



Appeal Decision

Site visit made on 15 February 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st March 2021

Appeal Ref: APP/X0360/D/20/3262967

Longmoor Cottage, Park Lane, Finchampstead RG40 4PT

- 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 and Mrs Mark Tongue against the decision of Wokingham Borough Council.
 - The application Ref 201278, dated 25 May 2020, was refused by notice dated 20 August 2020.
 - The development proposed is single storey side and rear extensions to existing detached double garage and raising of roof height with addition of two rear facing dormers to form storage area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A woodland Tree Preservation Order (TPO)¹ was made to cover the trees within the site during the course of the planning application. This TPO came into effect on 19 January 2021. As this TPO is now in force, I must take it into account in my decision.
3. During the course of the appeal, the appellant submitted a planning obligation by way of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended). This deals with planting of new trees. I will discuss this in more detail later in this decision.

Main Issue

4. The main issue is the effect of the proposed development on protected trees and ancient woodland.

Reasons

5. The appeal site is a sizeable plot forming the garden to Longmoor Cottage, part of which is covered by trees, designated as ancient woodland and classified as semi-natural woodland. The trees within the site are subject to a woodland TPO. A detached garage is indicated on the plans, however, at the time of my site visit this had been demolished.

¹ TPO 1744/2020

6. A number of mature trees are located in close proximity to the site of the demolished garage. These trees together create an attractive feature within the garden, with a number of the trees individually due to their size, spread and presence within the site being commanding and impressive features in their own right. All of these make a positive contribution to the character and appearance of the area and its visual amenity, as recognised by their inclusion in the TPO.
7. The proposed development would increase the height of the original structure which would be rebuilt, to create a first floor within the roofspace. This would require works to the foundations to support the additional weight of the structure. The rear and side extensions would also increase the footprint of the building.
8. The appellants submitted a Tree Survey (TS) of those trees in close proximity to the garage, identifying these as a mix of oak and beech trees. The TS categorised trees based on guidance in British Standards (the BS)². It identifies the trees to be of high and moderate quality, classified as Category A and Category B trees respectively.
9. The TS indicates that the proposed extension of the existing garage would extend into the root protection area (RPA) of four protected trees. The plans attached to the Tree Survey plan indicate these are three oak trees T1, T5 and T6 and a beech tree, T4. The oak trees are all Category B trees, whilst the beech tree is a Category A.
10. The BS establishes that the RPA for trees should be left undisturbed and no equipment or materials should be brought into it or stored there during any works. The TS indicates that the RPA of many of the trees are already partially encroached by the existing garage and driveway. It also identifies that fencing in line with the BS would not be possible for many of the trees growing because of this. It therefore advises a reduced fence line would be required and for the works to be arranged with care as they will be within the RPA of a number of trees.
11. The BS sets out the method for calculating the RPA, based on an area equivalent to a circle with a radius 12 times the stem diameter. My attention has been drawn to commentary by the Woodland Trust that suggests the RPA is an arbitrary measurement. However, I am mindful that whilst the BS is not law, it represents good practice and an accepted methodology which I note the appellants' TS is based upon. Furthermore, I have been provided with no firm evidence of what an alternative RPA would be for the affected trees.
12. Paragraph 5.3 of the BS advises that development should be outside of the RPA unless there is an overriding justification for construction within the RPA. Whilst the TS suggests a number of design and construction methods including using hand piling techniques, this does not provide certainty that roots of the protected trees will not be encountered and potentially disturbed. In addition, it seems to me that even with boarding to prevent surface compaction as recommended in the TS, given the proximity of the trees and the limited space provided within the fenced off area for construction works, the trees are likely to be adversely impacted.

² BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations

13. This is likely to be more severe in the case of the high quality beech tree, which the TS indicates would not be tolerant of root disturbance. There is no evidence to suggest that the remaining lifespan of this high quality, Category A beech tree is very limited and no reason why it could not go on to develop into an excellent specimen as indicated in the TS.
14. The appellants would accept conditions to control and mitigate damage. In addition, they have indicated that they would be willing to provide a monetary sum, a 'tree contribution' of £400 for four semi-mature trees to be planted in the woodland. This would be secured through the submitted UU under Section 106. However, the UU is incomplete as it is not dated or signed by all parties. In any event, the planting of four semi-mature trees within the woodland would not overcome the harm to four mature trees that would arise from the proposal.
15. I conclude that the proposed development would adversely affect the protected trees and ancient woodland. It would therefore conflict with Policies CP1, CP3 and CP11 of the Wokingham Borough Core Strategy Development Plan Document 2020 and Policies CC03 and TB21 of the Wokingham Borough Managing Development Delivery Local Plan 2014. These policies together require development to maintain the high quality of the environment and bring about environmental improvements, have no detrimental impact on landscape, to protect and retain existing trees and to retain the character and features that contribute to the landscape.
16. It would also not accord with the National Planning Policy Framework which requires development to contribute to and enhance the natural and local environment by recognising the intrinsic value of trees and woodland and sets out that development resulting in the loss or deterioration of ancient woodland should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists.
17. The Council has referred to R2 in its Design Guide Supplementary Planning Document 2012. However as this relates to new housing it is not relevant to the proposal before me and I find no conflict.

Other Matters

18. The appellants indicated that they were not informed that a TPO had been made in respect of the site and that this breaches their Human Rights. However, the Council has provided details in respect of the making of the TPO and correspondence in relation to this matter dated 23 July 2020. Furthermore, in accordance with Part 4(1) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 the TPO did not come into effect until six months after it was made, that is 19 January 2021. In any event, this is a procedural matter and I must consider this appeal on its planning merits, which I have done.
19. The proposed development would be modest in size and would cause no harm to neighbouring amenity. It would also not affect the Thames Basin Heaths Special Protection Area nor would it harm ecology or lead to flooding or drainage issues. These are all neutral factors.
20. There would be some economic benefits during the construction of the proposed development in providing employment to local tradespeople, I give

these short term benefits limited weight. The proposed development would provide the appellants with additional storage space outside their home living space. However, this is a personal benefit and does not outweigh the harm to the protected trees and ancient woodland I have identified.

Conclusion

21. For the reasons set out above, I conclude the appeal should be dismissed.

Rachael Pipkin

INSPECTOR