



Appeal Decision

Site visit made on 12 March 2021

by Rebecca Thomas MRICS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2021.

Appeal Ref: APP/T0355/D/20/3264189

9 Barn Close, Maidenhead SL6 7HD

- 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 Sanga against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 20/01519, dated 25 June 2020, was refused by notice dated 28 October 2020.
 - The development proposed is Single Storey rear extension and 1 nr dormer
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The name of the appellant is as shown on the application form. Whilst the appeal form is in the name of the appellant's agent, I note the email correspondence to confirm both the agent and appellant's names. As there is no change from either of these and no objection from either party I consider it appropriate to use the applicant's name as shown on the original application form.
3. I note that the plans were amended during the consideration of the planning application. The description of proposed development in the banner heading above is taken from the appeal form and decision notice as it more accurately reflects the plans before me, and those listed in the Council's decision notice, than that shown on the application form. I have therefore made my decision on the basis of these plans.
4. The proposals include the insertion of a dormer roof extension to the rear of the property. The Council raises no concern regarding this element of the development, and there are no references to this in the appellant's documents and as such I shall not consider this matter further.

Main Issue

5. The main issue is the effect on the character and appearance of the area, with particular reference to the relationship with protected trees on the site.

Reasons

6. The appeal site is a detached dwelling located at the end of Barn Close, a residential cul-de-sac. A number of mature trees are located in the garden, within the site boundaries, to the south and east of the dwelling. The trees are protected by a Tree Preservation Order (TPO). These are mainly limes, with an ash and oak, and at my site visit I was able to see that the lime trees appear to form two lines of trees leading off beyond the appeal site to both the north-west and south-west. These trees are uniform in placing and general height and age, resulting in an important feature which contributes to the character and appearance of the area. The dwellings along Barn Close appear to have these mature trees in their gardens, with a defined line of trees visible as seen from the rear gardens, as well as the street. I was also able to see that there were recreation fields and footpaths directly to the rear of these dwellings.
7. Section 197 of the Town and Country Planning Act 1990 places a duty on Councils to ensure, whenever it is appropriate, that in granting planning permission for any development, adequate provision is made, by the imposition of conditions, for the preservation and planting of trees.
8. The appeal dwelling includes a patio area and detached garage building, and I was able to verify at my site visit that two of the lime trees are close to the existing dwelling and patio. The garden slopes gently downhill from the house and street level to the rear boundary. The development would be located to the rear of the dwelling, providing a single storey extension which would span the width of the dwelling.
9. The development would bring the built form closer to the existing trees in the garden. Both parties agree that the majority of the dwelling and its garden is located within the entirety of the root protection area of all trees, and those in the TPO. The Tree Survey confirms that "*BS5837 (Section 3.7)¹ defines the RPA as a 'layout design tool indicating the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as a priority'. In other words, the RPA represents the **minimum** area around each tree in which the ground should remain largely undisturbed.*"
10. In particular, the development would be close to T3, indicated as a Category B tree in the tree survey report. Category B is described as "*trees of moderate quality with an estimated remaining life expectancy of at least 20 years*". The tree survey report identifies T3 as a lime tree, described as..."*Large, prominent tree. Large dead wood developing in crown which otherwise has good vitality. Upright form. Cavities in low pruning wounds do not appear significant to stability, but have habitat potential. Dense epicormic growth at base restricted inspection.*" The report goes on to confirm that the tree has an expected retention span of 20+ years. The Council does not dispute the categorisation. It is proposed to remove the dead wood and epicormic growths from T3.

¹ British Standard 5837 2012 '*Trees in Relation to design, demolition and construction – Recommendations*'

11. The construction would require some excavation work to create the extension. The Council has raised concern about the lack of information with regard to specialist construction methods, mitigation and maintenance. In addition, the Council raise concern that, notwithstanding specialist excavation and construction methods, the proposal would increase the barriers to the root systems of the surrounding trees and would have a long-term detrimental impact upon tree health.
12. In the appellant's grounds of appeal, it is stated that trial excavation would take place by hand, with small piles providing the foundation for the extension. This is confirmed by the design in the application documents, showing a suspended concrete slab over the existing patio and soil level. I acknowledge that the appeal site is at a location where there is the existing patio area, which may result in existing compaction, however I am not persuaded that this sufficiently mitigates for the potential harm to the root systems of the trees to sufficiently justify building within the RPA.
13. A number of protection measures are recommended including manual excavation, ground protection, and protective barriers. It is confirmed that the working area and access would be undertaken from the existing patio area, which would be fenced with tree protection fencing. Nevertheless, given the location within the RPA, I am not provided with the evidence to demonstrate that the construction and the extension would not cause long-term harm to the TPO trees.
14. Tree T2, also a lime and close to the dwelling, is proposed to have its epicormic growths removed and height reduced by approximately 6m. The Council ascertains that this work to T2 is unnecessary for the development to go ahead, and as such would require a separate TPO consent for these works to that particular tree. Even so, the proposed reduction of the T2 by 6m would significantly alter the appearance of this tree, and thus create a change in the uniform line of trees as seen from the nearby streets and footpaths.
15. Notwithstanding, it is possible that, with the development in place, the overshadowing and safety and maintenance issues that could arise may lead to pressure to cut back or remove the preserved tree in the longer term, as well to T3. I acknowledge the appeal documents show possible solutions to help with ongoing maintenance, such as bristle guards, however this does not overcome the concerns raised above.
16. Due to the heights of the trees and changes in the land levels at this particular area, the protected trees remain prominent in the local area. I have considered the effect of the development on the root protection area (RPA) of the protected trees during construction as well as afterwards. Whilst the proposed development would be located at the site of the existing patio area, the development would remain in the RPA.
17. I am not persuaded that the proposed development can afford the necessary protection to the protected trees both during construction and post construction due to its close proximity and interference in the RPA. I have considered the option of a condition to mitigate for the identified harm through protection measures during construction or replacement planting. However, I am not convinced that the potential harm to the RPA can be avoided, nor that there is sufficient space within the appeal site for any meaningful replacement planting

and as such I am not persuaded that the development can be made acceptable through the use of a condition.

18. In conclusion, whilst I have no concerns with regard to the appearance of the proposed extension, I nonetheless find that there is conflict with Policies N6 and DG1 of the Local Plan² which expect developments to (amongst other things) respect the character and appearance of the local area including avoiding the loss of important features which contribute to the character of the area and; to protect trees which contribute towards local amenity from any adverse impacts.

Conclusion

19. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed

Rebecca Thomas

INSPECTOR

² The Royal Borough of Windsor and Maidenhead Local Plan (Incorporating alterations adopted March 2003)