

Appeal Decision

Site visit made on 12 June 2016

by **C Jack BSc(Hons) MA MA(TP) MRTPI**

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

Decision date: 20th June 2017

Appeal Ref: **APP/A3655/W/17/3171064**

Bankside, 1A The Grove, Horsell, Woking GU21 4AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Quentin Goodwin against the decision of Woking Borough Council.
 - The application Ref PLAN/2016/1394, dated 7 December 2016, was approved on 2 February 2017 and planning permission was granted subject to conditions.
 - The development permitted is a single storey rear extension and replacement of flat roof above existing garage with a pitched roof and new render and cladding.
 - The condition in dispute is No 4 which states that: *No development related works shall be undertaken on site (including clearance and demolition) until tree protection details, to include the protection of hedges and shrubs, have been submitted to and approved in writing by the local planning authority. These details shall adhere to the principles embodied in BS 5837 2012 and shall include a Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement. The details shall make provision for the convening of a pre-commencement meeting and Arboricultural supervision by a suitably qualified and experienced Arboricultural Consultant for works within the RPAs of retained trees. Full details shall be provided to indicate exactly how and when the retained trees will be protected during the site works. The development shall be carried out strictly in accordance with the agreed details.*
 - The reason given for the condition is: *To ensure the retention and protection of trees on and adjacent to the site in the interests of the visual amenities of the locality and the appearance of the development in accordance with Policy CS21 of the Woking Core Strategy 2012.*
-

Decision

1. The appeal is allowed and the planning permission Ref PLAN/2016/1394 for a single storey rear extension and replacement of flat roof above existing garage with a pitched roof and new render and cladding at Bankside, 1A The Grove, Horsell, Woking GU21 4AE granted on 2 February 2017 by Woking Borough Council, is varied by deleting condition 4, and substituting for it the following condition:
 - 4) All trees on site and any trees whose canopies overhang the site shall be protected by fencing, the location and type to be previously 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, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
-

Preliminary Matters

2. Planning permission for a single storey rear extension and a pitched roof over the existing garage was granted subject to a pre-commencement condition requiring details in relation to the protection of trees, hedges and shrubs, including a tree survey, impact assessment and method statement in accordance with BS 5837:2012, to be provided to the Council for approval. The appellant essentially considers this condition to be overly onerous in light of details submitted with the application indicating the maximum root protection area (RPA) to be outside the proposed development area. Accordingly, the removal of condition 4 is sought in this appeal.

Main Issue

3. Taking the background above into account, the main issue is whether the condition is necessary and reasonable having particular regard to protected trees.

Reasons

4. Bankside is a detached house situated in a residential street within the Wheatsheaf Conservation Area (WCA). The rear garden backs onto the Basingstoke Canal, the corridor of which is largely designated as the Basingstoke Canal Conservation Area (BCCA). There are a number of trees situated at the rear of the site, along the bank of the canal, which are statutorily protected by reason of their location within a conservation area. These trees, particularly as a result of their value as a group, make a significant positive contribution to the character and appearance of the WCA and the BCCA. There is also a coniferous hedge at the rear of the garden, and a variety of garden shrubs, which collectively make a modest positive contribution to the overall character of the area, but are largely screened from public view.
5. The integral garage is situated at the front of the house adjacent to the paved driveway. In this location, well separated from trees and other vegetation, the introduction of a modest pitched roof is very unlikely to have any material effect on trees, hedges or shrubs.
6. The rear extension would have a maximum projection from the rear elevation of approximately 2.75m and would occupy an area currently partially covered by a patio. The rear garden is of sufficient length that the extension would be well separated from the trees at the rear. The block plan 1619-1ATG-001 indicates the extent of the capped maximum RPA of the trees of 707m², as set out in BS 5837:2012. The rear extension would lie approximately 2.9m outside the maximum RPAs at the closest point. The identified actual RPAs are significantly further away and therefore the extension would not materially impact on the RPAs or enclose or otherwise materially affect the trees. There is no significant evidence before me to suggest that the RPAs have been incorrectly identified on the plan and, including on the basis of my site visit, I see no reason to conclude as such.
7. I acknowledge the importance of safeguarding the trees given their protected status. However, the permitted scheme is generally consistent with the relevant requirements of BS5837:2012, particularly given that it would lie wholly outside the identified maximum RPAs. Therefore, the provision of

further details in accordance with the BS would be highly unlikely to have any material benefit. Furthermore, given the location of the canal at the rear of the site, it is most likely that construction access would be from the front of the property, rather than in proximity to the trees. The works may have some effect on a number of garden shrubs in the vicinity of the rear extension, but this would be limited and would not amount to material harm to the character or appearance the area including the WCA or the setting of the BCCA. I therefore consider that the scope of the requirements of existing condition 4 is excessive in respect of the development permitted and consequently that it is both unreasonable and unnecessary in the interests of the protected trees.

8. In light of this, I consider that the removal of existing condition 4 would not be likely to result in material harm to the protected trees or other hedges and shrubs arising from the development and the character and appearance of the area would therefore be unharmed. Furthermore, it would not conflict with Policy CS21 of the adopted Woking Borough Core Strategy 2012, which among other things seeks to ensure that landscaping, including the retention of any trees, is incorporated into the scheme.
9. Notwithstanding this, BS5837:2012 also sets out various general requirements in relation to the protection of trees during works of construction that will take place in their vicinity. This includes in relation to avoiding any construction related activities such as the storage of materials, machinery and equipment where the trees or the RPAs could be adversely affected. Given that the rear extension would be constructed near to protected trees, it is important that they are afforded proportionate protection during the works in order to ensure their ongoing contribution to the character and appearance of the WCA and BCCA.
10. This could be achieved by a temporarily fenced exclusion zone in relation to the trees and their RPAs for the duration of the works. This would represent a substantially reduced burden on the appellant compared to the undue requirements of the existing condition yet would ensure reasonable protection of the trees during construction, in the public interest. A substitute condition requiring the protection of trees by fencing would therefore be necessary in this case to safeguard the trees in the interests of the character and appearance of the WCA and BCCA, which are designated heritage assets. I consider the replacement condition set out in the formal decision above meets the tests set out in paragraph 206 of the National Planning Policy Framework.

Conclusion

11. For the reasons given above, I consider that the existing condition 4 is overly onerous in its requirements and is not reasonable or necessary having regard to the scale and nature of the development permitted and its relationship to nearby protected trees. However, it is necessary to ensure the protection of nearby trees during the works. I therefore conclude that the appeal should be allowed and that the planning permission should be varied by the deletion of the existing condition 4 and substituting for it a new condition 4, as set out in the formal decision above.

Catherine Jack

INSPECTOR