



Appeal Decision

Site visit made on 4 January 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2022

Appeal Ref: APP/W1525/W/21/3277918

59 Well Lane, Stock, Ingatestone CM4 9LZ

- 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 Mason Quincey against the decision of Chelmsford City Council.
 - The application Ref 20/01804/FUL, dated 8 November 2020, was refused by notice dated 7 April 2021.
 - The development proposed is demolition of existing single dwelling and erection of a 5-bedroom single dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. Although the Council's reason for refusal refers to two oak trees, the substance of the decision relates only to the oak tree in the rear garden. Furthermore, in their Statement of Case, the Council's concern in respect of the oak tree at the front is that it could be sited elsewhere in accordance with advice in BS 5837:2012, not that the tree would be threatened immediately, or in the future, by the development. I have therefore focussed my decision on the rear tree.

Main Issue

3. The main issue therefore is the effect of the development on the character and appearance of the area, in respect of a protected tree.

Reasons

4. The appeal site is located at the southern end of a row of houses at the edge of Stock with fields to the south. There are some trees in the front gardens of nearby properties and behind the site there is an area of woodland. The road, south of the site, is flanked densely by trees which reflects the rural nature of the area from this point southwards. Overall, trees are an intrinsic part of the character of the locality.
5. The mature oak tree in the rear garden of the site, identified as T13 in the Arboricultural Impact Assessment (AIA), is protected by a tree preservation order¹. It is the largest tree included in the AIA which identifies it as having a generally uniform crown spread of around 5m. From my site visit I saw that, despite some evidence of historic pruning on the north side, the crown

¹ Ref No. 2006/67

overhangs the existing dwelling's conservatory to the north and almost touches the first floor rear dormer window to the north-west.

6. The proposed dwelling would be marginally further from the trunk of the tree than the existing conservatory. However, its lounge and master bedroom would directly face the west side of the tree with the crown likely to almost touch the bedroom's windows and Juliet balcony. As such the impact of the tree on the new dwelling would be greater than at present. Due to its significant height, spread, proximity to the proposed house and eastward position it would cast shade over the lounge and master bedroom in the morning, especially when in leaf. Also, although not as close to the kitchen and bedroom 4 as to the lounge and master bedroom, it would most likely cast shade over those rooms too.
7. It would also overshadow the glazed link to the gym and, to a lesser extent, the gym itself. But as these would not be habitable rooms, any shading effect would be less harmful to the living conditions of the occupiers. The tree's crown would also most likely be above these parts of the development so its growth would not be inhibited by them.
8. As well as overshadowing, falling leaves and acorns from the tree may cause inconvenience to the residents in the autumn. This is not a substantial consideration but may be an additional nuisance, particularly when the tree grows over the glazed link.
9. Consequently, it is likely that occupiers of the proposal would wish to remove the tree in the future. Although the current occupiers may have no wish to remove the tree, I must consider the likely wishes of future occupiers as well.
10. From the public footpath to the south, the tree is only visible through a gap in the thick hedge that runs alongside the north edge of the path, and even then it is a significant distance away. It is more prominent from the street as it is visible in the street scene above the existing house and garage, and would continue to be so above the proposal. It is seen as an isolated tree, not as part of a group, and so individually makes an important contribution to the verdant character of the area. Indeed, because its position in the last domestic garden in the row, it acts as a link between the built-up appearance of the street to the north of the site and the more rural appearance to the south. Were it to be lost, the character and appearance of the area would be significantly harmed.
11. In summary, the development would be likely to result in pressure to remove the tree which would harm the character and appearance of the area. The proposal would therefore conflict with policy DM17 of the Chelmsford Local Plan 2020 which seeks to ensure the retention of protected trees.

Other Matters

12. I have been referred by the appellant to two appeal decisions dating from over 25 years ago, relating to works to different species of trees, in different parts of the country, and inevitably with different relationships to the nearest dwellings than in the case before me. It is therefore difficult to draw useful comparisons. In any case, they provide little assistance to the appellant. In one appeal², it concluded that the proposed pollarding works to the common lime tree were justified in order to reduce honeydew shed and increase light to the house, which supports my view that shading can lead to pressure on the

² Ref SW/P/5364/147/17

vitality of trees. The other appeal³ considered that a loss of light to a living room caused by some Scots pines was outweighed by the trees' contribution to public amenity. A similar argument could apply to the current proposal resulting in dark and overshadowed rooms.

13. Extensions or outbuildings erected under permitted development rights could be built close to the tree. However, it has not been demonstrated if any such extension or outbuilding would threaten the tree to the same degree as the proposal. Also, any development that required works to be carried out to the tree would require consent.

Conclusion

14. For the reasons given above I conclude that the proposal would fail to accord with the development plan as a whole and there are no other material considerations to suggest the decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

Andrew Owen

INSPECTOR

³ Ref SW/P/5193/147/171