The Planning Inspectorate

Appeal Decision

Site visit made on 18 December 2020

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2021

Appeal Ref: APP/P3610/D/20/3250563
Muralis, Hylands Mews, Epsom KT18 7JX

- 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 Sean White against the decision of Epsom & Ewell Borough Council.
- The application Ref 19/01249/FLH, dated 27 September 2019, was refused by notice dated 4 February 2020.
- The development proposed is proposed single storey standalone garage to land in front of existing house.

Decision

1. The appeal is dismissed.

Main Issue

2. I consider that the main issue is the effect of the garage on a protected yew tree.

Reasons

3. The proposed garage would be sited behind a tall boundary wall to the front of Muralis, a semi-detached house. Access to the house is via a driveway from Hylands Mews. There is a substantial yew tree to the front of the house which is protected by a Tree Preservation Order (TPO)[1].

4. The existing tarmac driveway is close to the tree and although the proposal could enlarge the area immediately around the tree to soft landscaping, the proposed garage would still be sited very close to the tree. The orientation of the garage would also mean that cars would need to pass close to the tree to access it. I accept that there is unrestricted access to the tarmac driveway now and the situation may not in practice be so very different should a garage be erected as proposed. I also accept that the tree could be protected whilst the garage was being constructed and foundations for the garage could be constructed to minimise any impact as much as possible.

5. However, I am concerned that erecting a garage so close to the tree could affect the tree in the future. Whilst the appellant has produced an arboricutural assessment to address the future of the tree, I am not convinced that the proposed garage would not have an adverse effect on the tree. I have considered whether the impositions of conditions could overcome my concerns

[1] Ref: Tree Preservation Order L9/T2.

but given that the tree is protected by a TPO and the garage would be located in such proximity to it, I cannot justify allowing the garage.

6. Development Management Policy DM5[2] seeks to protect trees and this tree contributes to the general character and appearance of the area. There is no justification therefore in allowing the development which could compromise its future.

7. I have considered all matters raised but on balance I am not convinced that the construction of the proposed garage so close to the protected tree can be justified. The garage could have a harmful effect on the future of the protected yew tree and as such the appeal fails.

J D Clark

INSPECTOR

[2] Epsom & Ewell Borough Council Development Management Policies Document September 2015.