

Appeal Decision

Site visit made on 30 July 2019

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2019

Appeal Ref: APP/B1740/D/19/3230432

Harris House, 2 Harris Way, New Milton, BH25 5PU

- 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 Edwards against the decision of New Forest District Council.
 - The application Ref 19/10076, dated 17 January 2019, was refused by notice dated 9 April 2019.
 - The development proposed is the erection of a detached garage, a single-storey rear extension, and garage conversion.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached garage, a single-storey rear extension, and garage conversion at Harris House, 2 Harris Way, New Milton, BH25 5PU in accordance with the terms of the application, Ref 19/10076, dated 17 January 2019, subject to the following 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 and documents: Drg Nos PLAE 0101/2018, PLAE 0102/2018, PLAE 0103/2018 and the Arboricultural Impact Assessment and Method Statement prepared by Mr A J Scott dated 6 February 2019.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is the effect of the proposed detached garage upon a protected tree.

Reasons

3. The appeal proposal includes the erection of a detached garage to the side of the dwelling. This would fall within the Root Protection Area (RPA) of a mature Oak tree (T1 as shown on the appellant's submitted Tree Protection Plan) located within the curtilage of No 2 and which is the subject of a Tree Preservation Order (TPO No 24/00). In contrast to other protected trees in the vicinity, T1 has been heavily pollarded with the consent of the local planning authority. As such, despite its age and height, its shape and visual impact is atypical for a mature tree of this type.
4. BS 5837:2012 *Trees in relation to design, demolition and construction – Recommendations* provides guidance and recommendations. Regarding the proximity of structures to trees it states that the default position should be that structures are located outside the RPAs of trees to be retained. However, the appellant's Arboricultural Impact Assessment and Method Statement (AIAMS) demonstrates that there is enough room to offset the impingement of the proposed garage into the RPA and that specialist foundations would be used to minimise the impact of the development upon the tree. It further advises that the degree of incursion, at around 8% of the notional RPA, is within acceptable parameters outlined within BS 5837.
5. The AIAMS, which formed part of the application submissions considered by the Council, also includes proposals for the installation of a pedestrian compression layer around the tree to overcome the risk of pedestrian induced soil compaction during the works and from incidental soil toxification, together with a proposal for the erection of barriers to create a Construction Exclusion Zone.
6. The findings and recommendations of the AIAMS have not been directly challenged by the Council and in my assessment they provide a robust case to show that, with the precautions proposed, there would be minimal impact upon the health and long-term retention of the tree.
7. The Council is concerned that the construction of the garage in the position proposed would lead to pressure to have the tree ultimately removed. Their opinion is backed up with a previous application in 2018 to have the tree felled, which was refused. However, since that date the Council has acceded to a request to pollard the crown, which gives the tree its current appearance. I am not persuaded that the construction of a non-habitable building as proposed would be likely lead to any future requests for tree works other than perhaps to have the tree repeatedly pruned in a similar manner to that which has been proven to be acceptable.

Other Matters

8. I have noted the concerns expressed by the occupiers of Pemberley House immediately to the west side of the appeal property. The side windows that are proposed to the flank wall of the existing dwelling for the dining room would be high level and on the ground floor. There would be no potential for any outlook that would impact upon the neighbours' levels of privacy. Neither would the proposed works be likely to result in any increased levels of noise nuisance. I note also that the Council raised no concerns in this regard.

9. Matters relating to an existing sewer pipe are not directly related to the planning merits of this case.

Conditions

10. A condition specifying the relevant drawings is necessary as this provides certainty. Within this I include the AIAMS, which contains procedures and protocol to be followed during the construction of the garage, as well as a Tree Protection Plan. In the interests of maintaining the character and appearance of the area a condition is necessary to control the external materials that would be used for the works.
11. I have carefully considered the Council's suggested condition that would require details to be provided and approved of the proposed pile and beam foundations for the garage. However, their use is expressly stated within the application and accompanying AIAMS, and the configuration of such foundations is fairly standard, with no evidence in this case that anything out of the ordinary would be required. Providing the works are carried out in accordance with the AIAMS, which is covered by Condition 2, details of the pile and beam foundations are not necessary

Conclusion

12. Overall, I am satisfied that the appeal proposal would not detrimentally impact the health or long-term survival of T1. I am also satisfied that there would be no further pressure to fell the tree, or to have it excessively pruned beyond its current form. As such, there would be no conflict with Policy CS2 of the Core Strategy for the New Forest District outside the National Park - 2009, which deals with design quality and the need for development to be appropriate and sympathetic to its surroundings, including in relation to landscape features.
13. Accordingly, and having regard to all other matters raised, the appeal is allowed.

John D Allan

INSPECTOR