



Appeal Decision

Site visit made on 29 September 2020 by Alex O'Doherty LLB(Hons) MSc MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2020

Appeal Ref: APP/T0355/D/20/3252902

Belvedere House, Rise Road, Ascot SL5 0AT

- 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 Elmar Schuetz against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 20/00356, dated 11 February 2020, was refused by notice dated 27 March 2020.
 - The development proposed is described as, "Rear ground floor extension".
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding area, with particular regard to its effect on trees.

Reasons for the Recommendation

4. Belvedere House has a large oak tree in its rear garden. The tree is set-back somewhat from the road but is still a notable feature in the street scene. The tree positively contributes to the character and appearance of the area and is protected by a Tree Preservation Order ('TPO')¹.
5. The proposal, for a single storey rear extension, would be located outside of, but very close to, the Root Protection Area ('RPA') of the protected tree. The appellant submitted an arboricultural report which was previously undertaken for an earlier planning application on the site, but that report does not deal with the specific impacts of the appeal proposal.
6. It is recognised that the previous arboricultural assessment related to a 'worst case' scenario. Nevertheless, for this specific proposal, it has not been made clear what the extent of the construction works would be, either around or within, the RPA, or what measures would be taken to protect the tree during the construction of the extension. As such, there is no certainty that construction works would not adversely impact on the health and safety of this

¹ TPO reference: 029/2001/T1

important tree. Additionally, the anticipated hard surfaces are not shown on the plans and therefore the impact of any hard surfaces on the tree is also uncertain. As harm to the tree could harm the character and appearance of the area, a precautionary approach is necessary.

7. Given the importance of the tree it would not be appropriate for planning permission to be granted in these circumstances and the use of planning conditions relating to the required information would not be reasonable. Reference has been made to other applications involving developments that are closer to the RPAs of protected trees, but as no details have been provided this has been given limited weight. It does not provide justification for a scheme where the effect of the extension on a protected tree has not been satisfactorily addressed.
8. I therefore conclude that I have insufficient information before me to demonstrate that the proposal would not have an adverse effect upon the protected oak tree, or the character and appearance of the area. The proposal conflicts with Policies DG1 and N6 of The Royal Borough of Windsor and Maidenhead Local Plan (2003) which collectively provide that harm should not be caused to the character of the surrounding area through development which results in the loss of important features which contribute to that character. There is also conflict with Policy EN2 of the Ascot, Sunninghill and Sunningdale Neighbourhood Plan 2011-2026 which provides that residential development proposals where trees are present should be accompanied by a tree survey.

Other Matters

9. I note the quoted advice given in a Memorandum and in a communication between the Council's Case Officer and the appellant, however the appeal before me is based on the Council's decision to refuse the planning application for the reason set out in its decision notice. I have assessed the appeal proposal on the basis of the evidence before me and this matter does not alter the conclusion that I have reached. Concerns relating to how the planning application was dealt with are not matters that I can assess in the context of a planning appeal. Overall, I find that the matters advanced in support of the proposal, do not, either individually or collectively, outweigh the harm identified, nor the conflict with the development plan.

Conclusion and Recommendation

10. Based on the above, and having regard to all matters raised, I recommend that the appeal should be dismissed.

Alex O'Doherty

APPEAL PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

RC Kirby

INSPECTOR