
Appeal Decision

Site visit made on 28 May 2020

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2020

Appeal Ref: APP/L2630/D/20/3244898

3 Marilyn Welch Court, Cringleford NR4 6TN

- 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 and Mrs Cragie against the decision of South Norfolk District Council.
 - The application Ref 2019/1073, dated 15 May 2019, was refused by notice dated 18 December 2019.
 - The development proposed is a single storey extension to side and rear of detached house and extension to rear of detached garage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on a protected tree, having regard to the character and appearance of the area, and the living conditions of the occupiers of the extended dwelling.

Reasons

3. The appeal site contains a London Plane tree which is protected by a Tree Preservation Order (TPO). The tree is located in the garden to the side of the existing detached dwelling, occupying a prominent position at the end of the cul-de-sac. Despite the presence of a boundary fence obscuring views of the trunk, the tree is clearly visible from the street. Due to its height and the extensive spread and overall shape of its canopy, it is an imposing specimen which makes an important contribution to the sylvan character and appearance of the area, which is reflected by its TPO status.
4. There is no dispute between the main parties that the proposed extension to the dwelling would be within the Root Protection Area (RPA) of the tree¹. As a result, the appellant has detailed how the extension could be constructed without causing harm to the tree. In particular, pre-emptive low-level root pruning would be undertaken along the line of the proposed foundations, with roots being severed so as to allow re-growth and to discourage the tree's uptake of harmful fungal pathogens. A range of ground protection measures would be implemented to protect the remaining roots and tree during construction.

¹ According to the appellant's independent arboricultural assessment the extension would occupy 10% of the RPA

5. Even if I was to accept the appellant's assertions that no other works have taken place within the RPA to harm the tree roots, and that London Plane trees are more tolerant to root disturbance than most other species, paragraph 5.3.1 of BS 5837:2012² states that *'the default position should be that structures (see 3.10) are located outside the RPAs of trees to be retained. However, where there is an overriding justification for construction within the RPA, technical solutions might be available that prevent damage to the tree'*. There is no evidence before me to suggest that alternatives have been considered avoiding construction works within the tree's RPA. Furthermore, I find no overriding justification for construction within the RPA.
6. Although some trees can recover from root disturbance, the RPA is the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as a priority. The extent to which the works would encroach into the RPA of this mature tree would not be insignificant, and it is by no means certain that the tree would recover from the proposed root severance. With the precautionary principle in mind, the proposal would risk the long-term health and survival of the tree, which would be detrimental to the character and appearance of the area.
7. Moreover, if the scheme was permitted, it is proposed to prune the tree by approximately 3m laterally whilst providing a clearance height of up to 5m to accommodate the extension. There would also be pressure on the Council to permit periodic removal or the cutting back of branches, or at worst the removal of the tree entirely, so as to prevent tree growth from compromising the structure of the extension. Such extensive crown works would have a detrimental effect on the balanced shape of the tree, reducing the contribution it makes to the street.
8. I appreciate that the tree would reduce the amount of light entering the rooflights of the proposed extension. However, the rear elevation would contain an elongated window allowing light to penetrate, along with a generally south facing window fronting the extension which would not be significantly affected by the tree. Furthermore, I see no reason why any tarnishing of the surface of the extension from falling leaves and fruits from the tree could not be cleaned as appropriate as part of regular building maintenance. Consequently, the living conditions of occupiers of the extended dwelling would not be unacceptably affected. Nevertheless, these considerations do not compensate for the harm I have identified in relation to the tree's proximity to the proposed extension and the potential for its life to be shortened.
9. I therefore conclude that the proposal would harm the character and appearance of the area, with particular regard to the protected tree. It would conflict with Policies 1 and 2 of the Joint Core Strategy for Broadland, Norwich and South Norfolk³ and Policies DM1.4, DM3.8 and DM4.8 of the South Norfolk Local Plan Development Management Policies Document 2015 which requires, amongst other matters, that development conserves significant trees and ensures that the landscape setting and environmental assets of an area are not unacceptably harmed. It would also conflict with paragraphs 170, 175, and 180 of the National Planning Policy Framework which requires that development contributes to the natural and local environment, and avoids

² BS 5837:2012 Trees in relation to design, demolition and construction - recommendations

³ Adopted March 2011, amendments adopted January 2014

significant harm to biodiversity, and is appropriate for its location taking into account the natural environment.

Other matters

10. The proposal would provide additional living space for the dwelling's occupants. However, there may be alternative ways of extending the dwelling so as to avoid unacceptable conflict with the tree. Therefore, this consideration carries limited weight in favour of the scheme but does not outweigh the harm I have identified.
11. Third parties have raised concerns that the spores emitted from the London Plan tree lead to allergic reactions and associated health issues for some residents, thus they would welcome its removal. However, no substantive evidence has been submitted in support of these assertions and I am unable to give more than limited weight to these considerations.
12. I appreciate that vehicles parked in the bays under the crown of the tree are likely to be tainted by the effects of leaf litter. Be that as it may, the tree is a component part of the street's verdant character, thus these considerations are insufficient to outweigh the harm resulting from damage to the tree.
13. I note that the Council raises no objections to the design and appearance of the proposed extension to the dwelling, or the overall impact of the proposed extension to the garage. Whilst I have no reason to take a different view, this consideration does not compensate for the harm I have identified due to the proposal's effect on a protected tree.
14. The appellant indicates that the Council did not act in a proactive manner and ignored the advice of their arboriculturist. However, this is a matter between the parties and has no bearing on the planning merits of this case. I have assessed all the evidence before me and find unacceptable harm for the reasons set out.

Conclusion

15. For the reasons given above, the appeal should be dismissed.

Matthew Woodward

INSPECTOR