



Appeal Decision

Site visit made on 15 September 2020

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2020

Appeal Ref: APP/T0355/D/20/3250191
53 Windsor Road, Maidenhead SL6 2DN

- 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 M Herridge against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/03195, dated 16 November 2019, was refused by notice dated 10 January 2020.
 - The development proposed is a new carport.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal upon the character and appearance of the area, with particular regard to the effect on a protected tree.

Reasons

3. The appeal site consists of a two-storey detached dwelling with integral garage, that has a front building line set back by around 10m from the highway frontage. The frontage boundary is enclosed by an approximately 2m high wall, together with a recessed gated access that is surrounded by adjoining fencing. The open area between the boundary wall and the dwelling is at a lower level than the highway and has a gentle downward slope of land levels towards the property. It is mostly surfaced with block paving, with the exception being a confined unpaved area that surrounds the trunk of a mature black pine tree (T1) - also known as a Corsican pine tree as referred to in the Arboricultural and Planning Integration Report dated 6 February 2019 (A&PI).
4. T1 is a tall and prominent specimen that is protected by Tree Preservation Order (TPO 113 of 2002). The protected tree makes a positive and important contribution to the visual amenity of the area as part of a verdant setting of trees, hedgerows and garden vegetation alongside Windsor Road.
5. The proposal is for a carport with approximate dimensions of 8.4m in width by 5m in depth. It would be sited close to the front boundary wall in the existing paved area between the side boundary shared with No 53a and the unpaved area which surrounds T1. The A&PI report identifies that the root protection area (RPA) of T1 would be approximately a 10m radius based on its stem diameter in accordance with BS 5837:2012. When taking account of the constraints upon roots of T1 to the south, arising from the close proximity of

the highway, it is reasonable that the majority of roots in the RPA are located underneath the existing paved area within the site. It follows that the siting and footprint of the carport would be within much of the south eastern section of the RPA of T1. In that regard, the proposal before me reflects a comparable situation and design as a proposed carport subject of a previous appeal¹.

6. The previous Inspector in dismissing the earlier appeal expressed specific concerns in terms of the evidence about the effect of the carport on the health and longevity of T1. The concerns related to the likelihood that the footprint and associated roof coverage of the carport would have a rain sheltering effect and thereby, dry out the roots of T1 within the RPA below it. The Inspector considered that there was insufficient evidence that collection of rain water from the roof and discharge over the driveway via downpipes, or the suggested alternative of an irrigation system, would enable an even distribution of water across the sheltered area under the carport so as to ensure that there would be no detriment to T1.
7. In seeking to address the concerns of the previous Inspector, the proposal before me includes more specific details of an irrigation system as shown on the submitted plans. The irrigation system would involve rainwater collection from the roof with associated pipework directed to a tank adjoining the carport, which would then connect to a dripline to be located under the existing block pavers. The dripline would provide a trickle irrigation system in a single looped coil arrangement of 16mm diameter pipework (1.2mm thickness) with integrated drip emitters. The coil loop would be arranged into parallel lines each spaced at around 500mm intervals within the footprint of the carport.
8. The evidence submitted as part of the appeal includes the technical specifications of the irrigation system which, amongst other things, confirms the use of a tough hard wall pipe suitable for underground applications with compression type fittings, a suction hose, and an irrigation pump powered by electrical supply for pressure compensation for the sloping site. The specification includes water distributed evenly via drip emitters within the driplines with the pump operating on-demand via a float switch in the tank. The system would also include filters, self-cleaning, anti-drain and anti-siphon mechanisms to provide some resistance to blockages of the sub-surface installation. The evidence also gives examples where similar drip irrigation systems have been used to water trees and hedges in urban environments, including tree pits in less permeable surroundings than the proposal before me.
9. With regard to the above, I am aware that the black pine tree is a non-native species which originates in more southern areas of Europe and therefore, has reasonable levels of tolerance to heat and drought given the prevailing climate of those areas. In such circumstances, I am satisfied that the irrigation system as detailed would theoretically be capable of providing an adequate distribution of water to the roots of T1 if installed below the paved surface. To my mind, it would avoid an unacceptable drying out of T1 roots by adequately compensating for the rain sheltering effect of the proposed carport and associated paraphernalia such as the surface mounted tank, dripline harness and pump. Although the submitted plans do not indicate the position of the associated pump starter unit and electrical cables, the appellant has indicated that they would be located on the adjacent boundary wall/fence and would not

¹ Appeal Ref: APP/T0355/D/19/3233993 – Dismissed – 22 October 2019

require any excavation, with such details capable of being secured by condition if the appeal were to be allowed.

10. Notwithstanding the above, the appellant's evidence implies that the installation of the irrigation system driplines in a sub-surface position would require excavation of linked trenches below the existing paving to avoid the compaction effects of parking of vehicles. I note that such an installation is not an uncommon or unfeasible requirement when compared with examples of other urban environments where similar irrigation systems have been installed. It is suggested that such a trench would be 'shallow' and 'hand dug', and that the existing pavers could be reinstated after installation without the need to increase existing land levels. Nonetheless, the technical specifications provided by the manufacturer suggest that such excavation trenches, would consist of a depth of at least 100mm to accommodate a cushioning layer above the pipe with the possible need for an additional 50mm cushioning layer of soft sand at the base of the pipe before it is laid.
11. Based upon the evidence, the extent and depth of trenches that would be required to be excavated within the RPA of T1 to install the driplines as identified in the submitted plan would cause considerable disturbance to the existing soil. To my mind, as the majority of roots are typically within the top 600mm of soil, the proposed installation of such an irrigation system would result in an unacceptable risk to the health and longevity of T1 due to the potential for significant root severance/loss arising from the totality of excavations to be made. In reaching that view, I note that the A&PI has not been updated since the previous appeal and therefore, it does not specifically address the excavation works required to install the proposed irrigation scheme. I, therefore, cannot reasonably conclude that potential construction methods set out in the A&PI such as on-site supervision, hand excavated trial holes, use of an airspade and avoidance of any roots present, would be feasible to ensure installation of the irrigation system whilst resulting in no harm to the health and longevity of T1.
12. Similar to other species of pine tree where lifespans of hundreds of years are not uncommon, individual mature specimens of black pine such as T1 that are in good condition with no notable defects have a potential life expectancy that could significantly exceed the estimation of 20-40 years identified in the A&PI. There is no evidence before me which would indicate that the T1 tree would otherwise be unlikely to survive on site for many years. Consequently, as the manufacturers technical specification indicates that the pipework has a design life of 10 years, it is evident that an installed irrigation scheme would likely require significant maintenance and/or replacement of sub-surface driplines on a number of occasions during the lifespan of T1 to ensure its effectiveness and prevent system failure. Such matters only add to my concerns given the likely requirement for further excavation of the original trenches in the future with the potential for additional root disturbance or severance that could harm the health and longevity of T1. The likely premature loss of T1 as a result of the proposal would significantly harm the character and appearance of the area given the significant contribution it makes to the verdant setting.
13. In reaching the above findings, I have taken into account that the carport would not require any foundations or excavations in the RPA of T1 as it would be supported by the existing front boundary wall and a number of steel posts which would rest on the established paved area. In that respect, I concur with

the previous Inspector that the construction of the carport structure of itself within the RPA, subject to the tree protection measures set out in the A&PI, would not have a significant impact on T1. However, the absence of concern in those respects does not overcome the harm identified in terms of the health and longevity of the protected T1 tree arising from the need for and installation of the proposed sub-surface irrigation scheme.

14. The carport would be partly visible within the street scene above the existing boundary wall and fencing surrounding the access. However, when taking account of the varied character and appearance of dwellings and other buildings nearby, including some positioned relatively close to the footway edge; the design, relatively modest height and overall scale of the carport would not appear unduly prominent, obtrusive or out of place. It would also be in a position that would ensure no unacceptable harm upon the occupiers of neighbouring properties in terms of loss of privacy, outlook, daylight or sunlight. Furthermore, sufficient parking would be provided to serve the occupants of the property and there would be no alterations to the access arrangements or resultant highway safety issues given that a turning area within the site would be retained to allow entry from and exit onto Windsor Road in forward gear. However, the absence of concern in those respects is a neutral factor and does not overcome the harm previously identified.
15. The appellant has raised concerns with respect to the Council approach when dealing with the application. However, such matters are not an influential factor upon the outcome of this appeal which necessarily reflects my own assessment of the proposal relative to its planning merits.
16. Having regard to all of the above and based upon the evidence before me, I conclude that the development would likely have an unacceptable impact upon the character and appearance of the area due to its harmful effect on the health and longevity of the protected black pine tree (T1). The proposal, therefore, conflicts with Saved Policies DG1 and N6 of the Royal Borough of Windsor and Maidenhead Local Plan, adopted June 2003. The policies, when taken together, seek that development should not cause harm to the character and appearance of an area through the loss of important features which contribute to that character, including existing suitable trees. The policies are consistent with the National Planning Policy Framework.

Conclusion

17. For the reasons given above and taking all other matters into consideration, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR