



Appeal Decision

Site visit made on 21 January 2020

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2020

Appeal Ref: APP/R0335/D/19/3241241

Five Oaks, 186 Fernbank Road, Ascot SL5 8LA

- 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 Jane Sloan against the decision of Bracknell Forest Borough Council.
 - The application Ref 19/00843/FUL, dated 24 July 2018, was refused by notice dated 18 October 2019.
 - The development proposed is erection of double garage, installation of bay window to the front elevation, porch roof extension and extension to porch roof canopy.
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Decision

1. The appeal is dismissed insofar as it relates to erection of double garage and hardstanding. The appeal is allowed insofar as it relates to installation of bay window to the front elevation, porch roof extension and extension to porch roof canopy and planning permission is granted for installation of bay window to the front elevation, porch roof extension and extension to porch roof canopy at Five Oaks, 186 Fernbank Road, Ascot SL5 8LA in accordance with the terms of the application, Ref 19/00843/FUL, dated 24 July 2018, and 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 so far as relevant to those parts of the development hereby permitted: Site Location Plan, Block/Site Plan and Proposed Plans.
 - 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.

Procedural matters

2. The appeal application was made in the name of Mr & Mrs Sloan, but the appeal was made in the name of Mrs Sloan alone. Given Mrs Sloan was one of the original applicants she has the right of appeal and the appeal is considered in her name alone.
3. In setting out the description of the proposal on the application form, the then applicants effectively used bullet points. The Council used a long-form description on the decision notice and the appellant used this long-form

description on the appeal form. As this sets out the proposal more clearly I have also used the long-form description in the heading.

4. The Council's description on the decision notice added the codicil "(resubmission of 18/00771/FUL)". This is immaterial to the consideration of the proposal and I have not included it. This would also seem to partially explain the considerable period between the date on the application form and that on the decision notice. I do not have any details of any application referenced 18/00771/FUL beyond a reference in the Council's Officer report that an application with that reference and a similar description to the appeal proposal was refused permission in March 2019. It may be that forms dated July 2018 were reused. Whatever the situation the Council refused an application on 18 October 2019 and this appeal is against that decision; the application form I have is dated 24 July 2018.
5. In October 2018 the Council made a Tree Preservation Order (Council Ref: TPO 1290) (the TPO) on four oak trees in the area in front of the appeal property and its neighbours on either side and this was confirmed in November 2018.
6. The appellant argues that the decision should be made on the basis of the situation at the end of the eight week determination period from when she originally submitted the first application, which would be without the TPO in place. However, the Courts have held that the decision maker should consider all material considerations affecting the application at the date at which the decision notice is issued. Therefore, I need to consider, amongst other matters, the fact that the TPO has been made and subsequently confirmed.
7. It should be noted that the house numbers shown on the plan within the TPO for some of the properties in Fernbank Road are incorrect. Facing the appeal property from Fernbank Road, the property on the right hand side, to the south west, is No 184 and that on the left hand side is No 188, rather than the other way around as shown on the TPO plan. Given there are two trees within the curtilage of the appeal property, which is marked with the correct number, I am satisfied that there is no dispute about the trees or that they are subject to the Order. I will use the property numbering displayed on the buildings themselves in this decision.
8. As can be seen from the formal decision I have concluded that a 'split' decision is appropriate granting permission for the works to the dwelling but refusing those for the garage and hardstanding. The description of the proposal on the application form, decision notice and appeal form do not make reference to the hardstanding, but it is clear from the plans that this forms an integral part of the proposal. In the interests of clarity, I have included reference to the hardstanding in the formal decision so that it clear that element is not being permitted.

Main Issue

9. The main issue is the effect on the character and appearance of the area with particular reference to trees.

Reasons

10. The appeal property is a detached two storey property on the southern side of Fernbank Road set some way back from the highway. The two properties on

either side are set further forward and all three are set at a lower level than the carriageway. From the carriageway there is a footway, then an essentially flat verge to the edge of the curtilages. Access, both vehicular and pedestrian, to No 186 is located at the southwestern end. Across the remainder of the frontage is an evergreen hedge 'bookended' by two oaks which are subject to the TPO. There is then a slight bank before a grassed area sloping gently down to the dwelling, with the access drive and the area immediately in front of the dwelling laid to hardstanding.

11. The proposal is in three parts. Firstly, the erection of a detached double garage set a short distance in front of the dwelling on the opposite side to the access. Secondly, the installation of a bay window, a porch roof extension and an extension to porch roof canopy to the house. Finally, it is proposed to extend the driveway both in width and into the area behind the hedge to create a turning head. There are no objections to the bay window, the porch roof or canopy, or to the positioning of the garage building itself in the street scene.
12. The four oak trees, of which the two in front of the appeal site, provide an important feature within the overall street scene enhancing the environment, and thus the street scene and character and appearance of the area. As paragraph 170 of the National Planning Policy Framework (the Framework) makes clear planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of trees.
13. The Council's concerns relate to the potential effects of the garage and the additional hardsurfacing area on the protected trees. It is stated that the rooting area of the four protected oaks is currently constrained by the carriageway and thus would be principally into the area in front of the three dwellings and would extend close to the dwellings themselves. I have no evidence to dispute this. This means that the proposed garage and hardstanding would be within the Root Protection Area of the trees, which is set out to ensure the health and longevity of the trees.
14. The Council has indicated that it utilises British Standard 5837:2012 'Trees in relation to demolition and construction – Recommendations' in assessing the effects of development on trees and this represents best practice. The Council requested that the then applicants submit an Arboricultural Impact Assessment to demonstrate that there would be no harm to the protected trees but none was submitted.
15. Without sufficient information to show that they will not have an adverse effect, the proximity of the garage and the hardstanding is such that works to construct them may well have a detrimental effect on the health and longevity of the trees in question. Given the nature of trees, it is not possible to resolve this in retrospect or by condition given that there may not be technical solutions to ensure the proper arboricultural management of the trees as well as constructing the then permitted development.
16. That being the case I cannot be satisfied that the garage and hardstanding would make adequate provision for the health and longevity of the protected trees. This could lead to harm to the character and appearance of the area through the loss or deterioration in quality of those trees.

17. It would not be appropriate for me to comment on the works to extend No 188 three years ago beyond making the comment that it would have been determined against the matters considered material at that time.
18. Having said all that, the Root Protection Area shown by the Council does not extend to the area where the extensions to the dwelling itself would take place. I can therefore be satisfied that these parts of the proposal would ensure the health and longevity of the trees.
19. Given that the works to the dwelling and creation of the garage and hardstanding are clearly severable, I am going to issue a 'split' decision allowing the appeal in respect of the installation of the bay window to the front elevation, the porch roof extension and the extension to porch roof canopy but dismissing that in relation to the erection of the double garage and hardstanding.
20. Those parts of the proposal that are acceptable would comply with Policies EN1 and EN20 of the Bracknell Forest Local Plan which require that development would not result in the destruction of trees which are important to the retention of the character and appearance of townscape and retain beneficial landscape features, and Policy CS7 of the Core Strategy Development Plan which requires development to enhance the landscape. In respect of these elements it would comply with paragraph 170 of the Framework as set out above. Conversely, those parts of the proposal that are unacceptable would be contrary to these policies and paragraph.

Conditions

21. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
22. I have also imposed a condition requiring the external materials used match the existing dwelling to ensure that the proposal is in keeping with the character and appearance of the area.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

RJ Jackson

INSPECTOR