



Appeal Decision

Site visit made on 5 September 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Appeal Ref: APP/R0660/D/22/3301673

4 Roselands, Cow Lane, Wilmslow SK9 2AZ

- 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 Tarek Tayara against the decision of Cheshire East Council.
 - The application Ref 21/5757M, dated 10 November 2021, was refused by notice dated 11 May 2022.
 - The development proposed is a single storey rear extension and second floor rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The appeal site relates to a three storey end terraced dwelling located within a predominantly residential area of Wilmslow. The property includes a driveway to the front and a large garden to the rear. There are a number of mature trees within the appeal site and neighbouring land including two trees protected by a Tree Preservation Order (TPO). A large tree within the rear garden of the appeal property is identified in the TPO as T2, a Copper Beech, which is located within close proximity of the property. A further tree, identified as T3, an Ash, is located within the rear garden of the neighbouring property, 3 Elm Grange.
4. Due to their position within the rear gardens these trees are not prominent from public vantage points, however they are mature specimens and, in combination with the other mature trees in the surrounding area, make a contribution to the verdant character of the area.
5. I note that section 197 of the Town and Country Planning Act 1990 as amended places a duty on me to ensure, whenever it is appropriate, that in granting planning permission for any development 'adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.'
6. T2 is within close proximity of the rear of the appeal building and its branches extend towards it. Due to the substantial size of this tree it is likely to have an extensive root system which may already be compromised by its proximity to the existing building and neighbouring buildings, and areas of hardstanding.
7. The proposed second floor extension would be constructed above the existing single storey rear outrigger. Thus it would be unlikely to adversely affect the

nearby trees. However, the single storey rear extension would encroach further towards this tree and the tree branches would partly overhang it. Damage to the roots of T2 cannot be ruled out. T3 is positioned slightly further away from the appeal proposals and would be unlikely to be affected.

8. The submitted method statement for the protection of the tree references British Standard BS 5837:2005 Trees in relation to construction. However, that document has been superseded by BS 5837:2012. No tree survey or Arboricultural Impact Assessment have been submitted to demonstrate that the impacts on the protected trees has been assessed. There are no details before me of the nature and extent of the root protection area of T2, which could be affected by the proposed single storey rear extension, or whether mitigation measures would be appropriate. There is no substantive evidence confirming that an appropriate foundation design could be achieved on this site without unacceptable adverse effects arising to the tree, particularly by way of damage or disturbance to its roots.
9. Consequently, there is insufficient information before me to enable an understanding of the effects of the development on the long term health of T2. Any harm to the health of the tree could lead to its deterioration or eventual loss, with resulting adverse impacts on the character and appearance of the area. Given the degree of uncertainty around the effects of the proposal on the protected tree, the use of conditions would not be appropriate in this case.
10. I therefore consider that it has not been demonstrated that the proposal would not have a harmful effect on the nearby tree. As such it would be in conflict with Policy SE5 of the Cheshire East Local Plan Strategy (2017) and saved Policy DC9 of the Macclesfield Borough Local Plan (2004), which together seek to protect trees that provide a significant contribution to amenity. It would also conflict with the Framework, which recognises the important contribution that trees make to the character and quality of urban environments and seeks their retention wherever possible.

Other Matters

11. I note the appellant's concerns with the way the Council has handled the application. However, that is a procedural matter which does not impact on my assessment of the planning merits of the case.

Conclusion

12. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

M Ollerenshaw

INSPECTOR