
Appeal Decision

Site visit made on 2 July 2019 by John Gunn DipTP DipDBE MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2019

Appeal Ref: APP/T0355/D/19/3226517

Briar House, Carbery Lane, Ascot, SL5 7EJ

- 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 Mrs Kim Bolland against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/03084, dated 23 October 2018, was refused by notice dated 1 February 2019.
 - The development proposed is garage with first floor gym.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. Although the application was made by Mr and Mrs Bolland the appeal was submitted by Mrs Kim Bolland and I have considered the appeal on this basis.
4. The Council's decision notice amends the description of the proposal to read 'Detached garage with first floor accommodation'. The appellant has used the same description used by the Council, on her appeal form, and therefore it is assumed that both parties are content with the amended description. Consequently, the appeal has been determined based on the revised description.

Main Issues

5. The main issues in this case are the effect of the proposal:
 - on a protected tree;
 - on the character and appearance of the area, having regard to its size and design, and
 - on the living conditions of the occupiers of Orchard House particularly with particular regard to outlook.

Reasons for Recommendation

Protected Tree

6. There are several mature trees within the vicinity of the appeal site which are protected by Tree Preservation Orders. On the western boundary of the appeal site lies an Oak tree, with a large even canopy, that would overhang part of the garage. Furthermore, a large part of the building would be constructed within the root protection area (RPA) of this tree as indicated on the appellant's Tree Protection Plan. Whilst there is dispute between the parties as to what category the tree falls in, it appears to be in good health and is highly visible from surrounding properties, and consequently makes a significant contribution to the character and appearance of the area.
7. The appellant's Arboricultural Method Statement describes the Oak tree as being healthy and finds that the siting of the proposed development would not be harmful to the tree, subject to the development being constructed in accordance with the submitted Arboricultural Method Statement. Whilst I note the appellant's submissions that the proposal would not be harmful to the tree and that its roots within the RPA could bend or relocate so that they would remain intact and functional, and that the foundations would be dug by hand, there is a high probability that at some point during the construction of a building of this size that some mechanical equipment would be used to dig the foundations. As such the likelihood of root damage occurring would be high. Moreover, the materials used for the foundations would be likely to adversely affect the roots of this important tree. The ability of the tree to tolerate damage to the rooting area is already likely to be limited by the age of the tree and the presence of existing structures.
8. Furthermore, the proximity of the tree to the new garage building would be likely to lead to pressure from the occupiers of the host property to undertake works to the tree to reduce the amount of overhang that would be likely over the garage building and to increase light into the building and garden.
9. These matters, taken with nearby development within the RPA of the tree, including the outbuilding at Tall Trees, would be likely to have an adverse effect upon the health and longevity of this important tree. Consequently, the proposal would be contrary to Policy NP/EN2 of the Ascot, Sunninghill & Sunningdale Neighbourhood Plan 2011-2026 (NP) which seeks to protect the health of trees and Policy N6 of The Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating Alterations Adopted in June 2003) (LP) which seeks to protect trees during site clearance and building operations and indicates that in some instances the amenity value of trees can outweigh the justification for development.
10. The appellant has drawn my attention to other instances in the locality where works might have had an impact on protected trees. Whilst I am not aware of the individual circumstances of these developments, I note that they vary significantly in terms of location, age and type of development involved, and for this reason I do not see them as directly comparable to the scheme before me. Each application and appeal should be determined on its individual merits, and this is the approach that I have adopted. The Council's granting of planning permission for development elsewhere does not justify harmful development.

Character and Appearance

11. The appeal property comprises a detached house located within an established residential area characterised by detached dwellings sited in spacious, maturely landscaped gardens. It is accessed by a private drive which also serves several other dwellings in the locality. The dwellings in the locality are individually designed and have evolved over a period of time resulting in a varied pattern of buildings in terms of location, scale and design. Additions to buildings have usually taken the form of extensions to the main house, with a limited number of small single storey buildings occupying the spaces between the houses.
12. The appeal proposal represents the introduction of a detached building of significant height and length into the rear garden of Briar House. Although not clearly visible from the access drive, it would be visible from neighbouring properties and their gardens and would significantly affect the open character of the area. It would result in a bulky, incongruous addition in the rear garden environment which would be at odds with the established character and appearance of the area. Consequently, the proposal would be harmful to the character and appearance of the area contrary to Policies DG1 and H14 of LP, Policy NP/DG3 of the NP and paragraph 127 of the National Planning Policy Framework which collectively seek for development to contribute positively to the surroundings and be appropriate to the local setting and context.
13. The appellant has drawn my attention to extensions at Norbrae and Orchard House. Whilst I have viewed these extensions from the access drive I have not been provided with detailed drawings of these developments or the individual circumstances of these cases. Accordingly, I can therefore only attach very limited weight to this matter in my consideration of this appeal.

Living Conditions

14. The neighbouring property, Orchard House, lies to the south of the appeal proposal and has windows facing towards the appeal site. The new garage would present a long brick wall in close proximity to these windows and would be a prominent and dominant feature which would significantly diminish the current open outlook from them. The new building would have a significant enclosing effect on the rooms that these windows serve and it is likely that they would be less pleasant to use as a result. I note the appellant's submissions regarding the rooms that some of these windows serve, including a dressing room and that the living room has other windows, however this does not alter my findings above.
15. In light of my findings, I conclude that the proposal would significantly reduce the outlook from the side windows to Orchard House which would be harmful to its occupiers' living conditions. This is contrary to Policy H14 of the LP which requires extensions not to significantly affect the amenities of adjacent properties.

Other Matters

16. Reference has been made to the grant of a planning permission for the erection of a garage upon the site. I do not have details of this development but based on the planning history provided by the Council it appears that this permission

has lapsed. The granting of permission in the past does not justify harmful development.

17. The appellant has provided examples of a range of proposals relating to Green Belt development, works affecting protected trees and non-compliance with planning processes. In the absence of substantive evidence to demonstrate otherwise I find that the examples given are not directly comparable to the scheme before me and this limits the weight I can attach to them in my consideration of this appeal.
18. Concerns about how the Council processed the application are noted, but they have had no bearing on my recommendation. Such concerns should be taken up directly with the Council in the first instance.

Conclusion and Recommendation

19. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal is dismissed.

J Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and I concur that the appeal should be dismissed.

R C Kirby

INSPECTOR