be significant for the trees.
11. Therefore, on the evidence that is before me, it has not been satisfactorily demonstrated that the long-term health and survival prospects of the nearby street trees would be adequately safeguarded, to the potential detriment of the character and appearance of the surrounding area. Thus, the proposal conflicts with Policy DMHB 14 of the Hillingdon Local Plan: Part 2 - Development Management Policies 2020 (DMP), in so far as it expects development proposals to retain and enhance existing landscaping, trees, and other features of merit. There is also conflict with the general requirements of DMP Policies DMHB11 and DMHB12 where they require new development to protect features

² By John Cromar's Arboricultural Company Ltd, dated 13 June 2022

of positive value within and adjacent to the site, and take account of the townscape character and quality of the surrounding area.

Other Matters

12. I have carefully considered the appellant's justification for the development on medical grounds and I am mindful of the Public Sector Equality Duty contained in s149 of the Equalities Act 2010. The duty includes having regard to the need to eliminate discrimination, harassment, and advance equality of opportunity between those sharing relevant protected characteristics and those who do not.
13. However, there is no compelling evidence before me which demonstrates that the appeal scheme represents the only reasonable solution to meet the occupant's needs. The property already benefits from in-curtilage parking provision at the rear and there may be other ways in which this can be altered so that it can be accessed safely and directly from within the rear garden. In addition, the occupants can change, but the effect of the development would be long lasting. As such, I can only give limited weight to the personal circumstances identified by the appellant.
14. The appellant also suggests there would be highway safety benefits as the turntable would enable a vehicle to exit onto Ickenham Road in forward gear. However, there is not currently any access to Ickenham Road from No 44 and I have no substantive evidence that the current arrangement from Sharps Lane is unsafe from a highways perspective. I therefore attach negligible weight to this matter.

Conclusion

15. I have found conflict with relevant policies of the DMP and consider that the appeal proposal through the identified conflict does not accord with the development plan as a whole. Material considerations, including the personal circumstances raised, do not indicate that planning permission should be granted for the development which conflicts with the development plan.
16. For the above reasons, I conclude that the appeal should be dismissed.

A Caines

INSPECTOR