

Appeal Decision

Site visit made on 2 November 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021

Appeal Ref: APP/A3655/D/21/3276478

18 Broomhall Lane, Horsell, Woking, Surrey GU21 4AN

- 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 C Milton against the decision of Woking Borough Council.
 - The application, Ref. PLAN/2020/1162, dated 17 December 2020 was refused by notice dated 13 April 2021.
 - The development proposed is the erection of a two-storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two-storey side extension at 18 Broomhall Lane, Horsell, Woking in accordance with the terms of the application, Ref. PLAN/2020/1162, dated 17 December 2020 and subject to the conditions in the attached Schedule.

Main Issue

2. The main issue is the effect of the proposed extension on nearby Scots Pine trees which are the subject of an area Tree Preservation Order.

Reasons

3. Within the main issue the Council has two main concerns: firstly, physical harm to the trees from the construction of the extension within their root protection areas ('RPAs'), and secondly, harm in the form of the potential pressure from future residents of the extended dwelling for the removal of trees as a result of problems arising from their close proximity.
 4. Because of the initial concern in these respects the Council requested detailed arboricultural information to enable an informed assessment of any impact of on the nearby trees. A tree survey was carried out, enabling the preparation of an Arboricultural Impact Assessment, an Arboricultural Method Statement and a Tree Protection Plan.
 5. As the officer's report explains, whilst the existing dwelling already encroaches on RPAs and underneath canopies, the two-storey side extension would have further implications for a number of trees, in particular two Scots Pines, identified as 10m high Category B1 Trees T1 and T5. In both cases there would be incursion of about 11% into their RPAs and a need to carry out crown lifting to a height of 8m to accommodate the additional built form.
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6. The Council is correct to express concern in terms of the potential effect of the development on the trees. However, in assessing the balance between this harm and the advantages of extending the house there are two important considerations that bear on my decision on the appeal. Firstly, this is not a new situation in that the trees have grown to maturity and appear to be in good health despite the close proximity of the existing dwelling. In so doing they have tolerated such difficulties as the presence of the building, ground level hard surfaces and a partially compromised natural drainage regime. I therefore consider this proposal to be somewhat different to a situation where the introduction of new development to the immediate environment of protected trees entirely alters the context for their growing and survival.
7. Secondly, the submitted arboricultural documentation fully describes the mitigation measures for the foundations and the other constraints that would be applied during construction. The report is of a high professional standard and thorough, and although the Council's tree officer has advised that despite the report there would be harm to the trees, I am nonetheless minded to accept the recommended conditions as being sufficient to safeguard the trees and the amenity that they provide. The Government's online Planning Practice Guidance says that conditions can and should be used to make a development acceptable in situations where otherwise it would not be acceptable. On balance, I consider the appeal application to be a case in point.
8. As regards pressure from future residents, I acknowledge this as a material consideration that merits weight in tree / development scenarios. However, I do not see the proposed extension as materially changing a relationship that already exists. As is the case now, the close relationship between the house and tall trees would be obvious to the extent that any prospective future occupier who is minded to have concerns in this regard would almost certainly choose somewhere else to live. An additional point is that the trees are on third party land which serves as a significant constraint on any aspirations of a future resident for their removal.
9. In making my assessment I have had regard to the Inspector's findings in the appeal at No. 8 Broomhall End, with its similarity as an end of terrace house adjoining a group of trees. As in this appeal the trees concerned are Scots Pines and the Inspector referred to their height, slender trunks and the fact that the detritus is in the form of needles and twigs. In terms of nuisance and perceived threat I consider there is a considerable difference between Scots Pines and, for example, large oak trees with the latter's bulk, canopy density, leaf volume, obstruction of outlook, effect on light and the potential for danger from the falling of large branches in high winds.
10. In summary, I take the view that it would only be reasonable for me to support the refusal of permission if there was a probability rather than a possibility that harm would be caused to the protected trees, in particular Trees T1 & T5. I do not regard the Council's report as having demonstrated this and conclude overall that there would be no unacceptably harmful conflict with the relevant Policies. These are Policies CS21 & CS24 of the Woking Core Strategy 2012; Policy DM2 of the Woking Development Management Document 2016, and Government policy in Section 12: 'Achieving Well-Designed Places' in the National Planning Policy Framework 2021.

11. I shall therefore allow the appeal. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and is in the interests of proper planning. A condition requiring the development to have matching external materials will safeguard visual amenity. In addition I have already referred to the tree conditions that will mitigate the potential for any harm as set out in paragraphs 2 and 3 above. I have re-worded and re-arranged the suggested conditions to move them closer to the statutory requirement to preclude pre-commencement conditions unless first agreed with the appellant.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this decision;
- 2) The development shall be carried out in accordance with the following approved plans: Drawing Nos. 01; 02; 03 and the plans referred to in condition no. 6) below;
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building;
- 4) Protective measures shall be carried out in strict accordance with the Arboricultural Method Statement, Tree Survey, DWG No: Arbtech AIA 01 Arboricultural Impact Assessment and DWG No: CCM-JMD-A-01 Tree Protection Plan provided by ARBTECH received on 24 February 2021 and 17 March 2021, including the convening of a pre-commencement meeting and arboricultural supervision as indicated. No works shall take place until all details required by the conditions herewith have been submitted and approved; the tree protection measures have been implemented, and a pre-commencement site meeting has taken place between the Local Planning Authority's Arboricultural Officer, the developer and their Arboricultural Consultant and builder/project manager. Any deviation from the works prescribed or methods agreed in the report shall require prior written approval from the Local Planning Authority;
- 5) Details of the location, extent, depth, installation and full details of the method of construction of any services/ utilities/ drainage within the Root Protection Areas or that may impact upon retained trees on and adjacent to the site shall be submitted to and approved in writing by the Local Planning Authority. The submitted details must be in accordance with BS 5837:2012 (or any future equivalent(s)) and make provision for arboricultural supervision and inspection(s) by suitably qualified and experienced arboricultural consultant(s) including for works within the Root Protection Areas and the reporting of arboricultural inspection and supervision. The development shall thereafter be carried out only in accordance with the approved details or any variation as may subsequently first be agreed in writing by the Local Planning Authority;
- 6) Details of the proposed foundation design shall be submitted to and approved in writing by the Local Planning Authority. The method shall adhere to the principles embodied in BS 5837:2012 and shall specify the involvement of an arboricultural consultant. The development shall thereafter be carried out strictly in accordance with the agreed details.