



Appeal Decision

Site visit made on 16 September 2020

by H Porter BA(Hons) MSc Dip IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 September 2020

Appeal Ref: APP/T0355/D/19/3243839

Byfield, 16 Dower Park, Windsor SL4 4BQ

- 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 Dhbian Abduljbar against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/02203, dated 1 August 2019, was refused by notice dated 7 October 2019.
 - The development is erection of outbuilding in front grounds of 16 (Byfield) Dower Park (retrospective).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area, including its effect on protected trees.

Reasons

3. The appeal site is situated in a leafy residential estate of St Leonards Hill on the outskirts of Windsor. Mature trees locally contribute to a diverse woodland backcloth that adds significantly to the character and appearance of the area. The trees within and in the vicinity of the appeal site are protected by a Woodland Tree Preservation Order (TPO) Ref 007/1959/W1 that protects all species, including saplings, both within the domestic garden and in the woodland in the area.
4. The appeal relates to the construction of an outbuilding within the northwest corner of the appeal site, close to boundary vegetation and two mature oak trees (T1 and T2). The appeal site is relatively secluded, although both T1 and T2 are visible from the road that passes in front of the site. T1 and T2 form part of the dense canopy and group of trees that soften development locally and are of amenity value insofar as they are integral to the verdant backcloth of woodland trees that contributes positively to the character and appearance of the area.
5. T1 is substantial in size and located on the front side boundary of the site. It is an attractive, and apparently healthy, specimen of some significant age and makes a positive contribution to the visual amenity of the area. The Council's Tree Officer identifies T1 as being a veteran tree and a remnant of the historic

- Windsor Great Park estate. T2 is situated behind the outbuilding; also substantial in size and age, it appears less healthy and is potentially in a state of decline. Nevertheless, T2 is still covered by the Order and, due to its form, size and setting makes a positive contribution to the area's visual amenity.
6. The outbuilding has been constructed on a deck platform at top of a raised earth bank that slopes from the driveway to the front of Byfield and cuts into the hillside to the rear. The decking has been cut around the trunk of T1 and the banked earth and outbuilding are extremely close to it.
 7. Retrospective to its construction, the appellant has sought specialist arboricultural advice that concedes that no tree protection was used to prevent soil compaction during construction. It is contended that in 2019 various remedial works were carried out to mitigate the impact on trees and that the development sits on pads and piles and features a ventilated air space, rainwater pipes and soil enrichment. Be that as it may, to avoid tree root damage, a survey of extant roots was not undertaken and therefore the location of pilings could not have meaningfully avoided harm to them. Looking at the cut-away earth at the rear of the outbuilding, it is obvious that root severance has occurred and this causes me to doubt the claim that no roots were encountered during the excavations.
 8. Even if anecdotal evidence suggests the ground in the vicinity of T1 and T2 contained brick and concrete debris this does not justify the damage that would have been caused to tree roots by cutting, compaction of the soil structure, or changes in ground level or drainage. Irrespective of the requirements of buffer zones and root protection areas pertinent to veteran trees, the proximity and nature of the development undertaken causes me to believe that the root systems of T1 and T2 have not been adequately protected.
 9. The appellant's arboricultural specialist maintains that T1 appears to suffer no ill-effects and. Subsequently, the appellant has commissioned leaf testing, which was undertaken in the Spring of 2020. The preliminary results may indicate T1 to be in good overall vitality and showing no physiological stress. Crucially, however, the testing report recommends that testing be repeated twice annually for the next 2 years to monitor physiological performance. The report caveats that the loss of vitality caused by the type of stress that could have been caused in this case may take some time to manifest. Therefore, it has not been convincingly demonstrated that the development has not caused serious detriment to the health of T1 or T2.
 10. Although the future health of T2 may be in doubt, I have no substantiated evidence that convincingly shows the development has not caused potentially serious harm to T1 and T2. The Council, nor I, take any issue with the scale or form of the outbuilding per se. However, its construction has potentially caused serious harm to T1 and T2, the death or removal of which would compromise their amenity value and cause harm to the character and appearance of the area.
 11. The development therefore fails to comply with The Royal Borough of Windsor and Maidenhead Local Plan Policy N6, which seeks to ensure protection of trees during building operations. There would also be conflict with emerging policy NR 2, SP 2 and SP 3 of the Borough Local Plan 2013 – 2033 Submissions Version, insofar as these seek to protect and retain trees; ensure development contributes positively to the places; and, respects and enhances the local or

natural environment, paying particular regard to, amongst other things, trees. There would also be conflict with the National Planning Policy Framework, revised February 2019, which requires decisions contribute to and enhance the natural and local environment and development is sympathetic to local character.

Conclusion

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

H Porter

INSPECTOR