



Appeal Decision

Site visit made on 20 July 2020

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 August 2020

Appeal Ref: APP/A2280/D/20/3247368

1 Port Rise, Chatham ME4 6QA

- 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 I Mohammed against the decision of The Medway Council.
 - The application Ref MC/19/3013, dated 15 November 2019, was refused by notice dated 11 February 2020.
 - The development proposed is single storey rear extension with garage conversion and link-extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the appellant's name, site address and description of proposed development from the planning application form although I note these are expressed differently on other documents.

Main Issue

3. The main issue raised in respect of this appeal is the effect of the proposed development upon trees protected by a Tree Preservation Order (TPO) and their wider biodiversity benefits.

Reasons

4. The Council's Delegated Case Officer's Report does not refer to specific TPO'd trees, nonetheless the appellant's statement indicates that the concern relates to a TPO'd Horse Chestnut tree in the rear garden of the appeal site. This appears to be the closest tree to the proposed development. The Horse Chestnut is a tall mature tree with a large canopy that is clearly visible above the rooftops of properties in the area. This tree makes a significant and positive visual contribution to the verdant character and appearance of the area.
5. An amended Arboricultural Impact Assessment and Method Statement has been submitted in support of the planning application and recognises that the proposed rear extension will increase conflict with the Horse Chestnut tree's root zone. The Assessment discusses that the foundation design must be of a kind that minimises impact upon the root zone and comments upon 'Pile' style foundations providing generic advice pertaining to their installation. The Assessment concludes that a specialised foundation design is required to

minimise adverse impact upon the root zone of trees marked for retention. Whilst the appellant suggests that this Assessment draws the conclusion that the rear extension could be constructed utilising pile foundation, the Assessment, as I read it, is not conclusive on this point.

6. The Assessment estimates a potential 20 years plus remaining contribution of the Horse Chestnut tree. The TPO that is in place affords the tree protection, no doubt in recognition of its visual contribution to the area. This makes it all the more important that the tree is protected from harm to ensure its longevity is not undermined. The premature loss of the tree would have a negative and significant visual effect upon the character and appearance of the area, as well as undermine its current biodiversity value.
7. I have given consideration to the appellant's suggestion that a satisfactory foundation design could be secured by imposing an appropriately worded planning condition. The Council's statutory adviser considers that there is a need to be provided with the proposed foundation design upfront as it is the structural engineer who will determine the size and position of piles, if such a foundation design is to be utilised. I appreciate that this is likely to require physical work at the site. Nonetheless, without a clear indication of type of foundation design and position of potential piles, I cannot be certain that the root structure of the tree would not be harmed. Given the importance of the Horse Chestnut tree recognised by the TPO designation and in situations like this where there are uncertainties as to whether an appropriate foundation design can actually be achieved, I do not consider relying upon a planning condition to resolve this issue would be appropriate.
8. Consequently, the proposed development has a significant potential to negatively impact the Horse Chestnut tree and have a detrimental impact on its wellbeing in the long-term and could lead to pressure to remove the tree in the future. As such, this would be an erosion of the statutory protection placed upon the tree by the serving of the TPO. Accordingly, the proposal should be resisted.
9. I accept that the size, design, appearance, scale, as well as the extension's relationship to the host dwelling would be acceptable taken on their own merits. However, this does not overcome the harm that I have identified above or justify the proposal.
10. For the above reasons, I conclude that the proposed development would have a harmful effect upon the Horse Chestnut tree protected by TPO, as well as its current wider biodiversity benefits. The proposal would, therefore, conflict with Policy BNE43 of the Medway Local Plan 2003 and the National Planning Policy Framework that seek, amongst other matters, development to retain trees that provide a valuable contribution to local character and to conserve and enhance the natural environment and to protect and enhance habitats and biodiversity.

Conclusions

11. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR