

Appeal Decision

Site visit made on 20 April 2017

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 10th May 2017

Appeal Ref: APP/U1105/D/17/3169937

**The Deck House, Higher Broad Oak Road, West Hill, Ottery St Mary,
Devon EX11 1 XF**

- 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 Dr L Jones and Dr L Knight against the decision of East Devon District Council.
 - The application, Ref. 16/2557/FUL, dated 24 October 2016, was refused by notice dated 20 December 2016.
 - The development proposed is a first floor extension.
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Decision

1. The appeal is allowed and planning permission is granted for a first floor extension at The Deck House, Higher Broad Oak Road, West Hill, Ottery St Mary in accordance with the terms of the application, Ref. 16/2557/FUL, dated 24 October 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision;
 - 2) The development shall be carried out in accordance with the following approved plans: Drawing No. Series: 984/16/; Plan Nos. LP; BP; 01; 02; 03; 04; 05; 06; 07C; 08A; 09A; 10A; 11A; 12;
 - 3) 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.
 - 4) The proposed removal of the limb from the southern side of the main stem and all construction work shall be carried out in accordance with the Tree Protection Plan and recommendations of the Arboricultural Method Statement in the letter from 'Advanced Arboriculture' to the appellants' agent dated 16 January 2017.

Main Issue

2. The main issue is the effect of the proposed extension on a tree covered by a Tree Protection Order.

Reasons

3. The appeal scheme is to raise the roof of a single storey part of the building that appears to have been intended as a garage but never actually used as such. The increase in height compared to the existing roof would be modest
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and lower than the main ridge, whilst no ground works are proposed. The extension is for an additional bedroom and includes a Juliet balcony with French windows.

4. The Council's concern is that the extension, and also taking account of the French windows, would lead to future pressure for the removal of the tree or at least substantial tree works. However, whilst I am familiar with the argument that protected trees too close to dwellings can result in requests for felling or substantial works, the appellants had the opportunity to include this tree in the programme of felling of nearby trees before it was made subject to a TPO.
5. The fact that they did not do so is in my view unsurprising, because the tree will have a privacy and screening effect from Higher Broad Oak Road for the French windows of the bedroom, whilst also providing amenity for the occupiers. The proposed tree works in the form of the removal of one slender branch are minor and having observed the tree's form and relationship with the dwelling I am not persuaded that the likely nature and extent of its future growth will have a compromising effect on the dwelling in terms of loss of light or other nuisance.
6. Because of its now protected status the Council has full control of the tree, and whilst the felling of the nearby trees will give it the opportunity in due course to grow into a more balanced form, I have no reason to believe that it would become a liability rather than an asset to the property that would persuade either the existing or future owners to apply for anything other than minor tree works.
7. Overall, there would be no harmful conflict with Policies D1 & D3 of the East Devon Local Plan 2013-2031 adopted in 2016 and I shall therefore allow the appeal. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and in the interests of proper planning. A condition requiring matching external materials will secure a harmonious form of development and maintain visual amenity. Finally, a tree condition will protect the tree during the construction period and ensure that the minor tree works and construction are carried out in accordance with professional standards.

Martin Andrews

INSPECTOR