



Appeal Decision

Site visit made on 9 November 2022

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2023

Appeal Ref: APP/N4720/D/22/3308873

The Stables, Field Lane, Aberford, Leeds LS25 3AE

- 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 Andrew Sparke against the decision of Leeds City Council.
- The application Ref 22/00937/FU, dated 7 February 2022, was refused by notice dated 10 August 2022.
- The development proposed is Single Storey Rear Extension with Lantern Window and Bi-folding doors, Velux windows to Existing Garage.

Decision

1. The appeal is allowed and planning permission is granted for Single Storey Rear Extension with Lantern Window and Bi-folding doors, Velux windows to Existing Garage at The Stables, Field Lane, LEEDS, LS25 3AE in accordance with the terms of the application, Ref 22/00937/FU, dated 7 February 2022, subject to the following 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: location plan L1; block plan 01; existing ground floor and first floor plans 02 Rev 01; existing elevations 03; proposed ground floor plan 04; proposed first floor plan 05 and proposed elevations 06.
 - 3) The materials to be used in the construction of the external surfaces of the walls of the development hereby permitted shall match those used in the existing building.
 - 4) No works shall commence (including any demolition, site clearance, groundworks or drainage etc.) until all existing trees, hedges and vegetation shown to be retained on the approved plans are fully safeguarded by protective fencing and ground protection in accordance with approved plans and specifications and the provisions of British Standard 5837 (2012) 'Trees in relation to design, demolition and construction'. No equipment, machinery or materials shall be used, stored or burnt within any protected area. Ground levels within these areas shall not be altered, nor any excavations undertaken including the provision of any underground services/drainage.

No works or development shall commence until a written 'final issue' Arboricultural Method Statement (AMS), as indicated in sections 5 to 10 of the appellant's 'Tree Survey and Arboricultural Impact Assessment' (Rovar Group 22_5837_06_31), and in accordance with BS5837 for a tree care plan has been submitted to and approved in writing by the local planning

authority. Works shall then be carried out in accordance with the approved method statement. The AMS shall include a Site Supervision Schedule i.e. a list of site visits and the operational specifics related to trees for the full construction duration. The AMS shall include for reporting back to the LPA immediately after each site supervision intervention (written & photographic).

Evidence shall be submitted, such as a written appointment (including site specifics), that confirms that a qualified Arboriculturist / competent person has been appointed to carry out this Arboricultural monitoring/supervision. Seven days written notice shall be given to the Local Planning Authority that the protection measures are in place prior to demolition / approved works commencing, to allow inspection and approval of the protection measures as implemented on site.

Main Issues

2. It is clear from the Council's reasons for refusal and officer report that the Council do not consider the proposed single storey rear extension and other alterations to be unacceptable in principle, or in terms of their detailed design and appearance, or to the living conditions of occupiers of neighbouring properties. Rather, it is the proposed extension's location relative to the tree identified by the appellant's tree survey¹ (hereafter, the tree survey) as tree T1 and the effect upon that tree, and in turn the character and appearance of the Aberford Conservation Area, which informs the Council's decision to refuse planning permission.
3. Thus, the main issues are whether or not the proposed development would:
 - Preserve or enhance the character or appearance of the Aberford Conservation Area, with particular regard to the effect of the proposed development upon tree T1; and
 - Achieve bio-diversity net gain.

Reasons

Character and appearance

4. The appeal site lies within the Aberford Conservation Area. Whilst the appearance of the CA² is noted as being reliant on a few 'very significant characteristics such as its linear form along the Great North Road, and its mix of high status of development arising from periods of prosperity and its relationship with nearby large country estates and farm and estate workers' cottages, the village's green spaces and mature trees contribute to the village's special architectural and historic interest and its character and appearance.
5. The tree closest to the proposed single storey rear extension is identified³ as tree T1, a mature tree of good physical condition with a retention category A. Although located to the rear of The Stables, T1 is of substantial height, the canopy of which is visible above the roofline of the appeal property and neighbouring houses. In this respect, tree T1 contributes positively to the character and appearance of the CA.

¹ Tree Survey and Arboricultural Impact Assessment' (Report No: 22_5837_06_31) 22/06/22 Roavr Group

² Aberford Conservation Area Appraisal and Management Plan (May 2011)

³ 'Tree Survey and Arboricultural Impact Assessment' (Report No: 22_5837_06_31) 22/06/22 Roavr Group

6. The area where it is proposed to construct the rear extension is partially laid to a brick patio, raised slightly above the adjoining hardstand and lawn. Tree T1 lies within the area lawn, encircled by a small border, but close to the raised patio. The tree survey identifies T1's radial root protection area (RPA) as including the existing raised patio and the entire area within which it is proposed to construct the single storey rear extension.
7. The appellant's tree survey thus notes the proximity of tree T1 to the rear of the house and that the proposed extension would be constructed entirely within T1's RPA. The tree survey identifies a 'low impact foundation system' as being a means to minimise excavation within the RPA, advocating a mini pile approach but, at the time at which the tree survey was carried out, no foundation design details had been made available. Whilst it is noted that trial pits, to establish the position of the piles, would be hand dug and that any roots over 25mm diameter would entail the repositioning of the piles, there is little in the way of tailored, site-specific detail regarding the proposed foundations to take specific account of ground conditions revealed by trial pits.
8. Both parties refer to the provisions of BS 5837: 2012 *'Trees in relation to design, demolition and construction – Recommendations'*, in which it is stated that the default position for development within proximity of trees is that structures should be located outside any identified RPA, but also that technical solutions may be appropriate where there is clear and convincing justification for development in the proposed location. However, the Council's case set out in the officer report largely concentrates on whether or not there is a clear and overriding justification for development in the proposed location, rather than whether or not the technical solution proposed by the appellant would be sufficient.
9. The appellant's description of the appeal property's constraints in terms of potential locations for extensions is evident from visiting the site and viewing the property. In this respect, I agree that the linear form of the property externally and the linear layout of rooms within it, combine in the manner described by the appellant so as to limit the scope for extension. This is particularly so given the identified spread of tree T1's RPA, together with those of trees T2-T4, which take up a significant proportion of the property's available rear garden. I am not persuaded therefore that there are suitable alternative locations available to the appellant to extend that appeal property.
10. The proposed extension would replace an existing area of hardstand, including a raised patio together with a further area of ground-level hardstand, both of which are also entirely within tree T1's RPA. The appellant has put forward a technical solution to minimising the effects of the proposal, and its construction, on the health and vigour of the tree and its RPA, together with a clear and convincing justification for construction in the location proposed. Whilst that solution leaves some of the detail of trial pits and pile positions to further investigation, such an approach, secured by suitably worded planning condition, would not in my judgement be unreasonable, and there is little in the way of compelling evidence to lead me to an alternative conclusion.
11. For these reasons therefore, I am satisfied that the appellant has adequately demonstrated that the proposed extension could be designed and constructed in such a way as to minimise its effect on the nearby tree T1. Subject to the mitigation measures set out in the appellant's tree survey, and through suitably

worded conditions, the proposal would have a neutral effect on the character and appearance of the CA.

12. As such, there would be no conflict with Leeds Core Strategy (CS) policies G2, G9, P10 or P12, or with Leeds Unitary Development Plan (Review) 2006 (UDP) policies GP5, LD1 or N19. Taken together, these policies set out the Council's approach to achieving good design, amongst other things identifying the district's historic and natural assets, skylines and views, protects and enhances the visual amenity of the area and the protection of existing vegetation. Aberford Neighbourhood Plan (NP) policy BH-1 identifies a range of criteria against which proposals within the CA will be considered, including the retention of mature trees and incorporation, where appropriate, of new tree planting. A neutral effect is to preserve the character or appearance of the CA, to which special attention shall be paid to preserving or enhancing, as per the statutory test established by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Bio-diversity net gain

13. As I have concluded that the proposal would not result in significant harm to tree T1 and that it would not therefore necessitate its removal, I am satisfied that the proposed extension would not compromise the biodiversity aims and intentions set out within CS policy G9 or saved UDP policy GP5. As such, there would be no conflict with these policies.

Conditions

14. I have considered the Council's suggested conditions against the provisions and guidance set out in the Framework and Planning Practice Guidance. I agree that time limit and plans conditions are reasonable and necessary in order to provide certainty and in the interests of good planning. In addition, I agreed that a materials condition should be applied, in the interests of character and appearance.
15. Given the nature of the main issue in this instance, I agree that a condition regarding appropriate tree protection measures is necessary in the interests of character and appearance, and the health, vigour and integrity of the trees in question. With amendment to include specific reference to the appellant's submissions and slight revision, I have imposed the suggested condition.

Conclusion

16. For the reasons set out, and having considered all other material considerations raised, I conclude that the appeal should be allowed.

G Robbie

INSPECTOR