
Appeal Decision

Site visit made on 8 August 2017

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 4 September 2017

Appeal Ref: APP/T0355/D/17/3175369

Wilton House, 13 Sunning Avenue, Sunningdale, Ascot SL5 9PN

- 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 Alistair MacDonald against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/03957, dated 27 December 2016, was refused by notice dated 29 March 2017.
 - The development proposed is a new garage and an office accompanied by a wet room, a toilet and a storage room.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on:
 - the character and appearance of the area with regard to protected trees;
 - the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

Character and Appearance

3. The appeal property is a substantial detached dwelling and sits within a generous plot. A number of trees within and adjoining the property are the subject of a Tree Preservation Order (TPO 27/2005). The area is also identified as a 'Leafy Residential Suburb' in the Council's Townscape Assessment.
4. The proposed garage and office building would be located to the rear of the dwelling, with a new drive leading from a shared access to the side of the property. The appellant has submitted an Arboricultural Impact Assessment and Method Statement (AIA)¹ which includes a tree survey, assessment and mitigation proposals.
5. Whilst there are limited, if any, public views of some of the trees to the rear of the appeal property, they nevertheless play a role in the landscape character of the area and can be seen in private views from the appeal and neighbouring properties. Moreover, the tops of some of the trees can be seen from Sunning Avenue above or around the appeal property. A Category A Scots Pine tree (AIA

¹ ACD Environmental Ref PRI20916aia-ams

reference T26) is located just outside of the side boundary of the appeal site and can be clearly seen from Sunning Avenue in views along the shared access drive. It helps to define the site boundary and softens the visual impact of the adjacent access drive. Consequently, I consider that, although all of the trees potentially affected by the proposal make a positive contribution to the character and appearance of the area, T26 is particularly important.

6. The AIA finds that the proposal would lead to the loss of one Category B Silver Birch (T27), two Category C Silver Birches (T24 and T28) and a small shrub (G2). Whilst the new building and drive would encroach into the root protection areas (RPA) of other trees, the AIA finds that the use of special construction methods would allow them to be retained. The Council does not dispute the tree survey, but considers that the proposal would lead to the loss of the trees identified in the AIA plus the Category A Scots Pine (T26), which would be affected by the proposed drive, and three Category B trees (Scots Pines T29 and T30 and Sweet Chestnut T31) whose RPAs fall partly within the area of the proposed building.
7. The Council is concerned that the examples given in the AIA of special building foundations to be used where the building falls within RPAs would not ensure the survival of the affected trees. Although I recognise this concern, it would be possible to impose a planning condition on any permission to secure the further approval and implementation of an appropriate foundation solution. Measures to ensure that the affected trees receive adequate water could also be secured by condition.
8. I have greater concern regarding T26. Around half of the RPA of this tree is below an existing tarmacked access road. No information has been provided on when or how that access was constructed, or an assessment made of its long term effect on the tree. A significant proportion of the remainder the RPA would be below the new access drive or the new building. I recognise that special building foundations and 'no dig' construction for the drive are proposed. Nevertheless, it would be reasonable to expect the works to have some effect on the tree and there is nothing in the AIA to suggest that the cumulative impact of the previous and proposed works have been assessed as required by sections 5.3 and 5.4 of British Standard 5837:2012.
9. Given this tree's Category A status, and the importance of its contribution to the character of the area, I consider that the loss of T26 would be particularly harmful. This justifies taking a precautionary approach to its protection. Furthermore, the loss of the tree would open up views of the proposed building from Sunning Avenue and, as the appellant recognises, would no longer hide views of the silver birches. I consider that the submitted information does not adequately demonstrate that the proposal would allow the long term retention of T26.
10. The appellant accepts that, even based on the trees which the AIA finds would be lost, the proposal would result in some harm to the character of the area. Mitigation in the form of additional tree planting is, therefore, proposed. A planning condition could be used to secure the approval and implementation of a detailed scheme. However, the appeal submissions do not include even indicative proposals. Bearing in mind the age and size of the trees which would be lost and the sensitive location of T26 (which in any event falls outside of the appeal site) in the absence of any firm planting proposals, I am not persuaded

that the harm caused by the proposal could be satisfactorily mitigated by replacement planting. The appellant has also suggested that the design features of the proposed building would help to mitigate the loss of trees. However, whilst those features may help to assimilate the building into its surroundings, I consider that the impact of the loss of trees would be different in nature and experienced more broadly. The provision of garaging for the appellant's car collection does not amount to a public benefit.

11. Therefore, I find that the proposal would be detrimental to the character and appearance of the area by reason of the loss of protected trees. As such, it would conflict with Royal Borough of Windsor and Maidenhead Local Plan 2013 (LP) Policies DG1 and H14 which presume against proposals that harm the character and appearance of the area through the loss of important features. It would also conflict with LP Policy N6 and Ascot, Sunninghill and Sunningdale Neighbourhood Plan 2014 (NP) Policy EN2 insofar as they require proposals to retain existing trees wherever practicable and include an appropriate landscaping scheme. The proposal would also conflict with NP Policy NP/DG1 which, among other things, requires development in 'Leafy Residential Suburbs' to retain and enhance the sylvan nature of the area and include planting along neighbouring site boundaries.

Living Conditions

12. The new building would be located in a quiet rear garden area. It would be opposite Kingsley House, although that property is positioned a reasonable distance from the common boundary. Access would be via the drive shared with Queensbury House and Kingsley House. Whilst the proposed building would be used to garage eight cars, the main access to the property would continue to be directly from Sunning Avenue. Had I been minded to allow the appeal, a condition could have been used to restrict use of the garage to the private storage of cars. With that limitation in place, I consider that the likely number of vehicle movements along the shared access would be fairly low and not lead harmful levels of noise or disturbance for neighbouring occupiers.
13. There is no substantive evidence to show that the home office or sun room uses would lead to undue noise or disturbance. Consequently, I find that the proposal would not have a harmful effect on the living conditions of neighbouring occupiers by reason of noise and disturbance. Therefore, it would not conflict with paragraph 17 of the National Planning Policy Framework insofar as it requires proposals to achieve a good standard of amenity for existing occupants of buildings. The second reason for refusal cites NP Policy NP/DG3.1. However, that policy is mainly concerned with the effect of proposals on the character and appearance of the area and, therefore, is of limited assistance in my consideration of the living conditions of neighbouring occupiers.

Conclusion

14. Although I have found that the proposal would not harm the living conditions of neighbouring occupiers, that does not outweigh my concerns regarding its effect on the character and appearance of the area. For that reason, the appeal should be dismissed.

Simon Warder

INSPECTOR