



Appeal Decision

Site visit made on 8 March 2022

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2022

Appeal Ref: APP/W4705/D/21/3285970

Ashfield, 1 Stubham Rise, Ilkley LS29 0AP

- 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 Harris against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 21/01468/HOU, dated 18 March 2021, was refused by notice dated 11 August 2021.
 - The development proposed is demolition of existing garage to rear of dwelling and construction of replacement garage in same location.
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Decision

1. The appeal is dismissed.

Main Issue

2. It is clear from the Council's Reason for Refusal (RforR) and officer report that the Council do not consider the proposed replacement garage to be unacceptable in principle, or in terms of its detailed design and appearance. Rather, it is the proposal's greater proximity to the protected Lime tree located at the corner of the appeal site than the existing detached garage that informs the Council's RforR.
3. The main issue is therefore whether the proposed development would preserve or enhance the character or appearance of the Middleton Conservation Area, with particular regard to the effect of the proposed development on the protected Lime tree.

Reasons

4. The appeal site lies on a prominent corner site within the Middleton Conservation Area (the CA). The Lime tree is protected by virtue of the Stubham Rise, Ilkley Tree Preservation Order¹ (the Order).
5. The protected tree stands tall in a prominent location within Stubham Rise and within the appeal site on the inside of the junction of Clifford Road with Stubham Rise. It is a majestic, well-formed and highly visible tree and has a high amenity value both individually and also, together with other equally prominent trees along Clifford Road and adjoining streets, collectively. It is a significant positive contributor to the pleasantly leafy, verdant and sylvan character, appearance and setting of Stubham Rise and the CA.
6. The proposed replacement detached garage would be larger than the building it would replace, being both wider, longer (incorporating an attached store) and

¹ City of Bradford Metropolitan District Council The Land at Stubham Rise Ilkley Tree Preservation Order 2003 which was confirmed on 1 July 2004

- taller than the existing garage. As with the existing garage, the proposed garage would be constructed almost entirely within the protected tree's root protection area (RPA) but would extend beyond the extent of the existing building's footprint, and partially beyond an existing slab-paved footpath.
7. The appellant has lifted the paving slabs which currently run alongside the existing garage's eastern flank, revealing mostly small and fibrous roots at a shallow depth within these areas. As the tree is already heavily constrained by the hard surface of the road and pavement of Clifford Road and Stubham Rise immediately to the north and east of its trunk, the majority of the rooting structure is expected to lie to the south and west within the lawned area, and towards the location of the proposed development.
 8. The pile and beam foundations for the enlarged garage would be dug within the area exposed by the appellant. It is likely therefore that roots, albeit small and fibrous as demonstrated to be present, would be encountered as part of those works. Whilst it is noted that these works would be dug by hand, I share the Council's concerns regarding the absence of detailed engineering proposals for the proposed foundations to take specific account of the ground conditions shown by the limited trial pits and lifted paving slabs. So too, the absence of detailed sections showing the respective levels of ground and proposed garage floor slab.
 9. The appellant's Arboricultural Report² (the ArbRep) provides a generic example of a pile and beam foundation construction, but the ArbRep itself leaves the details of the foundations and detailed methodology to be subject to final agreed designs. Noting the Council's Tree Officer's comments regarding likely pile excavations, and the lack of specific detail regarding the number, locations and dimensions of excavations, I am not persuaded that it has been robustly demonstrated that the construction of the proposed garage would not cause harm to the vigour and health of the protected tree.
 10. I accept that it can be the case that such matters are capable of resolution by way of appropriately worded planning conditions. Whilst I have no doubt that a desire to cause harm to the tree could not be further from the minds of the appellants the limited detail of the proposed construction works does not instil sufficient confidence that such harm would be avoided. The prominence, visual significance and quality of the tree to which the roots belong are all such, and its contribution to the character and appearance of the CA so substantial, that the potential implications of poorly judged works predicated on incomplete or missing detail within its root protection area is a matter which carries very substantial weight.
 11. Core Strategy (CS) policy EN5 sets out the Council's approach to trees and woodlands, stating that it seeks to preserve and enhance the contribution that trees and areas of woodland make to the character of the District. Trees that contribute towards the character of a settlement, its setting or the amenity of the built-up area will be protected whilst trees protected by Tree Preservation Orders (TPO) will be expected to be protected adequately and appropriately. Furthermore, CS policy EN3 seeks to ensure that proposals proactively preserve, protect and enhance, amongst other things, the character and appearance of the District's designated heritage assets.

² 'Arboricultural Report and Combined Arboricultural Impact Assessment and Method Statement' JCA Limited JCA Ref: 14115/ME Rev3

12. For the reasons I have set out above, it has not been robustly demonstrated that the proposed replacement garage would not cause harm to the health and vigour of the nearby Lime tree. The tree, which is a large, majestic and prominent tree, is protected by a TPO and makes a significant and positive contribution to the character and appearance of the Middleton Conservation Area. The potential impact of a proposed development upon a tree of such standing is a matter to which I give very significant weight. For these reasons, the proposed development would be contrary to CS policy EN5.

Other Matters

13. There is broad agreement between the main parties that the proposed replacement garage would, in terms of its detailed design, size and general siting, be generally acceptable subject to it being demonstrated that no harm to the Lime tree would arise. Nor have any concerns or objections been raised in terms of the proposal's implications for highway and pedestrian safety.
14. I do not disagree in any of these respects. There are a number of detached garages located towards the rear of garden plots along the length of Stubham Rise. The proposed replacement garage would be consistent with the scale, style and appearance of such structures and would, at the very least, preserve the character and appearance of the CA. These are factors which demonstrate that the proposal would not be in conflict with the aims and provisions of CS policies DS1, DS2, DS3, DS5 or EN3 and therefore carry weight in support of the proposal.

Conclusion

15. There would be no harm arising from the scale or detailed appearance of the proposed replacement garage. Nor would it cause harm to highway or pedestrian safety or to the living conditions of occupiers of neighbouring properties. However, given the protection afforded to the Lime tree, and the significant contribution it makes to the character and appearance of the surrounding area and the Middleton Conservation Area, the absence of detailed construction methodology and site-specific foundation details are matters to which I attach great importance. The absence of such matters are sufficient to lead me to conclude that it has not been robustly demonstrated that the construction of the proposed replacement garage would not cause harm to the protected tree and its root structure.
16. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR