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## Appeal Decision

Site visit made on 13 January 2017

**by Helen Heward BSc (Hons) MRTPI**

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

**Decision date: 7<sup>th</sup> February 2017**

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**Appeal Ref: APP/Q1255/D/16/3159718**

**South Deep, 63 Compton Avenue, Lilliput, Poole**

- 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 Colin D Smith & Carole A Smith against the decision of Poole Council.
  - The application Ref APP/16/00724/F, dated 3 May 2016, was refused by notice dated 1 July 2016.
  - The development proposed is described as "Erect annexe with attic rooms above as extension to existing dwelling house. Demolish existing double garage".
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is the effect of the development proposed on the character and appearance of the locality with specific regard to the effect upon protected trees.

### Reasons

3. No 63 is sited on a corner plot bounded by Compton Avenue and Blake Hill Crescent. The rear garden includes a large detached double garage set a short distance back from the main house. Beyond this is an area at the rear of the garden where the annex is proposed to be sited.
  4. In this part of the garden the ground level appears to be approximately 1m or more below that of Blake Hill Crescent adjacent. Along the boundary are a number of significant mature trees including a tall mature cypress (T5). There is a large beech tree (T3) within the garden and a similar beech growing close by in the adjoining garden (T4). All are subject to a Tree Preservation Order (TPO).
  5. It is proposed to locate the annex in an area between the canopies of the beech and cypress trees. The annex would be a two-storey building with a steep pitch and low eaves line. It is intended to provide an annex on the ground floor to provide for the needs of the appellant and his wife with fully wheel chair accessible accommodation. The appellant informs me that he was recently confined to a wheel chair for some months and could not climb stairs or steps. The first floor accommodation is intended for use as hobby and games rooms ancillary to the main house. The main windows to the principal rooms would be on the south and southeast sides.
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6. An Arboricultural Impact Assessment and Method Statement by Trevor Heaps 20 May 2016 (the AIAMS) notes that T3 and T4 are large trees with a life expectancy of more than 40 years. They are assessed as B1, using the tree categorisation method in British Standard 5837 '*Trees in relation to design, demolition and construction, 2012*' (the BS).
7. It appeared to me that they may not yet be fully grown. In late January they were not in leaf. Visibility was quite poor but I could make out the outline of their canopies in a number of restricted views from Blake Hill Crescent and Compton Avenue. Within the garden I could see the main limbs and twig tracery and I have no doubt that when in leaf T3 and T4 would have reasonably dense canopies, typical of beech trees and that they would make a valuable contribution to the overall character and appearance of the locality.
8. The main windows to the ground floor living and first floor games/gym rooms would face south and east. T3 and T4 create a large conjoined canopy to the south east. The canopies have branches extending towards where these windows would go. When in leaf these trees would cause shading and cast shadows over these principal windows at certain times of the day. In the future the branches would grow closer and their canopies get larger and more dense.
9. The bedroom would be north facing. Set at a low ground level and with high tree canopies along the northern boundary, including the large dense evergreen canopy of a cypress tree (T5). Daylight to it would be severely restricted and the room would be dark most of the time.
10. The only access would be by a path across the garden to the main dwelling, where I am told most meals would be taken and facilities such as washing machines and freezers used. Use of the annex by the occupiers of the main dwelling for hobbies and games would add to the 'toing and froing' across the garden path. It would be reasonably level and could be made suitable for the elderly and wheelchair users. Nonetheless, it could become covered by leaves and other tree litter causing convenience and safety concerns.
11. All of these effects would adversely impact upon the living conditions of the future occupiers of the annex and could result in pressure to cut back, remove limbs or fell some or all of the protected trees which would be difficult to resist and this would be harmful to the character and appearance of these trees.
12. The base of T5 is constrained by a 'planter' formed of a high boundary wall on the street side and high retaining wall on the garden side. Nonetheless this is a fine tall tree and makes a significant contribution in the street scene. I could see the tall dense canopy of T5 in close and medium range views, and together with the adjacent boundary trees it provides a significant and important verdant feature in the street scene.
13. The application includes a plan indicating the RPA of T5, this appears to be drawn in compliance with advice at paragraph 4.6.1 of the BS. In this case the annex would intrude into the RPA of T5 by approximately 9% and I have no reason to dispute either the plan or the calculation.
14. The AIAMS notes that the roots of T5 are expanding causing stone displacement but there is no evidence before me regarding the structure and foundations of the 'planter'. I am not persuaded that there is evidence to say

that the majority of the roots of T5 are likely to be constrained to growing east west in the trench. With a metalled road to the north and a dwelling not far to the west, I would expect that at least some root growth would have occurred in the less disturbed ground of the garden in the southern part of the RPA where the annex is proposed.

15. The AIAMS indicates that a holly in the far northern corner should be removed and, in respect of T5, recommends that it should be annually inspected or an application made to remove the tree on safety grounds. The advice in the AIAMS is that T5's physical and structural conditions are currently fair, and its life expectancy is assessed as more than 40 years. It does not state that T5 should be removed now.
16. A 'comment' relating to T5 in the tree data Schedule at Appendix 2 of the AIAMS notes that due to the growing conditions T5 may have limited rooting strength on its southern (windward) side and that annual inspection should be made and/or an application made to remove the tree. Were I to allow the annex to be constructed within the RPA there would be a risk that roots of T5 on the windward side would be adversely affected and that any severing of anchor roots would significantly harm the structural stability of the tree. This would result in a situation where pressure to remove the tree on safety grounds would be likely to be unavoidable, particularly given the height of the tree and its proximity to buildings, roads and paths. The loss of the tree would be significantly harmful to the character and appearance of the locality. Replacement planting would take time to mature and would not fully mitigate or compensate for the loss.
17. The AIAMS includes advice and recommendations for construction within an RPA in accordance with the BS, including methods such as using pile and beam foundations, not changing ground levels, and taking measures to protect the tree above ground. It may be possible to construct services outside of the RPA's and to construct the annex without the need to fell or lop any existing trees. There is nothing to say that information submitted is inaccurate. No large areas of new hard standing are proposed and an existing path would be utilised. A large garage and a summer house structure would be removed and garden restored. Planning conditions could be imposed to require local planning authority approval of the details of some of these matters.
18. Paragraph 5.3 of the BS states that the default position should be that structures are located outside of the RPA's of trees to be retained. It goes on to say that 'where there is an overriding justification for construction within the RPA... technical solutions might be available that prevent damage to the tree(s)'. The construction measures described would not mitigate the significant potential harm I have found nor do they amount to an overriding justification for construction within the RPA of T5.
19. I conclude that the proposed development would lead to pressure for severe pruning works to protected trees and could significantly adversely affect the roots of T5 causing irreversible damage, all to the detriment of the character and appearance of the locality. The proposal conflicts with the aims of Policy DM1 of the Site Specific Allocations and Development Management Policies Development Plan Document 2012 (DPD) and Policy PCS23 of the Poole Core Strategy 2009 (CS) which, amongst other things, seek to ensure that proposals

for development exhibit a high standard of design and that mature trees are retained, particularly where such trees form a distinctive edge, ridge or canopy.

### **Other Matters**

20. The Council's decision notice includes a reason that the proposal, by way of design, scale and proposed use, would be tantamount to a new dwelling. However, I have considered this appeal on the basis upon which the application was made, and that is as a residential annex. Therefore, in relation to this specific matter I find no conflict with Policy DM1 of the DPD or Policies PCS5 and PCS23 of the CS.
21. The trees are all protected by a TPO and T4 is not within the appellant's land ownership. Possible future tree management matters would be for the Council to consider with all of the necessary evidence at the relevant time, and as an application under the Town and Country Planning (Tree Preservation) (England) Regulations 2012 to undertake work to a tree/s protected by a TPO. It is not appropriate for me to make a decision on this appeal predicated on possible future scenarios.
22. The appellant informs me that he has recently been confined to a wheel chair for several months during which time he found 63 Compton Avenue unsuitable for wheel chair use. Nonetheless, there is little to say what other options have been considered to meet his future needs and this does not amount to evidence of an overriding justification for construction within the RPA of T5. I attach little weight to this matter.
23. There may be a number of properties with annex facilities and large extensions in the local area, and it could be that this annex would be modest in comparison to some, but I have assessed this appeal on its own merits.
24. From my observations I am not persuaded that the building would be unduly close or reduce light to a neighbour's living area.

### **Conclusion**

25. Having considered all other matters brought to my attention, I conclude that the proposal would lead to unacceptable risks to trees of acknowledged importance and harm to the character and appearance of the locality. Accordingly, the appeal should be dismissed.

*Helen Heward*

PLANNING INSPECTOR