

Appeal Decision

Site visit made on 5 July 2017

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 26 July 2017

Appeal Ref: APP/R3650/D/17/3175128

3 Ernest Close, Farnham GU10 3NL

- 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 and Mrs Chisholm against the decision of Waverley Borough Council.
 - The application Ref WA/2016/2409, dated 6 December 2016, was refused by notice dated 5 April 2017.
 - The development proposed is the erection of two storey side extensions, following demolition of linked garage and conservatory. Rear single storey extension and external modernisation.
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Decision

1. The appeal is allowed and planning permission granted for the erection of two storey side extensions, following demolition of linked garage and conservatory. Rear single storey extension and external modernisation at 3 Ernest Close, Farnham GU10 3NL in accordance with the terms of the application, Ref Ref WA/2016/2409, dated 6 December 2016, subject to the following the conditions identified in the attached Schedule to this decision.

Procedural Matter

2. The appellants requested the site visit be undertaken on an unaccompanied basis.

Main Issue

3. It is considered that the main issue is the effect of the proposed development on the character and appearance of the surrounding area as a result of its impacts on a tree subject of a Tree Preservation Order.

Reasons

4. The property is a 2-storey detached dwelling with single storey side additions, including a conservatory. Adjacent to the conservatory is a Norway Maple (T1) which is subject of a Tree Preservation Order (TPO). Works have previously been undertaken to the tree in response to concerns about its structural condition. The base of this tree is elevated well above the ground floor level of the property and the sunken patio area enclosed by a retaining wall. The conservatory appears to be used as habitable accommodation, including as a study and play room.
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5. Although within the rear garden of the property, the protected tree is a positive feature within the sylvan appearance of the surrounding residential area which is characterised by dwellings situated within well landscaped plots containing a variety of trees. The protected tree is visible from the adjacent roads and neighbouring properties and is part of the wider backdrop of trees. The loss of this tree would be detrimental to the sylvan character and appearance of the surrounding area.
6. In support of the appeal application the appellants submitted an Arboricultural Survey which assessed the Norway Maple against the criteria included in *BS5837:2012 Trees in relation to design, demolition and construction – Recommendations* and defined the tree's root protection area (RPA). Based upon the site visit, there are no reasons to disagree with this assessment and the extent of the RPA. Further, there are no reasons for me to disagree with the results of the appellants' trial excavations concerning the size and depth of the tree's fibrous roots adjacent to the retaining wall.
7. The proposed development includes the replacement of the side additions with 2-storey extensions. When compared to the existing conservatory the proposed extension's footprint would be marginally larger and extend onto part of the patio area. To erect this proposed extension would necessitate building works and related activities occurring within the RPA and the affected area has been calculated by the appellants to be about 0.35sq m or 0.18% of the RPA. A typical retaining wall detail has been provided by the appellants for the proposed development but this is clearly marked 'subject to detailed design'.
8. The appellants' Arboricultural Method Statement identifies measures which would protect the tree during the construction period and these could be secured by condition. By reason of the extent of existing built development and the limited increase in the size of the proposed extension, together with the ability to control works within the RPA, there is sufficient information available to satisfy me that there would not be a significant adverse impact on the long-term health and stability of this protected tree associated with the erection of this element of the appeal scheme.
9. Within the rear elevation of the property is a large opening serving a habitable room at ground floor level and there is also a bathroom window at first floor level. These openings are in addition to the conservatory. The accommodation within the rear part of the proposed extension which would replace the conservatory includes a study at ground floor level and an en-suite bathroom at first floor level. The proposed study includes windows within both the rear and side elevations which would provide dual aspect for outlook and 2 sources of daylight. The en-suite bathroom would be a non-habitable room and any window would normally be obscure glazed limiting outlook. By reason of the nature of the accommodation and openings proposed, I am satisfied that the design of the appeal scheme would not lead to increased pressure for lopping or felling of this protected tree when compared to the existing situation.
10. By reason of the difference in the ground levels between the tree and the proposed 2-storey extension, the extension's sloping roof, the separation distance and the height of the tree's branches, direct contact would be avoided between the tree and the appeal scheme. For these reasons, I am also satisfied there would be an adequate separation between the proposed

extension and tree T1 so as not lead to increased pressure for either lopping or felling of the tree.

11. For the reasons given, it is concluded that the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area because there would be no significant adverse impacts on the long-term health and stability of a tree subject of a TPO. It is further concluded that the appeal scheme would not conflict with Policies D4 and D7 of the Waverley Borough Local Plan which, amongst other matters, require development to have regard to existing features, for important trees not to be lost and developments providing for the long-term retention of trees, including by reason of an adequate separation distances.
12. Although the Farnham Neighbourhood Plan (NP) has yet to be made or adopted, significant weight can be given to the plan because it has been the subject of a referendum and the legal challenge¹ to its adoption has failed. The appeal scheme would not conflict with NP Policy FNP1 which requires development to protect and sensitively incorporate natural features such as trees.
13. The Council referred to Policy TD1 of the Waverley Borough Draft Local Plan Part 1: Strategic Policies and Sites 2016 but this plan has yet to be adopted and, in any event, this policy does not add materially to the considerations of the adopted development plan policies.

Other Matters

14. The concerns raised by the occupiers of neighbouring properties, particularly regarding potential overlooking, loss of privacy, overshadowing, reduced levels of daylight and loss of outlook, have been carefully noted. However, by reason of the relationship between the adjoining dwellings and the proposed development observed during the site visit, there are no reasons for me to disagree with the Council's assessment that the appeal scheme would not cause unacceptable harm to the living conditions of the occupiers of these neighbouring properties.

Conditions

15. The Council has suggested a number of conditions which have been assessed against the policy and guidance contained in the National Planning Policy Framework and the Planning Practice Guidance. It is necessary for the proposed development to be carried out in accordance with the approved drawings and these plans included the proposed external materials. If there are changes to the external materials then this condition would need to be varied and, accordingly, a separate condition precluding other external materials is unnecessary.
16. There are several conditions relating to the details for the protection of the Norway Maple and all of them are necessary in some form but have been amended for reasons of precision.

¹ R (on the Application of Bewley Homes & Others) v Waverley Borough Council & Another

17. Accordingly, and taking into account all other matters, it is concluded that this appeal should be allowed.

D J Barnes

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1605/ST.01; 1605/ST.02 Rev A; 1605/EX.01; 1605/EX.02; 1605/EX.03; 1605/EX.04; 161605/EX.05; 1605/GA.01 Rev C; 1605/GA.02 Rev A; 1605/GA.03 Rev A 1605/GA.04 Rev A and 1605/GA.5 Rev A.
3. No site clearance, demolition, preparatory work or development shall take place until a scheme for the protection of the retained tree (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means tree T1 identified on Drawing No. 1605/GA.01 Rev C and the submitted details shall accord with the principles identified in the BS5837:2012 Arboricultural Survey, Implications Assessment and Arboricultural Method Statement (Ref RMT132-Rev A).

4. No site clearance, demolition, preparatory work or development shall take place until a scheme of supervision for the arboricultural protection measures required by condition 3 shall have been submitted to and approved in writing by the local planning authority. This scheme shall be appropriate to the scale and duration of the works and shall include details of:
 - i. Induction of staff in awareness of arboricultural matters;
 - ii. Identification of individuals and their responsibilities; and
 - iii. Timing and methods of site visiting and record keeping, including updates.

The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicants/appellants and approved in writing by the local planning authority. The scheme of supervision shall be implemented as approved by the local planning authority.

5. No site clearance, demolition, preparatory work or development shall take place until the following details for building and excavation works within the root protection area of retained tree T1, as identified on Drawing No. RMT132-TCP, have been submitted to and approved in writing by the local planning authority:
- i. The design of the foundations;
 - ii. A cross sections indicating the proposed finished ground/floor levels, surface materials, including sub-base and depth of construction, and method/materials used for edging for any building works; and
 - iii. Any services to be provided or repaired, including drains and soakaways, which may be required to be laid.
- Development shall be carried out in accordance with the approved details.

In this condition Drawing No. RMT132-TCP is Appendix 6 of the BS5837:2012 Arboricultural Survey, Implications Assessment and Arboricultural Method Statement (Ref RMT132-Rev A).