



Appeal Decision

Site visit made on 15 August 2023

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2023

Appeal Ref: APP/L3625/W/22/3309194

Land to The Rear of 51 Warren Road, Banstead, Surrey SM7 1LG

- 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 Denton Homes Ltd. against the decision of Reigate and Banstead Borough Council.
 - The application Ref 21/02552/F, dated 27 September 2021, was refused by notice dated 23 September 2022.
 - The development proposed is the erection of a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. From the evidence it is apparent that the appeal site has been separated from No 51 Warren Road. On this basis, I have used the site address provided on the appeal form.
3. I have used the company name in the banner heading above, given that different people within the company have submitted the application and the appeal.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, with regard to the protected cedar tree adjacent to the site.

Reasons

5. The appeal site is located on the western end of Kingfisher Close, a recently constructed cul-de-sac of 8 dwellings. There are mature trees next to the appeal site, within the rear garden of No 53 Warren Road. Three individual trees are protected by a Tree Preservation Order (TPO). These trees are prominent within the street scene of Kingfisher Close and add to the verdant character of Warren Road, being visible above the existing dwellings and through the gaps between them.
6. The cedar tree is estimated in the 'Arboricultural Impact Assessment, Method Statement & Tree Protection Plan (to BS:5837 2012)' to be of a height of 25m, have a 40+ years of life expectancy and to be of high quality. The cedar tree makes a significant and positive contribution to the visual amenity of the area due to its size and prominence.
7. The proposal is to construct a detached dwelling within the site reflective of the design of the dwellings on Kingfisher Close but set further back in its plot. The

layout, which has been subject to a number of amendments, indicates that there would be some oversailing of the dwelling by the cedar tree, as well as part of the front garden area. Nevertheless, the parties broadly agree that the development could be constructed without resulting in harm to the health of the protected cedar tree. Although the cedar tree is said to be at its full height, it will continue to grow and, even if there is sufficient clearance above the dwelling's roof, the tree is likely to oversail more of the roof as it grows.

8. The cedar tree would cast a shadow over the front of the proposed dwelling and would reduce the natural light into the front facing lounge and bedroom windows. As the rooms would face northwards, they would receive limited sunlight. Further, the shading from the canopy of the tree would reduce the natural light into the rooms. The side facing lounge windows would be close to the boundary and close to the tree canopy, therefore providing little additional light to the lounge area. Consequently, the front rooms would be particularly gloomy.
9. As the cedar tree continues to grow, there would be significant potential for its future occupiers to seek to increase the amount of daylight received by these rooms, by undertaking works to reduce the effect of the shading caused by the cedar tree. In practice, there would be little that could be done to increase the light into the rooms other than seek to reduce the crown spread of the tree.
10. In addition, whilst the appellant proposes to provide measures to prevent blocking of gutters and drains where the dwelling is beneath the canopy, it is likely that cones and needles from the tree would be shed on to the roof, particularly in windy conditions. In addition, whether justified or not, there may be a perceived safety concern for future occupiers, as a result of branches overhanging the roof.
11. In such circumstances, it is likely that the Council would come under pressure to allow felling of the cedar tree or severe pruning because the dwelling had been allowed too near the tree. Based on the information before me, I conclude that a decision maker could agree. The tree's protected status is no guarantee that such applications would be unsuccessful. The loss or significant reduction of the tree canopy would undermine the amenity value of the tree and its contribution to the character and appearance of the area.
12. I agree with the appellant that the cedar tree would not shade the property's rear garden. However, this does not overcome my concern about the canopy extending over the roof of the house and the shading of the rooms to the front of the dwelling.
13. I note the appellant's comments regarding ownership of the cedar tree and future prospective purchasers. However, it is not clear to me that branches overhanging the site would be prevented from being removed by its ownership nor that, presented with the tree potentially causing damage to the property, that agreement to works would not be forthcoming. Future purchasers would be aware of the tree's position and size but would not necessarily be aware of the implication of its protection in respect of works to the tree and the effect on the dwelling as a result of future growth.
14. Overall, I conclude that the proposal would have a detrimental effect on the character and appearance of the area, with regard to the protected cedar tree adjacent to the site. This would be contrary to Policy NHE3 of the Development

Management Plan 2019 which, amongst other things, seeks to resist development resulting in the loss of or deterioration in the quality of a protected tree. Furthermore, whilst I acknowledge the status of the British Standard 5837:2012 Tree in Relation to Design, Demolition and Construction as guidance, the proposal would be contrary to the advice contained in the British Standard in respect of proximity of structures to trees and in particular the need to make a realistic assessment of the probable impact of any proposed development on trees and vice versa.

Conclusion

15. Overall, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate that the development should be determined otherwise than in accordance with it. Therefore, the appeal is dismissed.

P Terceiro

INSPECTOR