
Appeal Decision

Site visit made on 11 October 2016

by Elaine Benson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 December 2016

Appeal Ref: APP/J1535/D/16/3152106
40 Ely Place, Chigwell, Essex IG8 8AG

- 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 Mr J Braha against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/3160/15, dated 29 November 2015, was refused by notice dated 18 March 2016.
 - The development proposed is described as demolition of existing detached garage. Proposed double storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for a double storey side extension at 40 Ely Place, Chigwell, Essex IG8 8AG in accordance with the terms of the application, Ref PL/EPF/3160/15, dated 29 November 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development shall be carried out in accordance with the approved plans FLU.157.01 Rev A, FLU.157.04 Rev D, FLU.157.05 Rev D and FLU.157.06.
 - 4) If, within a period of 3 years from the date of the completion of development, any tree, shrub or hedge shown to be retained in accordance with the approved plans and particulars (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation. If, within a period of 5 years from the date of planting, any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
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- 5) No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan Arboricultural Method Statement and site monitoring schedule in accordance with BS: 5837:2012 (Trees in relation to design, demolition and construction - Recommendations) (or an equivalent British Standard if replaced) has been submitted to the local planning authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the local planning authority gives written consent to any variation.

Preliminary Matter

2. Planning permission is not required for the demolition of the existing garage. I have therefore removed this element from the description of development in my decision.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the protected street tree adjacent to the development site.

Reasons

4. The street tree which is the subject of this appeal is an oak growing in a verge in the pavement close to No 40 Ely Place. It is one of a number of trees in this residential area which is protected by a Tree Preservation Order. The Oak is around 13.5m high with a crown spread of some 8 m. It is twin stemmed, with the main stem forking at 1m, creating a triple stemmed appearance. The tree has been managed by crown reduction and has a high vitality. It appears to be in good health and no visible defects were identified by any of the main parties, there are no reasons to disagree. The oak tree is prominent in the street scene, particularly as it stands on sloping land. As with some other street trees in the locality, it has been pruned. The Oak can be described as having a 'lollipop' shape, albeit a somewhat uneven one as its lower branches have been removed adjacent to the garden of No 39 Ely Place.
5. To determine whether the proposed extension would have a detrimental impact on the crown of the tree I have assessed the appellant's professionally prepared arboricultural appeal statement which has not been challenged by the Council. The statement indicates that the length of the branches in the southern aspect of the tree would need to be reduced slightly to clear the roof of the proposed extension and to accommodate the necessary scaffolding during construction. These works would involve tip-pruning the lowest branch nearest to the house. As discussed above, the tree has already had some of its lower limbs removed in this area. I am not convinced that the tip-pruning of the limited additional areas of the branches would have a detrimental effect on the appearance of the tree, or reduce the significant contribution that it makes to the visual amenities of the area.
6. I conclude that there would be no significant change to the overall form of the tree as a result of allowing the proposed extension to be constructed and no detriment to the physiological condition of the tree. There could well be repeated applications to manage the crown to prevent physical contact with the extension as the Council states. However, the tree appears to already be managed by regular reductions and any limited pruning of the tree required to address any conflict with the proposed extension would be part of the existing

cyclical management regime. There would therefore be no conflict with the provisions of saved policy LL10 of the adopted Epping Forest District Local Plan and Alterations which in summary requires development to make adequate provision for landscaping, including retaining trees, and the proposed development would comply with the relevant policies of the development plan when considered as a whole. Similarly, there would be no conflict with the guidance in the National Planning Policy Framework relating to protecting the natural environment.

Other Matters

7. The Council does not dispute the technical evidence which indicates that other impacts of the proposed extension on the oak tree and other trees in the vicinity could be addressed, including by the use of specialist foundations to protect the tree's roots, subject to the works being carried out in accordance with a detailed arboricultural method statement. I agree and this safeguard along with other tree protection measures would be controlled by the conditions I have imposed.
8. I concur with the Council that the proposed extension is acceptable in all other respects, including its design and relationship with neighbouring occupiers.
9. There is an ongoing insurance claim relating to the proposed removal of the appeal tree due to alleged nuisance. However, this does not affect my conclusions which relate only to the main issue in this case.

Conditions

10. The tree protection conditions I have imposed are necessary to protect the health of the trees on and around the appeal site and to protect local amenities. The external materials of the extension should match those of the house in the interests of the visual amenities of the surrounding area. For the same reason, and for the avoidance of doubt, I have imposed a condition requiring the development to be carried out in accordance with the approved drawings.

Conclusion

11. For the reasons set out above, the appeal is allowed.

Elaine Benson

INSPECTOR