



Appeal Decision

Site visit made on 12 March 2022

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23RD March 2022

Appeal Ref: APP/P1940/D/22/3291470

14 Greenways, Abbots Langley wd5 0EU

- 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 & Mrs Higgs against the decision of Three Rivers District Council.
 - The application Ref 21/2424/FUL dated 15 October 2021, was refused by notice dated 14 December 2021.
 - The development proposed is described as single and two storey rear extension with basement and additional room provided within roof space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the proposed development on (i) the living conditions of the occupiers of neighbouring property, No. 12 Greenways; and (ii) a protected tree.

Reasons

Living Conditions

3. The proposed development would be close to the shared boundary with No. 12 Greenways. Appendix 2 of the Three Rivers District Council, Local Plan, Development Management Policies, Local Development Document (2013) (the Local Plan) states that two storey rear extensions should not intrude into a 45 degree splay line drawn across the rear garden from a point on the joint boundary, level with the rear wall of the adjacent property. The proposed development would impinge on this 45 degree line.
4. No. 12 is located at a slightly raised ground level above that of the appeal site, the nearest window is in the rear elevation of the narrow single storey side extension which is the closest part of the neighbouring property to the appeal site. The plans before me demonstrate that should the 45 degree line be drawn from the centre of the closest neighbouring window the proposed development would marginally exceed the line.
5. The built form in the area is irregular in terms of staggers between properties. I observed during my site visit that No. 10 Greenway has a large detached built form projecting back into their rear garden, which taking into account the

distance between No's 10 and 12 would be comparable to the proposal before me and the relationship to No. 12.

6. Whilst the 45 degree line from the shared boundary is breached it does not automatically follow that a development is harmful to the living conditions of occupiers of adjacent properties. The guidelines contained in Appendix 2 of the Local Plan confirm that the principle is dependent on spacing, relative positions of dwellings, juxtapositions, land levels and position of windows and extensions of neighbouring properties.
7. I find that due to the separation and positioning of the properties within the plots, the slight decrease in land levels and the 45 degree line drawn from the centre of the adjacent property's closest window the development would not be overbearing or oppressive to the occupants of No. 12 Greenways.
8. I conclude that the proposed development would not harm the living conditions of the occupiers of neighbouring property, No. 12 Greenways. There is no conflict with Policy CP12 of the Three Rivers District Council, Core Strategy (2011) (the Core Strategy) and Policy DM1 and Appendix 2 of the Local Plan which seek amongst other things to protect residential amenities.

Protected Tree

9. A Tree Protection Order exists in relation to a Silver Birch tree within the rear garden of No. 12, close to the boundary with the appeal site. The root system of a tree is susceptible to damage, damage to the root system affects the health, growth, life expectancy and safety of a tree.
10. The Appellant has provided some limited details in the Appeal Statement relating to the circumference of the Silver Birch in order to calculate the Root Protection Area required to avoid damage to the protected tree. Notwithstanding this, the tree identified in the Statement (denoted by a yellow dot on the aerial image) does not appear to relate to the protected Silver Birch tree which I observed on site nor that which is shown on the Tree Protection Order information provided by the Council.
11. I observed that the Silver Birch tree is between the detached outbuilding in the rear garden of No. 12 and the property itself, this building is clear on the aerial image provided by the Appellant. The tree is adjacent the large patio area of the appeal site. It would appear that the tree is closer to the proposed development than the Appellant has confirmed in the Statement. On this basis I am not persuaded that the proposed development would not harm the protected tree.
12. There is conflict with Policies CP1 and CP12 of the Core Strategy and Policy DM6 of the Local Plan which seek amongst other things to protect the natural environment and requires trees to be safeguarded.

Conclusion

13. Whilst I have concluded that the proposed development would not harm living conditions of the occupiers of the neighbouring property, this does not outweigh the harm I have identified in terms of the protected tree.
14. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR