



Appeal Decision

Site visit made on 8 October 2019

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2019

Appeal Ref: APP/T0355/D/19/3233422

54 Santana, Llanvair Drive, Ascot, SL5 9LN

- 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 Joit Uppal against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref: 19/00994 dated 6 April 2019, was refused by notice dated 12 June 2019.
 - The development proposed is single storey rear/side extension.
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Decision

1. The appeal is allowed, and planning permission is granted for a single storey side/rear extension, new door and balcony to first floor rear elevation and alterations to fenestration, in accordance with the terms of planning application Ref: 19/00994 dated 6 April 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1117-01/210; 1117-01/211; 1117-01/212; 1117-01/213; 1117-01/214; 1117-01/216A.
 - 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.
 - 4) The construction of the development hereby permitted shall be carried out in accordance with the construction and protection methods set out in Section 06 – Tree Protection, and Drawing no. 1-38-4773/P2 Rev. v2 '*Tree Retention & Tree Protection Measures*', included in the Report on the impact on trees (Ref: 1-38-4773) dated 9 April 2019, accompanying application Ref: 19/00994.

Procedural Matter

2. The description of development on the original planning application form is set out in the banner heading above. An amended description was agreed between the parties of 'Single storey side/rear extension, new door and balcony to first floor rear elevation and alterations to fenestration', which is set out in the appellant's appeal form and the Council's decision notice. The Council has dealt with the proposal on this basis and so shall I.

Main Issue

3. The main issue is the effect of the proposed development upon protection and future health of protected trees.

Reasons

4. The appeal site is comprised of a large detached property set within generous verdant tree lined grounds, of which a number of trees are the subject of a Tree Preservation Order (TPO). The proposals include a ground floor side and rear extension to the south western corner of the main dwelling, integrating an octagonal pointed roof, to the side of which would be a balcony. The proposals would extend the property by approximately 7m in depth, by around 7.5m in width, and be around 2.6m to the eaves and 6.5m to the ridge point. It is of a comparable size and structure to an element on the south eastern corner of the rear elevation but would bring the dwelling closer to the protected trees on the western side of the property.
5. The Council is concerned about the way in which the appellant's tree report and survey set outs the Root Protection Areas (RPAs), with particular regard to a boundary fence. The appellant has explained the methodology that was applied, and the consistency with the British Standard (BS:5837:2012) referred to by the Council. Based upon the evidence before me I am satisfied that the RPAs shown in the appellant's tree survey adequately factor in relevant pre-existing site conditions (e.g. the location of structures such as the neighbouring dwelling to the west). The fence would allow roots to grow underneath it largely unhindered, and in itself appears unlikely to have any significant influence on the shape of the RPAs.
6. The Council states that the trees have been subject to previous development activity (reference is made to a previous side extension to the neighbouring property to the west) such that British Standard 5837:2012 requires the cumulative effects of incursions into the RPA should be avoided. Any damage should be taken into account when considering the acceptability of further activity within the RPA. The appellant's survey shows no development would take place within the RPA of any protected tree, with exclusion fencing proposed to remove the possibility of incursions during construction. I am satisfied that subject to adherence to the construction methodology set out in the tree report, the development would not result in harm to the health of the protected trees by virtue of damage to their roots.
7. There is concern that the proposed development could result in future pressure to adversely prune a semi-mature Oak tree (labelled T5 on the survey) due to it causing shading to the proposed extension. The octagonal roof light and seven window openings, would provide adequate light to the extension even if T5 reaches the growth potential suggested by the Council of approximately 22m in height and a crown spread of 20m. Based upon the position and form of the tree, and the proposed extension, the need for much more than minor works appears highly unlikely. Based upon the evidence before me I am satisfied that the extension would not result in the need for pruning that would harm the future health of T5, or any other protected tree.
8. A representation queries the categorisation of two trees (T4 and T5) within the survey as being category C1 (trees of no particular merit but adequate for retention). The Council has not questioned this, and the classification appears

to have been undertaken by a suitably qualified professional. Based upon the evidence before me and the observations on my site visit, I have no reason to disagree with the classification given to T4 and T5 in the tree survey.

9. For the reasons set out above, the proposed development would be likely to adequately secure the protection and future health of protected trees. Therefore, I do not find conflict with Policy N6 of the Royal Borough of Windsor and Maidenhead Local Plan (2003) (the Local Plan), Policy NR2 of the Royal Borough of Windsor & Maidenhead Borough Local Plan (2013 – 2033) Submission Version (2017) (the Draft Plan) and Policy NP/EN2 of the Ascot, Sunninghill and Sunningdale Neighbourhood Plan (2014) (the Neighbourhood Plan). In combination, amongst other things, these policies require that new development allows for the retention of existing suitable, important and mature trees that form a feature of a site. Consequently, in this regard, there would be no conflict with Policy DG1 of the Local Plan or Policy SP3 of the Draft Plan, which amongst other things, require that development should not cause harm to the character of an area through the loss of important features.

Other Matters

10. The Council considers the proposed development would be of a character and appearance that would respect the host dwelling and would not have a detrimental impact upon the street scene, so as to be compliant with Policy DG1 and H14 of the Local Plan and Policy NP/DG3 of the Neighbourhood Plan, and I see no reason to disagree with this.
11. I note the concerns raised by an occupant of a neighbouring property to the west in respect of privacy from windows on the extension. The neighbouring property has two windows facing the proposed extension, of which the ground floor is obscure glazed and a narrow first floor window is understood to serve the hallway. Given the distance, height, and nature of the windows on the neighbouring property, and the height of windows on the extension and screening by an existing fence, no significant loss of privacy would result from the ground floor windows on the extension, to the neighbouring dwelling or its garden. The glass at the top of the octagon is high level into the roof, that would not allow overlooking. Therefore, the development is compliant with Policy H14 of the Local Plan.
12. An occupant of a neighbouring property has referred to the Party Wall Act due to the proximity of the extension to the neighbouring boundary to the west. Planning permission is separate from and does not override any legal rights under, or the need to comply with the Party Wall Act.

Conditions

13. As well as the standard condition for the time limit for commencement, a condition requiring compliance with the approved plans is necessary to provide certainty. Within this condition it is not necessary to refer to accompanying plan/drawing Ref: 1117-01/215 as this appears to only relate to a previously dug trial pit. To ensure a satisfactory appearance, a condition requiring the use of external materials to match the existing dwelling is necessary. To ensure the protection of the trees subject of the TPO, it is necessary to impose a condition to require that construction works are implemented in accordance with section 06 of the *Report on the impact on trees* (Ref: 1-38-4773) dated 9 April 2019. I have not made reference in that condition or imposed a separate

condition, to secure the additional planting proposed in section 06, because given my conclusions in respect of the protection and future health of protected trees this planting is not necessary.

14. A neighbouring occupant has expressed the desire for a planning condition to require works on the extension only take place between 09:00 – 17:00hrs Mondays – Fridays, with limits upon noise disturbance outside these hours. Noise disturbance is a matter that is dealt with under other legislative regimes (mainly the Environmental Protection Act 1990). The National Planning Practice Guidance (the NPPG) advises that conditions requiring compliance with other regulatory regimes will not meet the planning condition test of being 'necessary'. There is no substantive evidence before me that would lead me to believe that such a condition is necessary in relation to this development. Therefore, I have not imposed a condition to control construction hours or noise.

Conclusion

15. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed, and planning permission be granted.

Dan Szymanski

INSPECTOR