

Appeal Decision

Site visit undertaken on 20 August 2021

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision Date: 08 September 2021.

Appeal Ref: APP/L5240/D/21/3274451

16 Valley Walk, Shirley Park, Croydon CR0 8SR

- 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 Mrs Terrie Martin against the decision of the London Borough of Croydon.
 - The application, ref. 21/00974/HSE, dated 22 February 2021, was refused by notice dated 23 April 2021.
 - The development proposed is a detached office/workshop.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On my site visit, a concrete slab had already been poured which according to the applicant's Statement of Case (SoC) is the foundation for the proposed outbuilding. The slab also had a plastic drainage pipe mounted into it which according to the plans appears to cater for an outlet for a proposed bathroom, however the pipe is not currently connected to any sewer system.
3. According to the Council's Planning Officer Report, the proposed design of the outbuilding was considered acceptable and in accordance with the design policies of the Croydon Local Plan 2018 (LP). The Planning Officer Report notes that the main contention is with the impact of the proposed development upon the neighbouring trees. With this in mind, I have no reason to dispute the opinion of Council officers regarding the acceptability of the design of the outbuilding. As such, this letter will be focused purely upon the effects (if any) towards the adjoining trees.

Main issue

4. Taking the above into account, the main issue is the effect of the proposed outbuilding upon the neighbouring trees that are subject to a Tree Preservation Order (TPO).

Reasons

5. The appeal site is located within the rear garden of a residential property situated along Valley Walk. The rear garden is at a higher ground level than the floor level of the host dwelling with steps leading to the rear garden which has a slope that falls from the rear boundary to the rear of the host dwelling. Along both side boundaries are a number of mature trees. The mature trees to the rear of the neighbouring 18 Valley Walk close to the side boundary with the appeal site are subject to a TPO.¹ The TPO schedule map highlights a large area of the rear garden of the neighbouring property which is identified as G1, with three trees of particular note listed as '1 x Salix Mstsudana tortuosa, 1 x Quercus Spp, 1 x Eucalyptus Spp.'
6. Each of the three trees are substantial in size and located adjacent to the property boundary with the appeal site and are attractive specimens that make a significant and positive contribution to the visual amenity of the area (as recognised by their inclusion in the TPO). The proposed outbuilding would be located close to and under the canopy of the tree furthest to the west. The submitted appeal documents do not show the route or extent of trenches required to cater for the connection of the utility pipes from the proposed outbuilding to the main dwelling; but would be likely to pass close to/through the root structure of the trees that are subject to the TPO.
7. The Council's Tree Officer in their response to the application² notes that '*the connection of services and the creation of foundations to support the unit will result in detrimental health impacts upon the subject tree.*' The applicant details in their SoC that there is no detriment caused to the trees as a result of the proposed works, however does not support their statement by any evidence such as an Arboricultural Survey/ impact assessment. Such a survey would be carried out by a professional qualified in arboriculture which gives advice as to the implications of the development, such as the laying of the concrete slab, including trenching and the options available to locate utility trenches, and whether this is indeed possible in principle without causing adverse detriment to the trees subject to the TPO. This requirement is also noted in the accompanying text to LP Policy DM28 where paragraph 9.40 seeks sufficient information is presented in applications in accordance with British Standard 5837 (BS) (or any successor) in all cases involving development affecting trees.
8. I appreciate that the applicant in their opinion believes there has been no damage to the trees caused by the laying of a concrete slab, however it would appear that this opinion is based upon the trees still continuing to grow, as evidenced by permissions sought from the applicant in order to trim trees granted rather recently³. The granting of approvals for works to the trees is not sufficient evidence to demonstrate that the slab has not harmed the neighbouring trees; or whether further works such as the proposed utility trenches for the outbuilding would cause impacts towards the root

¹ Croydon Council TPO Ref: 19/00015/TPO

² Tree Team Section Observations on Planning Application 21/00974/HSE, by Rob Goode, Dated 26/03/2021

³ Consent to tree works 20/00641/TRE; 20/00641/TRE; 20/05710/TRE

systems of the neighbouring trees. The only evidence before me of a qualified tree officer is that of the Council which I afford significant weight to.

9. Having reviewed the appeal documents, there is no persuasive evidence such as an Arboricultural survey made in accordance with BS5837, which would give confidence as to whether the proposal is indeed possible and whether there are any options available for the slab and the location of the utility trenches so that they do not result in harm towards the neighbouring trees.
10. Based on the evidence before me, it has not been sufficiently demonstrated that the principle of the proposed development would not cause adverse detriment to the neighbouring trees which are subject to a TPO. Consequently, the proposed scheme would be contrary to LP Policy DM28 (which seeks to protect and enhance the borough's trees by permitting development that results in the loss of trees that make a contribution to the character of the area) and Policy and G7 of the London Plan 2021 (which seeks that wherever possible, that existing trees of value are retained).

Other Matters

11. I acknowledge comments in the appeal documents where the applicant believes that a TPO was placed on the neighbouring trees in order to *'jealously seek imposition of the Tree Protection Order to frustrate the Appellant.'* A TPO is only applied by an appropriate assessment by Council's Tree Officers as to whether the trees are worthy of such designation according to specific criteria such as form, rarity, historic/cultural value, character, amongst others. In this case a TPO exists on the trees and I have a duty to assess the resultant effects on the trees which may be caused by the proposal. Whilst the appeal documents appear to show some animosity between the applicant and the neighbour, these issues are not planning related and are not part of my determination.
12. I acknowledge comments from an interested party who has concerns with regards to the use of the outbuilding as a separate planning unit. Even if the outbuilding provided facilities for independent day-to-day living it would not necessarily become a separate planning unit from the main dwelling; it would be a matter of fact and degree. The application before me is one of an outbuilding, and if shown to be acceptable in principle could be conditioned to ensure that the use of the building remained ancillary to the main dwelling.
13. I also note comments from an interested party with regards to previous works, the blocking of driveways and migrating brick dust from previous construction. Whilst the existing works are not part of the consideration of this scheme, if in the future a suitable proposal is granted, sufficient conditions could be placed to address these concerns if deemed necessary.

Conclusion

14. For the reasons given above, the appeal is dismissed.

J Somers

INSPECTOR