



Appeal Decision

Site visit made on 31 October 2022

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th November 2022

Appeal Ref: APP/Z5630/D/22/3300118

Melrose, Coombe Hill Road, Kingston Upon Thames KT2 7DS

- 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 Mariano Zhang against the decision of the Council of Royal Borough of Kingston Upon Thames.
 - The application Ref 21/04104/HOU, dated 28 December 2022, was refused by notice dated 22 April 2022.
 - The development proposed is the excavation and construction of new basement level.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue in this case is the effect of the proposal on the appearance and life expectancy of protected trees within and adjacent to the site.

Reasons

3. The proposed substantial extension and sunken courtyard area would extend beyond the existing footprint of the house to within the Root Protection Area (RPA) of 2 trees protected by a TPO, which are identified in the submitted Arboricultural Impact Assessment (AIA) as T9 (cedar) and T10 (oak). These two trees, as recognised by their TPO status, contribute significantly to the verdant character of the area.
4. The AIA and plans illustrate that the development would only slightly extend into the RPA of T9, a Category B Cedar tree sited near the rear boundary of the property. Whilst the reason for refusal only refers to T10, the Council raise concern that the development would also impact T9, however given the limited incursion into the RPA of this tree, the majority of which the appellant's appeal statement sets out would be external paving with planters, I am satisfied that the impact upon this tree would be acceptable.
5. However, the AIA sets out that 18% of the RPA of T10, a substantial oak tree located on the neighbouring side of the side boundary, will be affected by the basement development. The plans show that there are existing pile foundations within the RPA of this tree.
6. Given the topography of the site, this tree is sited on a lower level than the ground floor level of the appeal property. Nevertheless, the AIA identifies that the proposal requires an excavation to a maximum depth of 826mm, with the deeper swimming pool area sited centrally within the plot some distance away

from the tree. The majority of roots are in the top 600mm of soil and therefore this is an area of concern with regard to potential damage caused by cutting of these roots, particularly given that a precautionary approach should normally be adopted in such circumstances, in accordance with the advice contained within BS5837:2012.

7. The AIA suggests that this would be mitigated by constructing on piles with a beam supporting the ground floor above the existing ground level within the trees RPA, with the above ground work implemented under the supervision of an Arboricultural specialist. There is a disagreement between the parties regarding the effectiveness of these measures. Whilst I note that BS5837 indicates it is acceptable to undertake certain work within an RPA, such as hand digging, thrust boring, pile foundations and radial trenching, it sets out that the default position should be that such works should be avoided wherever possible and generally require overriding justification.
8. I share the Council's concern that, given the amount of RPA affected and the excavation depth, there is no overriding justification for these works, which would provide a small area of the overall substantial basement space. Given the proximity of the development to this tree, and the existing works within its RPA, I am also aware of potential future pressure, with potential damage being sustained through root spread.
9. Given these reservations and on the basis of the evidence before me I consider that the proposed excavations would be likely to significantly damage the roots of T10 and seriously compromise its long-term health. Although I accept that the works may not directly result in the loss of the tree, harm to its health will undoubtedly detract from its amenity value.
10. Whilst there is a further disagreement regarding the consistency of the drawings, I consider that the plans are sufficiently clear to have based my decision on the plans in front of me and my site visit.
11. I therefore conclude that the proposal would be contrary to Policy DM10 of the Kingston Core Strategy (2012), which expects new development to ensure that trees that are important to the character of the area or covered by Tree Preservation Orders (TPOs) are not adversely affected, and Policy G7 of the London Plan (2021) which states that development proposals should ensure that, wherever possible, existing trees of value are retained.

Conclusion

12. For the reasons given above, having regard to the development plan as a whole and all other material considerations, the appeal is dismissed.

B Phillips

INSPECTOR