
Appeal Decision

Site visit made on 29 July 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2019

Appeal Ref: APP/N1160/W/19/3228760

Site adjoining 11 Gara Close, Plymouth PL9 8UN

- 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 N Hiscocks (of Senate Properties (SW) Ltd) against the decision of Plymouth City Council.
 - The application Ref 18/01575/FUL, dated 10 September 2018, was refused by notice dated 19 December 2018.
 - The development proposed is construction of a 3 storey (room in loft) detached house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The name of the appellant differs between the application form and the appeal form. I have used that from the former.
3. Since the Council's decision the Plymouth and South West Devon Joint Local Plan (JLP) was adopted in March 2019. Therefore, the terms of the Core Strategy referred to in the decision notice are no longer relevant and have played no part in my decision.

Main Issue

4. The main issue is the effect of the proposed development on protected trees.

Reasons

5. The appeal site comprises an area of land at the end of Gara Close, a residential cul-de-sac. It slopes gently uphill away from the road and is grassed with a number of trees on it. These trees are protected by virtue of a Tree Preservation Order¹ (TPO). As the land steepens beyond the appeal site it becomes more thickly wooded. It is bounded on its southwest side by 11 Gara Close and to the northeast by a hedge bank, from which trees and other vegetation grows.
6. The site is open and is used by the public for amenity purposes. However, from the information before me, despite being highway maintainable at the public expense it is private land. Notwithstanding this, the open nature of the land plays a valuable role in the character and appearance of the estate. Its value is enhanced by the trees on the site.

¹ TPO No 518 – Land adjacent to 11 Gara Close, Plymouth. Made 21 March 2018.

7. The Tree Impact Assessment Plan² (TIAP) and Arboricultural Impact Assessment (AIA) shows the protected trees in relation to the footprint of the proposed development. This numbers trees on the site from T01 to T07, whereas other submissions omit the '0' on each. To clarify, I have used the numbering from the TIAP.
8. It is proposed to remove 5 trees from what would be the rear garden to the proposed dwelling. One of these, a Sycamore numbered T07, has structural issues and the Council agrees this should be removed. The other four trees, numbered T03-T06, are Hornbeams. The reasons given for their removal are, for Nos T03 and T04, 'due to layout', and for numbers T04 and T05 'for management'.
9. Their removal would result in a relatively open garden and would significantly increase the amount of sunlight and daylight in it. This is illustrated on the submitted Shade Assessment Plan³ (SAP). This does not include the shade that would be cast by Tree T01, a Hornbeam. However, given its position towards the north of the site, it would not cause significant shading to the proposed dwelling or its garden.
10. It is always likely to be the case that individual trees in a group will vary in quality, and I acknowledge that the trees to be removed are category C trees. Notwithstanding this, these trees as a whole add greatly to the character and appearance of the area.
11. It has not been demonstrated that there is anything intrinsically wrong with these trees and I do not find that the reasons put forward provide overriding justification for the removal of four trees of acknowledged amenity value. In this respect, I have had regard to JLP Policy DEV28, which states, amongst other things, that development should be designed so as to avoid the loss of protected trees.
12. Notwithstanding my finding on light reaching the garden, shown on the SAP, the proximity of the proposed dwelling to tree T02 would lead to pressure from future occupants for pruning works to this tree, if not its removal. The SAP shows the effect of this tree on the garden as it would be were the dwelling built today. It does not factor in the tree's future growth that might adversely affect light reaching the rear of the property. I take the point that the height of the tree would dictate the length of the shadow cast, but its width would be a factor in the extent of the shadow across the garden.
13. The tree would dominate the property. From my experience, trees of this size close to dwellings lead to residents having concerns, both real and perceived, about their effects. In addition to the shadow cast, other factors such as the stability of the tree and leaf fall lead to pressure on authorities for tree work. This pressure, which I foresee were the appeal to be allowed, is often difficult for Councils to resist.
14. In this regard, I note that pruning works are not ruled out in the report that forms Appendix 1⁴ to the appellant's statement. These works would only be necessitated by the erection of the proposed dwelling. Even though any pruning would be hidden from public view, I find that it would result in a

² Drawing Number 181007-GaraClose-TIAP

³ Drawing Number 181007-GaraClose-SAP

⁴ Devon Tree Services, 15th February 2019

deterioration of the quality of the tree, which is another strand to JLP Policy DEV28. I find that the scheme would lead to similar pressures with regards to tree T01, a Hornbeam with growth potential that would lie close to windows serving a living room and bedroom

15. Furthermore, the TIAP shows that construction works would be undertaken within the RPA to tree T01. Sufficient information has been provided to show that the raising of the level of the land to create the drive leading to the dwelling could be undertaken in a manner that would not cause harm to this tree. However, part of the house would be erected within its RPA where relatively deep excavation for footings would be expected. Furthermore, as the proposed dwelling would lie so close to the RPA in this area it appears there would be insufficient space to undertake construction work without causing harm to the tree's roots.
16. Although the house would be constructed close to the RPA for tree T02, subject to the proposed use of sheet piling, there would be no direct impact on the tree's root system. I find that there would be sufficient space between the proposed building and the RPA to construct the dwelling without adverse effects to the tree's roots.
17. My conclusion on the main issue is that the proposed development would result in the removal of protected trees and pressure for work to be undertaken to those that remain. As these trees are of high amenity value, this would result in significant harm to the character and appearance of the area. This otherwise unnecessary work is contrary to the terms of JLP Policies 20 and 28, which accord with guidance in the National Planning Policy Framework.

Other Matters

18. I have taken into account the fact that the principle of the proposed development is supported by national and local policies, that there would be no harm in regards of highway safety or pollution, that there would be no flooding issues and that the proposed design would be acceptable. There would be some benefit to the local economy through the employment that the scheme would generate and the support that the dwelling's future occupants would give to local businesses. However, none of these matters outweigh the harm that I have identified.

Conclusion

19. For the reasons given, and having taken all other matters into account, the appeal is dismissed.

Roy Curnow

INSPECTOR