
Appeal Decision

Site visit made on 9 May 2017

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 12 June 2017

Appeal Ref: APP/R0335/W/17/3167480

13 Waterloo Road, Crowthorne, Berkshire RG45 7PB

- 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 Mark Walters against the decision of Bracknell Forest Borough Council.
 - The application Ref 16/00611/FUL, dated 16 June 2016, was refused by notice dated 22 November 2016.
 - The development proposed is described as “new build residential dwelling”.
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Decision

1. The appeal is dismissed.

Reasons

2. The single unresolved issue relates to the effects of the proposed development on the character and appearance of the area, having regard for the possible effects on trees.
3. The proposed new dwelling would be sited in the appeal property’s rear garden, fronting onto Alcot Close. The latter road is a residential cul-de-sac with houses mainly on its opposite side, but also some on the same side as the appeal site. Having regard to this existing pattern of development, the Council does not object to the principle of an additional dwelling in this location, and I see no reason to disagree.
4. However, within both of the adjoining gardens, there are trees in close proximity to the appeal site boundaries, which are protected by a recently-made Tree Preservation Order (TPO). These include a small woodland at No 15, of mixed species including several oaks, and another group of oaks within the garden of No 11. Trees within the highway verge in Alcot Close are also protected, by another TPO, dating back to the 1970s. Although individually the protected trees vary as to their quality and physical condition, together they form a striking and attractive feature in the street scene, which contributes in no small measure to in Alcot Close’s pleasant character. Most of the trees are semi-mature, and if allowed to grow unhindered, the oaks in particular could be expected to make significant further growth and thus increase their contribution to the area.
5. The new house, as currently proposed, would fill almost the full width of the site, except for a narrow margin of about one metre on either side. On one side there would also be a projecting chimney which would reduce the gap to

400mm at the tightest point. From the submitted plans, the distance between the building and the nearest trees would be about 3.5 – 4.75m on No 15's side, and approximately 2.7 - 3.4m on the other. In some of these cases, the building would encroach into the likely rooting areas of the trees, or under their canopies, and in others it would be just outside. There would also be a need for various other works, including a vehicle parking area, access pathways, and excavations for services. Although the present application does not go into any detail on these items, it is clear from the submitted plans that they would need to extend close to, or run alongside, the site boundaries, where they would almost certainly create further incursions into the trees' rooting areas, including that of the large oak numbered G2.4, on the highway boundary.

6. I accept that it is sometimes possible to carry out building works close to trees without causing damage. Techniques such as no-dig construction, hand excavation within root areas, suspended slabs, mini-piled foundations and cellular confinement systems, have all been used successfully in some situations. But whilst such techniques may help to reduce the risks to the trees, this does not normally mean they will eliminate those risks altogether. This approach may be justified where the residual risks are to be weighed against some form of public benefit arising from the development, but in the present case, no such benefits are advanced. The development would add to the local housing stock, but there is no evidence that this could not equally be achieved using a different design which provides greater clearance on either side of the new building.
7. In addition, as well as the potential for direct damage to roots or branches during construction, there would be a potential conflict in terms of living conditions for future occupiers. Although the new dwelling would have no windows in its side elevations, the presence of a large mass of trees on both sides, in such close proximity, would be likely to affect the amount of light reaching both the dwelling itself and parts of its garden, especially in the future as the trees continue to grow. The council's consent would be needed for any works to those that are protected, but nonetheless, the effects on living conditions would be a material consideration which would attract significant weight. Consequently, building so close to the side boundaries would run the risk that future applications to fell or cut back the nearest trees might become impossible to resist. Such works might also require the agreement of the relevant owners, but this does not mean that such agreement could not be obtained.
8. I appreciate that tree T1 is not covered by either of the TPOs, and therefore works affecting its roots within the appeal site would not need either the Council's or the owner's consent. But there is no evidence that this would be likely to happen without the development now proposed. I accept that guidance advises against 'woodland' TPOs on garden trees. But the TPO in this case appears to have been approved through the relevant statutory procedures, and for the reasons given earlier, in my view the trees in question are worthy of protection. I note that the proposed house design is said to be the same as that approved in a previous planning permission on the site, but it appears this has lapsed. I must judge the present appeal on the circumstances that exist now.
9. Taking account of all the above considerations, I conclude that, in the absence of clear evidence to the contrary, the development as currently proposed would

be likely to cause unacceptable risks to the long-term health and life expectancy of the surrounding trees. As a consequence, the scheme would cause unacceptable harm to the character and appearance of the local area. As such, it would be contrary to the relevant provisions of saved Policies EN1 and EN20 of the Bracknell Forest Borough Local Plan, adopted in January 2002, and Policy CS7 of the Bracknell Forest Core Strategy, adopted in February 2008.

Other matter

10. I note that an undertaking has been entered into, and that the Council is satisfied that this would adequately mitigate the development's effects on the Thames Basin Heaths Special Protection Area, in accordance with the relevant supplementary guidance and legislative provisions relating to planning obligations. However, in view of my conclusion on the main issue regarding trees, this does not affect my overall decision.

Conclusion

11. For the reasons set out above, I conclude that the proposed development would have an unacceptably adverse effect on the area's character and appearance, due to its potential impact on the existing trees. I have taken into account all the other matters raised, but none alters this conclusion. The appeal is therefore dismissed.

John Felgate

INSPECTOR