

Appeal Decision

Site visit made on 19 July 2023

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th August 2023

Appeal Ref: APP/D3640/D/23/3317869

4 Brompton Gardens, West End, Woking, Surrey, GU24 9GN

- 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 Nick Murphy against the decision of Surrey Heath Borough Council.
 - The application Ref 22/0942/FFU, dated 09 September 2022, was refused by notice dated 9 December 2022.
 - The development proposed is the erection of a two storey side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the long-term viability of a protected nearby mature oak tree.

Reasons

Character and appearance

3. The appeal property is a two-storey detached home on a moderate sized irregular shaped plot. It sits at an angle at the end of a small cul de sac of modern homes, with larger residential estate development around. Close to, beyond, the appeal property's rear fence is a sizeable oak tree which is protected (TPO/06/22) and is the crux of this appeal. This tree has an appreciable canopy and has some principal branches which overhang part of the side/rear garden where the extension is planned. The locality as a whole is of established and good quality residential character and the appearance is pleasing. This is not least due to significant trees which have clearly been 'planned round' during the phases of housing development, including the appeal property, and generally ensuring good separation distances between large trees and houses. The appeal proposal is as described above and is planned for a relatively tight triangular part of the plot.
 4. I mention the generality of the trees locally and the aesthetic benefit they bring and I would certainly say that the particular oak tree which relates to this appeal is significant, adds very positively to the street-scene from a number of directions, contributes to the overall verdant character and to my mind fully justifies its TPO status. I did note that the tree looks to be relatively healthy now but there were signs of past stress from the appearance of its partially
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denuded branches. Presumably there was some disturbance during residential development and I did notice during my site visit that regrettably the core of the RPA of the tree has had some disturbance from gardening activity and ancillary structures, a shed, and part of a driveway. This all leads me to be cautious about further intrusion into the RPA.

5. A Tree Report by SMW Tree Consultancy Limited dated 9 September 2022 was included with the proposal. This indicates that the oak tree is Category A. Foundation intrusion is calculated to be 2.42%. The Appellant would be content for the foundations to use a Heli-pile and ring beam system which reduces ground compaction compared to conventional piles. An air gap and surface watering system would go below the floor. Mitigating decompaction and use of bio-stimulants would be used away from the works and specified tree protection fencing and anti-compaction pedestrian arrangements put in place during construction. The report concludes that the scheme would not lead to any adverse health effects for the tree.
6. However, for my part I feel that the risk of damage to the health of the tree is simply too great if incursion into the RPA is permitted as proposed. For reasons I have explained the tree is important, and to a degree already compromised. I acknowledge the thoroughness of the Tree Report but however one puts it the fact remains that a degree of further risk to an appreciable asset of public benefit would arise from an extension to a private dwellinghouse which was carefully sited in the first instance. I appreciate that the Council's Arboricultural Officer has only commented briefly on the matter but I can entirely understand why they would not support RPA incursion as proposed.
7. Turning to above ground; the overhang to the planned extension would not be great but it would be present and it would include some principal branches. I estimate that the branches would not touch the structure even in wind but distances would not be great. There would be some close visibility of the canopy from a rear bedroom window and a little impact on light. There would be leaf litter and a perception that this tree could well cause significant damage to the extension should it fail in anyway. I could foresee a future argument being put for pruning or removal with a cogency such that the Council may find itself somewhat compromised when dealing with a TPO application.
8. In all the circumstances I am not persuaded that an incursion of the RPA, even of the seemingly small and specialist nature proposed should be allowed and I am similarly concerned that with canopy over-head and proximity there would be future pressure to extensively prune or remove the tree. From the siting it would seem to me that the appeal dwelling was positioned in the plot to keep clear of the perimeter mature trees and, in my opinion, it should stay that way.
9. As I indicate, the oak tree offers considerable amenity value to this locality and I am in no doubt that its loss would be markedly harmful to the landscape character and appearance of the area. It is rightly protected. Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 is relevant. The policy calls, amongst other matters, for development to respect the natural character of an area and specifically to protect trees worthy of retention. I conclude that the appeal scheme would run contrary to this policy.

Other matters

10. I understand the Appellant's wish to extend accommodation at this property and I can see that thought has been given to the architectural appearance and materials. I note that concerns are raised about the history of the TPO and its relevance or otherwise during the determination of applications. Nevertheless, with regard to the case I am dealing with the TPO, first issued on 1 August 2022, was in place at the time of the Council's Decision and continues to be so. I recognise that the RPA intrusion is reduced with this second scheme for the site. There is some criticism over the Council's handling of the application and while any dissatisfaction is unfortunate, I have to progress my part of the process. The Appellant sets out a number of local examples of TPO related decisions which it is argued point to inconsistency in approach or provide some form of precedent. However, to my mind there are too many variations for these instances to be deemed directly comparable and in any event, I have to assess this case on its own merits.
11. I have carefully considered all the points raised by the Appellant but these matters do not outweigh the concerns which I have in relation to the main issue identified above.
12. I confirm that policies in the National Planning Policy Framework have been considered and the development plan policy which I cite mirrors relevant objectives within that document.

Overall conclusion

13. For the reasons given above I conclude that it has not been demonstrated that the proposal would not result in harm to the long-term viability of a protected nearby mature oak tree. Accordingly, the appeal is dismissed.

D Cramond
INSPECTOR