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# Appeal Decision

Site visit made on 7 February 2023

**by K L Robbie BA (Hons) DipTP MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> April 2023**

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**Appeal Ref: APP/E2734/D/22/3312778**

**Abbey Garth, 28 Abbey Road, Knaresborough HG5 8HX**

- 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 Robert Davies (Richard Eves Architects) against the decision of Harrogate Borough Council.
  - The application Ref 21/05384/FUL, dated 13 December 2021, was refused by notice dated 16 September 2022.
  - The development proposed is extension to the house to provide additional living accommodation and extension to the detached garage to provide a home office and gym.
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## Decision

1. The appeal is allowed, and planning permission is granted for extension to the house to provide additional living accommodation and extension to the detached garage to provide a home office and gym at Abbey Garth, 28 Abbey Road, Knaresborough HG5 8HX in accordance with the terms of the application, Ref 21/05384/FUL, dated 13 December 2021, subject to the conditions set out in the attached schedule.

## Preliminary Matters

2. The application comprises two distinct elements; A two storey extension to the main dwelling house, and an extension to the existing detached garage. It is clear from reading the Council's officer report and the reason for refusal set out on the decision notice, that the only disputed matter is the effect of the proposed extension to the garage upon nearby trees (T1 and T5)<sup>1</sup> and, in turn, the character and appearance of the Knaresborough Conservation Area (the CA). I have determined the appeal accordingly.

## Main Issue

3. The main issue is the effect of the proposed extension to the detached garage on nearby trees, with particular regard to the trees identified as T1 and T5 and their root protection area (RPA), and whether the proposal would preserve or enhance the character or appearance of the CA.

## Reasons

4. The appeal site lies in a pleasant riverside setting within the Abbey Road character area of the Knaresborough Conservation Area (the CA). Abbey Garth effectively turns its back to Abbey Road, which its north elevation directly abuts, its secluded gardens instead opening out to the south towards the river. A detached garage stands to one side of a gated, paved parking area, whilst a

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<sup>1</sup> Identified on Tree Protection Plan ref: BA11342TPP – Barnes Associates

sloping grassed path leads around the garage and down to a paved patio area and, in turn, the lawned garden.

5. The proposed extension to the detached garage would be in the vicinity of a handful of trees, both within and outwith the application site. These trees, and others along Abbey Road and within the extensive gardens of the large properties along it, combine to create a pleasingly verdant, sylvan setting with glimpses of the river through and beyond the trees and their canopies. As such, they contribute to general wooded character of Abbey Road, noted within the Knaresborough Conservation Area Character Appraisal 2008 as being a significant feature of the character of the road.
6. Of particular relevance to this proposal are trees identified as T1 and T5 on the appellant's 'Tree Survey and Constraints' plan<sup>2</sup>. The former being within the lawned garden setting of the appeal property whilst the latter lies within an adjacent garden. Both trees are identified as having their root protection areas (RPA) compromised by existing structures, whether that is the existing detached garage, retaining walls or the raised paved patio area around the garage.
7. Because ground levels fall away from Abbey Road and from the entrance to the garage, the proposed extension would, from within the site at least, be built on columns. Although the appellant's Assessment of Rooting Distribution report<sup>3</sup> confirms the Council's concerns regarding the presence of root structures beneath the paved patio and close to the garage, the proposed extension would take advantage of the varying ground levels and be constructed in such a manner as to minimise the extent of its intrusion within the RPAs of T1 and T5.
8. Moreover, as these areas of potential encroachment are within areas of the RPA already compromised by the existing structure and surrounding hardstanding, the additional impact of the columns (as opposed to traditional ground-level foundations) would be limited. The additional measures set out by the appellant in relation to the method of construction, intercepted rainwater drainage and further ground investigation to direct the form and type of construction methods are all matters that, if set out within a suitably worded planning condition, would, on balance provide sufficient assurance that the proposal would safeguard the future health of the trees.
9. Harrogate District Local Plan Policy NE7 recognises the contribution that trees and woodland make to the character and appearance of the borough, as well as in terms of their wildlife, landscape, historic, amenity and cultural value. New development should be designed to ensure a satisfactory relationship between buildings and trees, and to safeguard the future health of the trees. For the reasons I have set out, I am satisfied that it has been adequately demonstrated that this would be the case. There would be no conflict with HDLP policy NE7 as a consequence and as such, the proposal would also have a neutral effect on the character and appearance of the CA. This would thereby be preserving its character and appearance, an assessment of which is a statutory requirement laid down by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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<sup>2</sup> Plan ref: BA11342TS – Barnes Associates

<sup>3</sup> Barnes Associates ref: BA11342RAD

## **Other Matters**

10. A number of objections to the proposal have been received from members of the public on grounds including, the effect of the garage extension on views of and towards the river, an urbanising effect on the character of Abbey Road and the feeding route of bats. The extension of the garage's wall would reduce the potential field of vision through the site, but this would be in an area where existing boundary hedging, levels and tree canopies already limit that view. In any event, more open views towards the river and its wooded opposite bank are more readily available elsewhere along Abbey Road and the proposal would not therefore cause harm to views or to wider character or appearance.
11. The proposal also included a small two-storey extension to as an in-fill on the property's north-western corner. Although this would be on a prominent corner of the building facing Abbey Road, its extent would be limited whilst its design, detailing and general appearance would be consistent with that of the main house. Nevertheless, this element of the proposal has been subject to objections from local residents on grounds including its effect on living conditions, with particular regard to daylight and overshadowing of rooms and garden space and highway safety.
12. The Council found no harm with these respects and whilst carefully considering these concerns, I have not been presented with any compelling evidence that would lead me to reach a different conclusion. Matters such as deliveries and construction matters can be adequately dealt with by way of a suitably worded planning condition.
13. I note that concern has been raised in relation to flood risk as a result of the proposal. A flood risk assessment identifies the property to be within Flood Zones 2 and 3. The Council found no harm in relation to the proposal in these terms. I have no compelling reason to reach a different conclusion on this matter.
14. Concern has been raised in relation to the presence of bats in the area. Having considered the information submitted carefully, mitigation could be adequately achieved through a suitably worded condition.
15. Nearby residents raised concerns at the time of the planning application regarding publicity of the application. I have been supplied with copies of the site notice and a list of those people who were consulted on the application and the appeal. I have no reason to consider that the necessary publicity was not carried out correctly at the appropriate time.

## **Conditions**

16. I have considered the Council's suggested conditions in the light of the National Planning Policy Framework and Planning Practice Guidance. I agree that time limit and plans conditions are necessary and reasonable in order to provide certainty and in the interests of good planning. A materials condition is also necessary in the interests of character and appearance.
17. I agree that conditions relating to the submission of details in relation to tree protection measures are considered necessary and reasonable to ensure the health of nearby trees both as a result of and during the construction of the development.

18. I have also imposed a condition requiring a bat survey. This is necessary and reasonable in the interests of the protection of protected species. Furthermore, a condition requiring a construction management plan in relation to deliveries and use of Abbey Road during the construction period is considered necessary to avoid and control disturbance and inconvenience to other users of the road and in the interests of highway safety.

### **Conclusion**

19. For the reasons given above and having considered the development plan as a whole and all other matters raised, I conclude that the appeal should be allowed.

*KL Robbie*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2109.001; 2109.002; 2109.003; 2109.004; 2109.005; 2109.020; 2109.021; 2109.022; 2109.023.
- 3) The material to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) No development or other operations shall commence on site until a scheme, by a qualified structural engineer, for the foundation details and general building structure has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall ensure that tree roots are retained, and the building protected against root activity related movement in the future. Thereafter, development shall take place in accordance with the approved details; no development shall take place except in complete accordance with the approved protection scheme.
- 5) Before any materials are brought onto the site or any development is commenced, the developer shall submit an agreed specification for root protection area (RPA) fencing and ground protection measures in line with the requirements of British Standard BS 5837: 2012 Trees in Relation to Construction – Recommendations, or any subsequent amendments to that document, around the trees or shrubs or planting to be retained, as indicated on the approved plan and for the entire area as specified in accordance with BS 5837:2012. The developer shall maintain such fences and ground protection until all development the subject of this permission is completed.
- 6) No operations shall commence on site in connection with the development hereby approved (including any demolition work, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the root protection area (RPA) and ground protection works required by the approved tree protection scheme (above) are in place.

- 7) No development shall take place until a single dusk emergence survey or dawn return bat survey has been undertaken during the bat activity survey period (mid-May – August inclusively) and the results of the survey together with a scheme for mitigation and enhancement informed by the survey results submitted to approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- the parking of vehicles of site operatives and visitors;
  - loading and unloading of plant and materials;
  - storage of plant and materials used in constructing the development;
  - delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

**\*\*end of schedule\*\***