

Appeal Decision

Site visit made on 28 June 2023

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2023

Appeal Ref: APP/B1740/D/22/3307914

Springmead House, Waterford Close, Lymington SO41 3PU

- 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 and Mrs J Weber against the decision of New Forest District Council.
 - The application Ref 22/10809, dated 8 July 2022, was refused by notice dated 9 September 2022.
 - The development proposed is an extension to provide utility area and link to garage
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Decision

1. The appeal is allowed and planning permission is granted for an extension to provide utility area and link to garage at Springmead House, Waterford Close, Lymington SO41 3PU in accordance with the terms of the application, Ref 22/10809, dated 8 July 2022, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 3. The development hereby permitted shall be carried out in accordance with the following approved plans: 0310-02 Survey as Existing; 0310-02 Scheme as Proposed - Plan; and Tree Protection Plan (06.07.2022).
 4. The existing shed shown on the approved plans shall be removed prior to commencement of works on the utility area and link hereby permitted.
 5. The trees on the site which are shown to be retained on the approved plans shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the submitted John Shutler Arboricultural Report and Tree Protection Plan dated 06/07/2022: Springmead House, Waterford Close, Lymington Hampshire SO41 3PU.
 6. Notwithstanding the above Arboricultural Report no development shall commence until details of the design of the foundation works for the utility area and link have been submitted to and approved in writing by the local planning authority and the works shall be implemented as approved.

Main Issue

2. The main issue is the effect of the proposal the nearby Oak Tree.
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Reasons

3. The appeal site includes a large detached dwelling on a sizeable plot within the defined built-up area of Lymington. It is located off a private driveway abutting Waterford Close, a short cul-de-sac with a small number of detached dwellings sited in large gardens. The proposal is described above, it is for a single storey building.

Effect on oak tree

4. The scheme would lie in close proximity to a mature Oak Tree in good structural and physiological health which is the subject of a Tree Preservation Order (TPO). The Council fears that encroachment into the root area would run contrary to the continued good health of this tree. For my part, in this instance, I would deem the encroachment to be relatively modest; I note the existing compaction and hard surfacing of most of the applicable area in contrast to other surrounds of the tree; I can see that practicable tree protection measures during construction could readily be put in place; and there are two other factors (shed removal and agreement on foundation type) which via planning condition would add to mitigation. I would conclude that in this situation the encroachment into the root protection area would be acceptable.
5. I note that the Council's Tree Officer's stated 'main concern' is that there will be potential pressure from the Appellants for tree removal or excessive pruning due to proximity, fears of failure, encroachment or shading. However, consent for removal has previously been refused and the Council's stance is quite clear to the Appellants who would be implementing the project with their eyes fully open. Furthermore, this would not be a fully habitable room, it would not be under the main canopy, the tree is to the north side so shading of sunlight would not be an issue, a roof lantern is planned as the main source of natural light, the sink window does not face the tree, and of course with the TPO in place applications would be necessary for felling or pruning to be determined on their merits. As an aside, I note that the Council Officer's Report 'description of development' does appear to use incorrect orientation references. Given all the circumstances I therefore do not share this main concern relating to 'future pressure'.
6. Policies ENV3 and ENV4 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park are relevant. Taken together, and amongst other matters, these policies seek to achieve good design which protects the quality of places and their landscape and ensures suitable integration between built and natural environments. I conclude that the proposal would not conflict with these development plan policies.

Conditions

7. The Council reasonably suggests the standard commencement condition along with a condition that works are to be carried out in accordance with listed, approved, plans as this provides certainty. A condition requiring the use of matching materials is also appropriate in the interests of visual amenity. Adherence to the submitted Arboricultural Report is reasonably called for and I agree with the condition to this effect in the interests of visual amenity. A point latterly raised by the Appellants, which in my opinion rightly goes a little

further than the Arboricultural Report and would partly address Council concerns, is a positive suggestion in the interests of amenity – that is to agree, as stage one, the precise nature of the foundations relating to this scheme. I note the stated intention on the plans to remove the nearby shed and I see this as a beneficial act in terms of the oak tree's potential health, and thus visual amenity, and shall therefore include a planning condition on this matter,

Overall conclusion

8. For the reasons given above I conclude that the appeal proposal would not have unacceptable adverse effects on the nearby Oak Tree. Accordingly, the appeal is allowed.

D Cramond

INSPECTOR