



Appeal Decision

Site visit made on 10 February 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2023

Appeal Ref: APP/X1735/W/22/3300489

27A Queens Road, Waterlooville PO7 7SB

- 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 M Norris against the decision of Havant Borough Council.
 - The application Ref APP/21/01110, dated 30 September 2021, was refused by notice dated 16 March 2022.
 - The development proposed is described as 'erection of a two car garage with storage room over to the area to the garden area to the front of the house at 27a Queens Road PO7 7SB. To be constructed with dwarf brick walls with vertical timber cladding over with black roof tiles to match existing house. Site works will also include for construction of an access driveway to the garages coming off the existing spine roadway serving the house.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the nearby protected trees and ancient woodland.

Reasons

3. The appeal site is located along a private track which extends from Queens Road and provides access to a cluster of homes. The access is relatively narrow and runs beneath the canopies of a number of substantial trees which give a pleasant and verdant character to this part of the road.
4. The appeal relates to a piece of open space in front of No.27A Queens Road which contains a substantial Oak tree that sits centrally on the open space with a backdrop of other trees and hedges behind. The three properties which form this limb of Queens Road are broadly orientated around this open space, with their front elevations and several windows facing towards it, and the gravel track sweeps around the edge of the Oak tree's canopy. As a consequence, the Oak tree is prominent in local views and, together with the backdrop of the trees behind it, contributes significantly to the visual amenity of the area as well as the distinctive character of this part of Queens Road.
5. The main parties agree the Oak to be a veteran tree, and the appellant classifies it as a grade A tree, being of high quality and value, with a minimum 40 years useful life. The Oak is one of several trees protected by a Tree Preservation Order¹ (TPO) which includes three Yew trees to the north of the

¹ Tree Preservation Order 1629 dated 30 October 1995

Oak of high and moderate value. The cluster of trees to the north of the appeal site also form part of a designated ancient and semi natural woodland. The proposed garage would be positioned entirely within the root protection area (RPA) of the veteran Oak, as well as being partially within the RPAs of the three Yew trees behind.

6. The appellant's Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement (the AIA), describes how the proposal could be undertaken to minimise damage to roots. This would include the use of a piled raft foundation, comprising beams above the ground level with a void beneath to allow for gas exchange and water infiltration into the soil, and allowing a reduced area of ground to be disturbed by the works.
7. Despite this, the AIA makes assumptions about the extent of the piles which would be required for the proposal and there is no detail on the depth or locations of the piling required. The number of piles required also varies across the submitted documents. In addition, there is not strong evidence to demonstrate the locations of tree roots on the site, or their locations in relation to the required piles. In the absence of such information, it cannot be established with certainty that the proposed development would not cause harm to the roots of those protected trees.
8. While the footprint of the raft foundation would amount to approximately 10% of the RPA of the Oak tree, this nonetheless, has the ability to cause damage to the tree depending on the details of the required piling.
9. The appellant has undertaken some digging and exploratory works beneath the tree canopies. These are of limited depth and have entailed removal of soil which is understood to have been added to the site around 2011. As such they do not demonstrate the location of tree roots, or the effects that the proposal may have on them.
10. There is evidence on the site of earlier ground works having occurred in the location of the proposed garage and close to the protected trees. The extent of these earlier works is evidenced by photographs which show substantial hard landscaping in this area, including steps and retaining walls. A swimming pool also existed beyond the Oak tree's canopy to the west. More recently a number of fence posts have also been installed close to the protected trees and there is an old drain cover on the site, which may suggest the presence of underground structures. Together these features would be difficult to remove without significant disturbance to the soil, and it is likely that these features have impacted the root structure of the protected trees to some degree.
11. In addition, there is evidence of a former pool house, set on a concrete base, positioned close to the trees, and the areas underneath the canopy have more recently been used for storage of building materials and rubble. These may have compacted the soil and applied pressure to the root systems. However, despite all the above factors, there is not substantive evidence to suggest that those works have caused harm to the trees nor to suggest that they have directed the tree roots away from the area of the proposed garage.
12. The appellant suggests the areas for the piles would be dug by hand in order to locate any tree roots. I have also considered whether details of the piling could reasonably be secured by the imposition of a planning condition. However, given the nature and importance of those nearby trees, and given the

uncertainty surrounding the piling details and its impacts, this matter is fundamental to the acceptability of the proposal and, as above, it has not been adequately demonstrated that the proposal could be carried out without causing harm to the trees.

13. While the development would not require the pruning of the Oak tree, it would nonetheless be likely to increase pressure to prune the trees in the future, for example as a result of potential future safety issues or where damage is sustained through root spread. While there is little evidence relating to these matters, it nonetheless adds to my concerns.
14. Paragraph 180 of the National Planning Policy Framework (the Framework) is clear that development resulting in the loss of deterioration or irreplaceable habitats (such as ancient woodland and ancient or veteran trees), should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. The associated footnote describes that wholly exceptional reasons may include for example infrastructure projects, where public benefit would clearly outweigh the loss of deterioration of habitat.
15. The circumstances of the works previously carried out under the trees do not amount to exceptional reasons for the purposes of 180 for the reasons given, and the benefit of the proposal would be private to the appellant, rather than a public one. As such, there are not wholly exceptional reasons in this case and a suitable compensation strategy has not been put forward. The proposal would therefore be in conflict with paragraph 180 of the Framework.
16. In conclusion, in the absence of evidence to the contrary, the proposal would cause harm to the protected trees, through harm to their root structure and potential future pruning. As such the proposal would conflict with Policy DM8 of the Havant Borough Core Strategy 2011, which among other things, requires development to protect natural features of nature conservation and/or amenity importance.

Other Matters

17. The appellant has highlighted the existing car port serving no.27B Queens Road, located between two protected trees. It is not for me to comment on the Council's decision not to pursue enforcement action against these works, however, neither does the Council's decision on that matter constitute the grant of planning permission. Even if that development had caused damage to the nearest trees, this would not provide justification for additional harm which could occur as a result of the appeal scheme.
18. The appellant also cites other nearby developments which have occurred close to protected trees, as well as recently installed garden structures at no.31B. However, I do not have evidence relating to the circumstances of their construction or impacts, or the basis on which the Council considered them to be acceptable if they required planning permission. As such I am unable to conclude that any are directly comparable to the appeal scheme, nor provide justification for the harm which could occur.
19. The Council have not raised objection specifically to the creation of the proposed driveway and, on the basis of the information before me, I agree with that conclusion.

20. I note the appellant has taken action over the years to improve the conditions of the protected trees, including undertaking pruning where required and removing waste from the surrounding ground. While this is welcome, it does not provide justification for the potential impacts of the proposed development which I have found.

Conclusion

21. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is dismissed.

C Shearing

INSPECTOR