



Appeal Decision

Site visit made on 21 July 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2020

Appeal Ref: APP/X0415/D/20/3245574
10 Charter Drive, Amersham HP6 6UX

- 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 Baker against the decision of Buckinghamshire Council - Chiltern Area.
 - The application Ref PL/19/3782/FA, dated 2 November 2019, was refused by notice dated 30 December 2019.
 - The development proposed is a two-storey rear extension and single-storey front extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 1 April 2020 several Local Planning Authorities including the original decision-making authority, Chiltern District Council, merged into a single Unitary Authority called Buckinghamshire Council. As such, I have referred to the new authority in my Appeal Decision.

Main Issue

3. The main issue is the effect of the proposal on trees the subject of a Tree Preservation Order.

Reasons

4. The appeal property is a two-storey detached dwelling located at the end of Charter Drive. It is proposed to erect a two-storey rear extension and single-storey extension at the front of the property. In addition, additional windows would be installed to the side of the dwelling.
5. The surrounding area has a suburban character with a mix of uses present. The residential properties are predominately two-storey detached dwellings of a traditional design and appearance with well landscaped gardens that feature mature trees and soft landscaping.
6. Within the rear garden of the appeal site there is a large mature horse chestnut tree that is the subject of a Tree Preservation Order (TPO). The tree is one of an extensive group of mature trees, which are located immediately to the rear of the appeal site. The trees contribute positively to the area's verdant character and are an important landscape feature when viewed from the wider public realm, particularly from Raans Road.

7. The evidence before me indicates that the rear garden of the appeal site originally contained two horse chestnut trees that were the subject of a TPO. However, one of the trees was removed when permission to do so was granted at appeal¹, whilst a subsequent application to remove the remaining tree was refused by the Council and dismissed at appeal². Consequently, there is substantive evidence to demonstrate that there has previously been pressure to fell the remaining horse chestnut tree at the appeal site, despite its current distance from the appeal property.
8. The current proposal follows a previous planning application for alterations and extensions to the appeal property, which was refused planning permission³ by the Council and subsequently dismissed at appeal⁴. The previous proposal sought planning permission for the erection of a two-storey rear extension and single storey front extension.
9. In determining the appeal, the Inspector found that the existing horse chestnut tree would have a dominating effect on the remaining rear garden and rear elevation of the proposed extension, which could lead to concerns about safety, light and tree debris from future occupiers. In addition, he found that the proposal could also cause pressure to reduce the dominance of the trees to the rear of the site given the resultant garden size. Consequently, the appeal was dismissed on the grounds that the proposal would be harmful to trees the subject of a Tree Preservation Order.
10. However, there is a material difference between the previous proposal and the current proposal. Under the current proposal, the depth of the proposed rear extension has been reduced from 3.6 metres to 3 metres. Consequently, the rear extension would be located further away from the protected trees. Whilst it is an important planning principle that like cases should be determined in a like manner, this appeal needs to be determined on its own merits.
11. Despite the reduction to the depth of the proposed rear extension, which would represent an improvement when compared to the previous proposal, the current proposal would still significantly encroach into the rear garden of the host building and bring built development closer to the existing horse chestnut tree.
12. Whilst I am satisfied that the amount of outdoor space to be retained would be suitable to meet the day-to-day needs of the occupiers of the appeal property, the proximity of the rear extension in relation to the horse chestnut tree would significantly increase the impact of the tree over the remaining rear garden and rear elevation of the proposed extension.
13. In particular, the tree would have a dominating effect on the rear garden and rear extension, which would include extensive rear facing fenestration. This dominating effect could lead to concerns about safety, light and tree debris from future occupiers of the host building. Similarly, the proposed development could also cause pressure to reduce the dominance of the protected trees located immediately to the rear of the appeal site. All of which would be an unacceptable consequence arising from the relationship between the proposed rear extension and the existing trees.

¹ Appeal Ref: APP/TPO/X0415/4300

² Appeal Ref: APP/ENV/3163721

³ Council Ref: PL/18/3698/FA

⁴ Appeal Ref: APP/X0415/D/19/3222125

14. I recognise that the current occupiers of the appeal property have no intention to fell the existing horse chestnut tree at the site. However, the issues outlined above would create a permeant threat to the health and longevity of the tree, which could go beyond the current occupation of the appeal property.
15. The appellant contends that the host building could be further extended using permitted development rights and that such works would be of a comparable depth to the proposed development. Whilst this may be the case, any such extensions would not be as substantial as the scheme before me. In addition, no substantive evidence, such as a certificate pursuant to Section 191/192 of the Town and Country Planning Act 1990, has been provided to demonstrate that the appellant would genuinely pursue this option if the appeal failed.
16. I am cognisant that the proposed front extension would not have a detrimental effect on the horse chestnut tree. However, when taken as a whole, the proposed development would be harmful to trees the subject of a Tree Preservation Order.
17. For the reasons set out above, I conclude that the proposal would be harmful to trees the subject of a Tree Preservation Order. As such, the proposal would not accord with Saved Policy TW3 of the Chiltern District Council Local Plan, adopted September 1997 (including alterations adopted May 2001), Consolidated September 2007 and November 2011, which seeks to prevent development that would have a significant adverse effect on the appearance, or health, or stability of protected trees. Trees of good quality, or landscape significance, or amenity value, will be expected to be retained in good condition even where this will restrict, or prevent, development.
18. Having regard to paragraph 213 of the National Planning Policy Framework (the 'Framework'), I consider that this policy is consistent with the Framework's aim of achieving well-designed places. In particular, paragraph 127(c) of the Framework requires development to be sympathetic to the local character, including the surrounding landscape setting. Therefore, the conflict with the local policy warrants significant weight.

Other Matters

19. The proposal would provide additional living accommodation for the appellant's growing children, which would improve the existing living conditions for the occupiers of the appeal property. In addition, I recognise that the proposed development could be constructed without harming the protected trees. However, these benefits would not be significant enough to overcome or outweigh my conclusions on the main issue.
20. None of the other matters alter or outweigh my overall conclusion.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR