
Appeal Decision

Site visit made on 29 March 2022

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2022

Appeal Ref: APP/T0355/D/21/3281829

13 Culham Drive, Maidenhead SL6 7PW

- 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 Mark Simmonds against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref 21/01135, dated 12 April 2021, was refused by notice dated 9 June 2021.
 - The development proposed is Proposed single storey side/rear Conservatory.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on protected trees.

Reasons

3. The appeal site is occupied by a two storey, end of terrace dwelling of traditional appearance. Due to its corner location, the dwelling benefits from a generous garden located to both the rear and side of the property. The garden also contains two large, protected trees; a Beech and a Lime.
4. Due to the topography of the site, the garden space slopes up from the dwelling. In addition, the space immediately outside the house provides a small patio area that is cut into the rising land. This provides a level space with retaining walls before the garden slopes up to the Lime Tree which is located to the rear of the property. The Beech Tree is located in the north-west corner of the site, more removed from the dwelling and the patio area.
5. Due to the presence of the protected trees, the proposal has been supplemented by a substantial level of evidence regarding the arboricultural implications of the proposal. The evidence demonstrates that much of the existing dwelling and cut away patio area is located within the root protection area (RPA) of the Lime Tree. The Beech Tree is more removed from the dwelling, and in the current configuration, the evidence demonstrates that the RPA for this tree is currently unaffected by the existing property and patio area.
6. The proposal would seek to introduce a conservatory to the side of the dwelling and to facilitate the addition, the existing cut away patio area would be enlarged. The effect of this would be to incur further into the RPA of the Lime Tree, and also partially into the Beech Tree.

7. The evidence suggests that the proposal would eat into approximately 4% of the existing RPA of the Lime Tree, and some 1% of the Beech Tree. The footprint of the conservatory itself would be comparable with the existing cut away patio. Due to the presence of the existing hardstanding and the inevitable compacted ground below, I agree with the evidence that the root system of the Lime Tree is likely to have compensated for the presence of this structure.
8. However, as identified above, the RPA of the Lime Tree would already appear to be compromised, and it is not clear in the evidence whether the RPA has been adjusted to compensate for the presence of the house and patio area. Accordingly, although I agree that a rooting system can compensate for a reduced RPA, the evidence is somewhat silent on the effect of the existing house on the tree. Consequently, I find that the evidence in relation to the RPA is not entirely compelling. Instead, the RPA appears to have been plotted in a manner that ignores established constraints.
9. This may be a purposeful decision by the appellant, and may also accord with best practice. However, in a situation where the RPA is already compromised, in my judgement, to justify further encroachment requires clear and decisive evidence. I note the suggestion that the level of evidence is commensurate to the scale of the proposal. However, it is not simply the proposal that warrants the evidence, but the presence of large, imposing and protected trees in such close proximity to the location of the proposed works. The trees, particularly the Lime Tree, represent a fundamental constraint to further development and based on the evidence before me, I am not satisfied that the effect on the rooting system of this tree is fully understood.
10. The evidence states that due to the depth and extent of the required excavation, this could be undertaken by hand. Such an approach would enable a degree of caution to protect the existing rooting systems, and this matter could be secured through the use of a planning condition. I also note that the evidence suggests that Lime is notably tolerant of root pruning and disturbance. However, without further evidence in relation to the rooting system of the tree, I find that the justification to incur further into the RPA does not exist.
11. I also note the concerns from the Council regarding a future desire to reduce the canopy of the trees to reduce shade. However, due to the protected nature of the trees, the Council would retain control over such proposals. Nevertheless, for the reasons identified above, I do not find that the evidence before me provides a suitably compelling case regarding the protection of existing rooting systems. Consequently, I conclude that the proposal would have a harmful effect on the protected trees. It would therefore fail to comply with Saved Policies DG1 and N6 of the Royal Borough of Windsor and Maidenhead Local Plan (2003) which taken together, require amongst other things, new development to protect and retain trees, and not cause harm to the character of the surrounding area.

Conclusion

12. For the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR