

Appeal Decision

Site visit made on 18 April 2017

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 04 May 2017

Appeal Ref: APP/T0355/D/17/3169237

Little Murtle, Sunninghill Road, Ascot, SL5 7DA.

- 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 Ms Nita Juj and Mr Malcolm Booker against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/01658 dated 26 May 2016, was refused by notice dated 16 November 2016.
 - The development proposed is for a part single part two storey side and rear extension and partial demolition of porch.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the scheme on the character and appearance of the area.

Reasons

3. Within Sunninghill Road the soft landscaped gardens, including the mature trees and hedges within and around them and within the highway verges make a considerable contribution to the sylvan character and appearance of Sunninghill Road, the surrounding area and the approach to the more urban High Street.
 4. The Appeal property and the adjacent properties are consistent with and contribute to this spacious, verdant suburban character. In particular, there is a large Red Oak tree within the rear garden of 1 Claver Drive, which overhangs the Appeal site and is the subject of a Tree Preservation Order (TPO). This tree appears to be in good condition and moderately young, with an expected life of at least 40 years. It is prominent both within the street scene and the surrounding rear garden environment and is a good specimen of high public amenity value. The tree makes a significant contribution to the character and appearance of the street scene and the area in general, both on its own and as part of the wider group of trees in the area.
 5. The existing dwelling on the Appeal site is one of pair of traditionally designed semi-detached two storey dwellings with prominent front gable and bay window features. To the side of the Appeal dwelling is a wide, flat roofed extension that is utilitarian in its design and appearance. It has strong horizontal lines and fails to respect the vertical lines and articulation of the host dwelling.
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6. Together the National Planning Policy Framework (NPPF) and policy DG1 of the Royal Borough of Windsor and Maidenhead Local Plan (Local Plan), seek to ensure that new development does not harm the character of the surrounding area through the loss of important features which contribute to that character.
7. Paragraph 2.2.24 of the Local Plan advises that the retention of trees can help soften the impact of new buildings. When considering proposals, particular importance will be given to the retention of trees. Policy N6 of the Local Plan requires the submission of tree surveys with applications and the retention of existing trees and tree planting and landscaping schemes where appropriate. The supporting text to this policy advises that it seeks to ensure a balanced approach to preserving existing trees and new planting on development sites. Where the contribution of trees to local amenity outweighs the justification for development, planning permission may be refused.
8. The Ascot, Sunninghill and Sunningdale Neighbourhood Plan 2011 – 2026 (NP) has similar objectives. Policy NP/EN2 of the NP states that development proposals should seek to retain mature or important trees.
9. The proposed extension would be substantial in size. However, it would be set back from the front building line of the dwelling and would have a slightly lower ridge line. It would include a front bay window and gable feature with matching fenestration, barge boarding and materials. As a result it would appear subservient to and would respect and reinforce the character and appearance of the host dwelling.
10. The proposed flat roofed rear extension would be contemporary and visually uncluttered in its design and appearance. Whilst it would change the character of the rear of the dwelling, it would be largely screened from the adjacent gardens by fencing, hedges and trees. At the same time the rear first floor elevation and roof of the two storey side extension would reinforce the traditional character of the property within the rear garden environment, above first floor level.
11. Whilst the resultant dwelling would project close to the side boundary of the host dwelling, the resultant gap between the host dwelling and the dwellings at Claver Drive would respect the spatial characteristics of the area as a whole.
12. Taking all of these factors into account, in itself, the proposed extension would respect and blend in appropriately with the host dwelling, the street scene and the area.
13. However, much of the proposed two storey extension would fall within or close to the canopy of the preserved Red Oak tree. At the same time the proposed extension would result in there being habitable rooms under and adjacent to the tree. It would increase the actual and perceived risk of tree limbs falling on the dwelling, which could damage the property and result in danger for the occupants of the extension. The cramped juxtaposition between the proposed extension and the Red Oak tree would serve to highlight the actual and perceived risks.
14. In view of the location of the proposed extension directly under the canopy of the tree, the development would result in maintenance issues for the occupants of the resultant dwelling. Even with gutter guards the guttering would need to be cleared of debris sitting within/on the guttering on a regular basis. Whilst this undoubtedly happens with the existing garage, as a flat roofed single storey structure, the clearing of the leaves etc from the roof and gutters is straightforward.
15. The canopy of the Red Oak tree projects over and in front of the proposed study and bedroom windows. As a consequence it would overshadow those rooms in the mornings for a significant part of the year, unless its canopy was routinely cut back and prevented from increasing in size. The tree would also totally dominate the outlook from the front window to the proposed bedroom.

16. It is noted that permission has recently been granted to reduce the lateral tips of the Red Oak tree to give a two metre maximum clearance to the building line of the Appeal dwelling. Whilst such works would reduce the likelihood of branches falling on the existing/proposed roof, it would not obviate the need to remove leaves and other debris from the area around the roof gutter. Similarly the permitted works would not address the visual impact and overshadowing of the proposed study and bedroom one.
17. This recent permission and the fact that the application was originally for the tree to be felled, serves to highlight that the proposed extension would likely increase the pressure to cut back or fell the tree. Whilst, such applications can be refused, the impact of the tree on the safety and living conditions of the occupants of the proposed extension and its proper maintenance would be a material consideration. Such considerations would be quite distinct from that of the existing single storey flat roofed garage.
18. As advised in *Trees in relation to design, demolition and construction – Recommendations* (BS 5837:2012), a realistic assessment of the probable impact of any proposed development on trees should take into account the characteristics and condition of the trees concerned, with due allowance and space for their future growth and maintenance requirements. To maximise the probability of successful tree retention account should be taken during the design process of any shading of buildings and open spaces, any direct damage both below and above ground, future pressure to remove the tree and seasonal nuisance.
19. I am less concerned regarding the parking of vehicles within the root protection area of the Red oak Tree as this clearly already happens. The proposed two storey extension would sit within the existing garage foundation and the rear extension would fall outside the root protection area for the Red Oak tree. The Appellant has confirmed that no new services would be laid within the root protection area. As such, I am satisfied that, subject to the imposition of suitable conditions, the construction of the proposed extension could be undertaken without short or long term harm to the Red Oak tree
20. Hence, whilst, it may be possible to construct the proposed extension without having a materially adverse impact on the long term health of the Red Oak tree, there could well be considerable pressure from the future occupants of the dwelling to either fell or cut it back. This would have a materially harmful impact on the character and appearance of the surrounding area. Such harm would clearly outweigh the benefits for the Appellant and his family that would result from the proposed extension and would fail to meet the wider public interest, in terms of the NPPF.
21. A short distance to the northwest of the Red Oak tree and within the garden of 2 Claver Drive is a young Fastigate Oak tree, which replaced preserved Sweet Chestnut tree. This tree is located close to the boundary with the Appeal property and approximately 2.5 metres from the proposed side and rear extension.
22. Whilst Fastigate Oak trees can achieve a height of at least 15 metres and a diameter of eight metres, I agree with the Appellant's arboriculturalist that the Fastigate Oak at 2 Claver Grove would be unlikely to achieve this size. This is due to the proximity of the Red Oak, its siting close to the boundary fence and its siting close to the existing attached garage on the Appeal site. Notwithstanding this, the proposed extension would likely further reduce its development potential. It would reduce the potential area for root growth and together with the Red Oak the proposed extension would overshadow and enclose the Fastigate Oak tree.
23. However, in view of the young age of the Fastigate Oak tree and the fact that it is already constrained in its siting, any harm that would be caused by the proposed

extension could be mitigated by the planting of a new tree in a more open position on the Appeal site. This is a matter that could be dealt with by condition.

24. A number of appeal decisions which address trees in relation to development have been referred to. Rather than set a precedent these decisions serve to highlight the need to assess each proposal on its individual merits and in light of the prevailing planning policies and guidance relating to trees and development.
25. Finally, it is acknowledged that the Appeal dwelling could be extended in accordance with the tolerances set out in the Town and Country Planning (General Permitted Development) (England) Order 2015. A single storey side extension, up to half the width of the original dwelling, could be constructed along with either a two or single storey extension to a rear of the original house.
26. Any side extension would likely fall within the root protection area of the Red Oak tree, although it would not project as close to the Red Oak tree as the proposed extension. In addition, it would not exceed four metres in height. Any extension to the rear of the host dwelling would fall outside the root protection area of the Red Oak tree. Accordingly, any extensions constructed within the current permitted development tolerance would not impact on the Red Oak tree as much as the proposal.
27. For these reasons I conclude that the proposed development would unacceptably harm the character and appearance of the area. It would conflict with policies DG1 and N6 of the Local Plan, policy NP/EN2 of the NP and the NPPF.

Elizabeth Lawrence

INSPECTOR