
Appeal Decision

Site visit made on 29 September 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2020

Appeal Ref: APP/T0355/D/20/3256046

The Swifts, 31 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 & Mrs Bhatt against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application 20/00215, dated 28 January 2020, was refused by notice dated 6 May 2020.
 - The development proposed is garage conversion, first floor front and two storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for garage conversion, first floor front and two storey side extension at The Swifts, 31 Dower Park, Windsor SL4 4BQ in accordance with the terms of the application 20/00215, dated 28 January 2020, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area, having regard to its impact on protected trees.

Reasons

3. The character and appearance of Dower Park is of a low density residential estate dominated by mature trees that stand in the gardens of the houses. Retention of these mature trees is important in maintaining the sylvan character and appearance of the area.
4. The two storey side extension would encroach within the unmodified root protection area of an oak tree (numbered T12 in the tree survey¹), albeit only by a small amount. Due to existing structures being within close proximity of the tree, a modified and somewhat wider root protection area is needed to ensure the continued health of tree T12.
5. While I understand the Council's concerns about the potential for harm to the roots of tree T12, I am satisfied that enough rooting area would still be available to support the tree as shown on the appellant's Impact Assessment

¹ Tree survey, arboricultural impact assessment and tree protection plan, Martin Dobson Associates, revised 1 May 2020.

Plan², notwithstanding the area taken up by the two storey side extension. I am also satisfied that the proposed piled raft foundation would result in a minimum of excavation so as to avoid damage to the limited number of roots that radar and trench surveys have shown to be present under the site of the proposed side extension.

6. There is also the potential for harm being caused to the roots of trees T12 and T13 from the installation of utilities and activities during the construction period. However, the appellant has confirmed that any new services and drainage will avoid root protection areas, and suitable tree protection measures will be taken during the construction period in accordance with good practice³. Subject to these safeguards, I consider that the trees would be adequately protected so as to avoid harm being caused to them.
7. I consider that pressure to lop or fell the trees in the future would be limited. Windows to the new bedrooms and the primary window to the kitchen would face away from the trees along the side boundary and would not be significantly overshadowed by them. Those windows facing the trees would be to non-principal rooms such as shower or utility rooms or provide secondary lighting to the kitchen. In all these cases, overshadowing would be less important and would not, in my view, be a reason to allow inappropriate works to the protected trees.
8. I acknowledge that tree works may be needed in the future as the trees continue to grow to prevent them interfering with the proposed extensions. However, I consider that such works would not unduly prevent the overall growth and development of either tree to maturity.
9. The conversion of the garage to residential accommodation may result in more forecourt parking and/or a future desire for a replacement garage but that does not form part of the current proposal, and in any event protection of mature trees on the site is secured through the existing tree preservation order.
10. I conclude that subject to suitable construction methods and protection during the construction period, potential harm to nearby protected trees would be avoided thereby maintaining the character and appearance of the area in accordance with Policies N6, DG1 and H14 of the Royal Borough of Windsor and Maidenhead Local Plan, which seek to retain trees of public amenity value and protect them from new development.

Conditions

11. In addition to the standard time limit condition, I have imposed a condition listing the approved plans in the interests of certainty and a condition requiring matching materials in the interests of the character and appearance of the area. I also consider it necessary to impose conditions requiring the foundations of the development to be built in accordance with the submitted plans, and tree protection measures to be installed for the duration of construction, in order to protect trees on or adjacent to the site in the interests of the character and appearance of the area.

² Ditto, Appendix MD4.

³ British Standard 5837:2012 Trees in relation to design, demolition and construction – recommendations.

Conclusion

12. I conclude that the appeal is allowed.

Guy Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the approved plans: 3141/PL01 Rev B, 3141/PL02 Rev B, PSK 01 Rev A, PSK02.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) The foundations of the development hereby permitted shall be constructed in accordance with the design shown on drawings PSK 01 Rev A, dated April 2020, and PSK 02, dated March 2020, by Harold James (London) Ltd Consulting Engineers. The existing ground level shall not be altered other than as required to enable the approved foundations to be built, without the prior written consent of the Local Planning Authority.
- 5) No development shall commence until the tree protection measures set out in the tree protection plan by Martin Dobson Associates ref L52, dated 1 May 2020, have been implemented and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

***** End of Conditions *****