

Appeal Decision

Site visit made on 8 May 2017

by Janet Wilson BA (Hons) BTP MRTPI DMS

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

Decision date: 8th June 2017

Appeal Ref: APP/M5450/D/17/3170573

11 Fallowfield, Stanmore HA7 3DF

- 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 Milligan against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/5550/16, dated 25 November 2016, was refused by notice dated 23 January 2017.
 - The development is described as '*Garden terrace/Landscaping: upgrade, expansion and reconfiguration of previous garden terrace arrangement to rear of property, consisting of hard and soft landscape terraces, planters and pathway*'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development has already been completed and therefore I am considering this appeal retrospectively.

Main Issues

3. The main issues are the effects of the development on the character and appearance of the area and the living conditions of the occupiers of the adjacent property in respect of privacy.

Reasons

Character and Appearance and effect on protected trees

4. The appellant asserts that it always intended to be able to walk out from the folding doors of the recently constructed ground floor extension (which has replaced a former conservatory) onto a level area. However, the plan for that extension supplied by the appellant does not show a level area to be created and the outdoor terrace that is now in place, around the former slab of the old conservatory has resulted in a substantial increase in ground levels within the canopy spread of a protected Silver Birch tree. Ground levels have been altered in places by around 2 metres within a significant proportion of the root protection area (RPA); though part of this work results from the foundation of the single storey extension (which replaced a former conservatory) the terracing means that activity within the crown spread has been extensive. A tree report submitted in evidence was commissioned for a different proposal
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but does give the magnitude of the RPA which is shown as being in excess of 5 metres (radius).

5. The appellant states there is no suggestion that the erection of the ground floor extension or the terracing has had any harmful impact. However, the report does not mention the terracing in its analysis of the existing ground conditions and it seems from the description given of the existing rear garden that the report may have been prepared before the terracing took place. Moreover, the report does not analyse the impact of any ground being built up in the RPA nor does it mention any mitigation measures of the land levels being altered. It does however refer to protection measures to avoid root compaction. There is scant evidence to demonstrate that the terrace would not cause any harm to the tree as no details have been provided specifying how the terrace was formed nor any measures taken to prevent compaction or interference with ground conditions under the canopy spread of the Silver Birch.
6. The extent of ground build up, taken together with the formation of the structure has resulted in extensive activity within an area approaching 40 per cent of the RPA. This is a significant and material issue in relation to a tree afforded statutory protection and there is no certainty that the health of the tree has not been compromised in the short or long term. The character of the site is heavily wooded and the loss of one of the most mature trees would erode this character and cause visual harm undermining the reasons why the trees were protected. In the absence of evidence to demonstrate that harm has not been caused by soil compaction and interference with ground conditions there is likely to be an adverse impact on the character and appearance of the area. As a result the development is in conflict with Policy 7.21 of the Spatial Development Strategy for London Consolidated with alterations since 2011 (2016) (the London Plan) and Policies DM1 and DM22 of the Harrow Development Management policies Local Plan (2013) (the Local Plan), these policies amongst other things seek to ensure that existing trees of value are retained and enhanced; resists the loss of trees which have significant amenity value and seeks to ensure that development which would be detrimental to local character and appearance is resisted.
7. The boundary planting to the garden, in particular the mature trees mostly screen the site from public view. The exception being views close up to the rear boundary with the nature reserve where a chain link and post fence beneath the tree canopy afford views out from the bottom of the garden into the nature reserve and vice versa. The slope of the site means that the tree canopies screen the house in longer views from the reserve.
8. The external walls have a stark appearance having been refurbished in white render. The terrace wall on the boundary to No 12 Fallowfield (No 12) is simple, it is around 2 metres high close to the house and as the land falls away reaches approximately 3 metres. It is also set close up against a timber fence which forms the boundary to No 12. The screens to the terrace are clear glazed and their visual impact is therefore minimal, indeed from the bottom of the garden they are barely visible.
9. These factors combined result in only localised visual impact of the terraces, hard landscaping, pathways and boundary walls when read against the main house. As a result I do not find conflict with Policies 7.4B and 7.6B in the London Plan, Policy CS1B of the Core Strategy, the Local Plan or the Adopted

Supplementary Planning Document Residential Design Guide (SPD) in respect of its appearance, prominence nor harm to the character of the dwelling though this does not diminish my findings in relation to the impact of the development on the protected tree.

Living conditions

10. The property is a large detached house in a generously sized plot which slopes away to the rear of the site. There are mature trees to the side and rear boundaries several of which are protected by Preservation Orders. This results in an enclosed feel and wooded character to the garden.
11. The terrace as built is elevated above ground level; its prominence in the garden is accentuated by the fall of the land which drops away from the house in the appeal site as it does in the neighbouring properties. The boundary adjacent to the raised terrace is planted with bamboo under the canopy of the mature trees. This restricts the view towards the neighbour and allows only glimpses towards No. 10 Fallowfields (No 10). The terraces have been arranged with the main activity focused to the middle of the site where the seating areas are located and where activity is likely to be concentrated. The density and height of the boundary planting largely obscure views towards the neighbour's property such that only glimpses through the boundary can be achieved.
12. In the light of the above there is no unreasonable degree of overlooking from the appeal site to the neighbour at No. 10 and thereby no policy conflict with section 7.6B of the London Plan; Policy DM 1 of the Local Plan nor the SPD.

Other matters

13. It has been stated that the extensions and an outbuilding at the rear of the property have been built without the benefit of planning permission; also a prior approval application has been referred to by the Council and appellant. Whether any of these benefit from deemed planning permission or comply with any other planning approval are not within the remit of this appeal. These are matters for the Council. In any event I have reached my decision on the evidence before me.

Conclusion

14. Whilst I have found no harm in relation to the impact on the living conditions of the neighbours or the appearance of the terrace in the context of the appearance of the dwelling, I have found harm to the character and appearance of the area resulting from the likely adverse impact on the Silver Birch tree. That is the prevailing consideration and so, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Janet Wilson

INSPECTOR