

Appeal Decision

Site visit made on 13 April 2017

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 4th May 2017

Appeal Ref: APP/P5870/D/17/3169097

15 Firs Mews, 23A Worcester Road, Sutton SM2 6PW

- 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 Mrs Jindi Xu against the decision of the Council of the London Borough of Sutton.
 - The application Ref B2016/74178/HHA, dated 16 April 2016, was refused by notice dated 21 November 2016.
 - The development proposed is described as the erection of a new single storey conservatory on the rear of the property.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey rear/side conservatory at 15 Firs Mews, 23A Worcester Road, Sutton SM2 6PW in accordance with the terms of the application Ref B2016/74178/HHA, dated 16 April 2016, subject to the conditions set out in the schedule to this decision.

Procedural matters

2. The forename of the appellant is spelt differently on the planning appeal form compared to the application form lodged with the Council. As the right of appeal rests solely with the original applicant, I have proceeded on the basis that Mrs Jindi Xu is the appellant in this case.
3. The description of development in the above heading is taken from the application form. Part E of the planning appeal form, which was completed by the appellant, indicates that the description of development has not changed but a different wording has been entered. The description on the planning appeal form refers to the proposal as the erection of a single storey rear/side conservatory. The plans clearly show that the new addition would be at both the side and rear of the appeal dwelling. The Council determined the application on that basis and so shall I.

Main issue

4. The Council raises no objection to the proposed development apart from its effect on the lime tree situated just beyond the site. From the evidence before me, I have no reason to reach a different opinion. Accordingly, the main issue in this case is the effect of the proposed development on the lime tree.
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Reasons

5. The appeal property is an end terrace dwelling in a backland mews scheme within an area that is predominantly residential in character. There are trees in the vicinity of the site although one in particular, which is a lime tree, is just beyond the rear of the terrace to which No 15 belongs. This lime tree, which is hereafter referred to as the tree, is not protected by a preservation order. It would stand reasonably close to the new conservatory.
6. The tree may be seen from two main vantage points. From Worcester Road, the upper part of the tree is evident some distance away between tall buildings with a row of single storey garages and other vegetation in the foreground. As the tree projects above the tall timber fence that marks the rear boundary of the terrace of which No 15 forms part, its canopy would also be visible from the rear gardens and windows of the properties within that building. It may also be glimpsed from some upper windows of other nearby buildings. From the road and the site in particular, the tree is an attractive specimen and it also adds to the character and appearance of the local area by visually softening existing built form. As such, it has some significance in the local landscape.
7. Given the position of the tree, the appellant has sought specialist advice and has submitted an arboricultural impact assessment (AIA). The AIA has been prepared in accordance with the relevant British Standard. It identifies the tree as T1 and places it into a category that indicates moderate quality. According to the AIA, the tree is in good condition and it has a life span of over 40 years. From the submitted evidence, I have reason to reach a different opinion on these findings.
8. The AIA indicates that all of the new conservatory would fall within the root protection area (RPA) of the tree, as would part of the host building, the wider terrace and the rows of garages within the car park beyond the rear of the site. In those circumstances, and given that the tree positively contributes to the local landscape, appropriate measures should be put in place to safeguard its health and longevity. To that end, the AIA outlines the safeguards deemed appropriate to ensure that there is no irreparable long-term harm to the tree.
9. The Council raises particular concern that the only types of foundation design that would not damage the roots of the tree would result in raised internal floor levels. The appellant contests these points and has suggested a method of construction that would avoid the need to cut the roots or change the internal floor levels. Either way, the relevant issue is the potential effect of earthworks on the roots of the tree resulting from excavation and the laying of foundations and the installation of below ground services including drainage. Like the tree protection measures, this particular matter could be covered by condition if the proposal were to be acceptable.
10. The tree would be close to the rear elevation of the new conservatory and its canopy would be evident at close range from some of its windows. It is possible therefore that the occupiers of No 15 would seek to undertake some pruning works to the tree to enhance natural light and to safeguard a good quality outlook. The AIA also points out that pressure for some remedial work might result from the nuisance caused by aphids attracted to the tree.

11. From what I saw, the existing rear patio, back garden and windows of No 15 are similarly close to the tree, as are the rears of other properties in the same terrace. Therefore, the prospect of some overshadowing from the tree and seasonal debris will come as no surprise to the occupiers of the appeal dwelling or those in the wider terrace. As such, I am not convinced that pressure to remove or to cut back the tree to improve natural light or to reduce the nuisance from insect deposits, amongst other things, would necessarily increase to any significant degree with the new built form in place.
12. The AIA indicates that future maintenance of the tree would involve no more than routine works such as raising the crown or by removing encroaching branches. On that basis, it is unlikely that the proposal would place any significant additional burden to the occupiers of No 15 or others to carry out works to the tree.
13. Overall, I conclude on the main issue that subject to appropriate conditions, the proposed development would not unacceptably harm the tree. Consequently, I find no material conflict with Policy DM1 of the Council's Site Development Policies Development Plan Document. This policy seeks to ensure that development respects and retains, where possible, trees of amenity value.

Conditions

14. I have imposed a condition specifying the relevant approved drawings as this provides certainty. A condition is necessary for the external materials to match those of the existing building to achieve a satisfactory appearance for the development. For the same reason, and to safeguard the tree, conditions are imposed requiring details of earthworks and tree protection measures. These conditions (Nos 4 and 5) differ to the suggested condition put forward by the Council, which required the approval of a more detailed AIA before work starts, in the interests of clarity and precision.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs 1554/PP/01, 1554/PP/02 and 1554/PP/03.
- 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

- 4) No development shall take place until details of earthworks have been submitted to and approved in writing by the local planning authority. These details shall include: (a) the method by which building foundations will be excavated; (b) the type of foundation design to be employed; and (c) the proposed and existing functional services below ground (eg drainage, power, communications cables, pipes indicating lines, manholes and supports). Development shall be carried out in accordance with the approved details.
- 5) No ground clearance or construction work shall commence until details of fencing to protect the lime tree identified as T1 in the Arboricultural Impact Assessment and Method Statement dated 16 August 2016 has been submitted to and approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development. Within the area so fenced, the existing ground level shall be neither raised nor lowered. Roots with a diameter of more than 25 millimetres shall be left unsevered. There shall be no construction work, development or development related activity, including the deposit of spoil or the storage of materials within the protected area. The protective fencing shall be permanently retained during the construction of the development hereby permitted.