
Appeal Decision

Site visit made on 16 February 2022

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Appeal Ref: APP/L5810/D/21/3274713

157c Fairfax Road, Teddington, London, TW11 9BU.

- 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 Y Bhatt against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref. 20/3244/HOT, dated 14 November 2020, was refused by notice dated 19 April 2021.
 - The development proposed is the erection of a new pitched roof to existing garage with 2 x sky light, a window to front gable wall, single storey extension to rear based on footprint of existing brick store, replacing existing 3 x side windows with new matching windows, replacing rear garage door with a window and external finishes.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a new pitched roof to existing garage with 2 x sky light, a window to front gable wall, single storey extension to rear based on footprint of existing brick store, replacing existing 3 x side windows with new matching windows, replacing rear garage door with a window and external finishes, at 157c Fairfax Road, Teddington, London, TW11 9BU, in accordance with the terms of the application, Ref 20/3244/HOT, dated 14 November 2020 and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Preliminary matter

2. I have used the Council's description of the development proposed as it better covers the proposed changes to the garage as shown on the submitted plans.

Main Issue

3. The main issue is the effect of the proposed alterations to the garage on the well being of a neighbouring Cedar Tree which is the subject of a Tree Preservation Order (TPO).

Reasons

Background

4. The appeal site contains a small, detached bungalow which lies in a street with a great mix of residential development including large Victorian houses and blocks of flats. The local area of Fairfax Road has a verdant character with groups of mature trees located between the housing and the appeal site contains a large Cedar of Lebanon. There is also a detached flat roof double

garage located between the house and the road and leading on to an open parking area. It is proposed to refurbish the garage and add a pitched roof, new windows and roof lights so that it can be used as a garden room or for accommodation for guests.

Effect on the Cedar

5. In considering the effect on the tree I have had regard to the Arboricultural Impact Assessment (AIA) prepared by EnviroArb-Solutions Ltd. on behalf of the appellant and the comments on this from the Council's Tree Officer. The parties agree that the tree is some 20m high and is categorised as B 'moderate quality', but disagree over whether it has reached a mature stage or has the potential to grow quite considerably. The garage lies about 4m away from the trunk of the tree and partly under its canopy.
6. I noted at the site visit that a number of lower limbs on the tree have been removed in the past and that the lower element of the canopy was quite high at about 8m so well above the proposed pitch roof over the garage. Moreover its position in the plot was more related to and constrained by the adjacent Victorian house at No. 157b.
7. From my observations on site I am satisfied that the proposed new pitched roof on the garage would not physically impinge on the presence of the Cedar. I note that the AIA recommended some Cedar limbs are cut back but the revised version of this appears to relate more to improving the physical relationship with the adjoining property rather than being caused by the proposal. Therefore the main concern is whether the residential use of the building, and the alterations proposed to facilitate this, would be likely to have an effect on the tree because of pressure from subsequent occupiers.
8. The Council suggests that the new roof lights on the pitched roof would be affected by the tree as it would restrict daylight, be physically and visually imposing, and because of the debris from the tree, such as needle drop and sap, could be a nuisance to residential use. However, it appeared to me that the relationship of the converted garage would be no worse than that with the existing bungalow or the neighbouring larger properties and I am not persuaded that there is a significant additional problem of the tree being intimidating to the occupiers. The appellant's plan of the shading arc shows that this is limited in extent and the orientation of the site is such that there would be other overshadowing in any event from the neighbouring larger buildings. I also observed on site that the part of the Cedar directly over the garage contains minor limbs rather than the main crown of the tree and I do not consider that this would result in a significant debris to the extent that it would cause the occupiers to seek the reduction or loss of the tree.
9. Overall I find that the scheme put forward would be a positive enhancement of the existing structure and its residential occupation would not directly harm the Cedar. Nor has it been established that such use would be likely to result in pressure from the occupiers to have the tree altered to its detriment. The proposal would not conflict with the requirements of Policy LP16 regarding the protection of trees.
10. This accord with the relevant development plan policy is not outweighed by any other considerations and this indicates that the appeal should succeed.

11. The Council recommends five conditions which I will consider under the same numbering. In addition to the standard condition on the commencement of the development, in the interest of clarity the plans that are approved should be specified and the development should be undertaken in accordance with them. In order to maintain the appearance of the area the materials used on the external parts of the work shall be as detailed on the submitted plans and I will impose condition No. 3. Further, because the work to the outbuilding to facilitate residential use is within the curtilage of a small dwellinghouse it is reasonable that condition No. 4 is imposed to ensure that the structure remains as ancillary accommodation and does not become a self-contained dwelling. Finally, in accordance with Policy D12 of the Mayor's London Plan 2021 it is reasonable and necessary to impose a condition requiring the submission and approval of a Fire Safety Statement.

Conclusion

12. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of conditions

1. The development to which this permission relates must begin not later than the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall not be carried out other than wholly in accordance with the following drawings and details: 157_E001, 157_E100; 157_E200; 157_P001; 157_P100; 157_P200; 157_P201 - all Recd. 16/11/2020.
3. The external surfaces of the building (including fenestration) hereby permitted shall not be constructed other than in materials as displayed in approved drawing ref. 157_P200; Recd. 16/11/2020.
4. The extension hereby permitted shall not be used other than as accommodation ancillary to the use of the existing dwelling house as such and shall not be used as a separate self-contained dwelling.
5. Prior to the commencement of above ground works, a Fire Safety Statement shall be submitted to and approved in writing by the local planning authority. This shall include details that identify:
 - 1) unobstructed outside space for fire appliances to be positioned on;
 - 2) areas for use as an evacuation assembly point;
 - 3) appropriate features which reduce the risk to life and the risk of serious injury in the event of a fire; including appropriate fire alarm systems and passive and active fire safety measures;
 - 4) design measures that minimise the risk of fire spread;
 - 5) means of escape and an associated evacuation strategy for all building users;
 - 6) a robust strategy for evacuation which can be periodically updated and published;
 - 7) suitable access and equipment for firefighting;

The development shall not be implemented or occupied other than in accordance with the approved details.