



Appeal Decision

Site visit made on 8 June 2023

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th September 2023

Appeal Ref: APP/T0355/D/23/3321702

1 Knights Close, Windsor SL4 5QR

- 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 Ms Yu Ting Dong against the decision of the Royal Borough of Windsor and Maidenhead.
 - The application Ref: 23/00291, dated 12 February 2023, was refused by notice dated 3 April 2023.
 - The development proposed is described as Part single/part two storey side/rear extension, garage conversion and alterations to fenestration.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effects of the proposal on the character and appearance of the area, having particular regard to the effects upon a False Acacia tree within the garden of a neighbouring property to the appeal site at No. 87 Gallys Road.

Reasons

3. The appeal proposal is accompanied via a BS5837 Arboricultural Impact Assessment & Method Statement Reference 03870Rv2 undertaken by Tamla Trees consulting arborists dated November 2022 (the AIA).
4. The Falsa Acacia tree (T3 as referenced in the AIA) is in close proximity to the proposed two storey extension, which forms part of the appeal proposals. T3 is situated on the opposite side of a boundary fence to the appeal site in the rear garden of No. 87 Gallys Road and is not within the ownership of the appellant. The AIA refers to T3 as a mature Category B tree of a moderate quality and value, with an apparent normal health and estimates that the remaining life expectancy of T3 is between 20 to 40 years.
5. The AIA explains that the footprint of the extension would fall in the Root Protection Area (the RPA) of T3 and refers to a Ground Foundation Plan at Fig 11 of the AIA, which reflects the plan referred to by the appellant in their Grounds of Appeal as Plan 3t. Plan 3t forms one of the plans submitted as part of the appeal proposals.
6. The AIA indicates a pad or pile footing with ground beam should be utilised to minimise the impact on the RPA as set out on Plan 3t, alongside a number of

- other tree protection measures. However, it is noted that the AIA states at Fig 11 in reference to Plan 3t that this is a 'Foundation incursion overview (sample)' and further states 'Note: above information provided by architect and subject to engineering approval.'
7. The AIA also sets out that the proposed development would require the crown of T3 to be lifted to above the proposed new roof line, whilst retaining the overhang above. The AIA continues that intermittent repeat pruning of branches to T3 will also be required, but suggests that this is an existing issue due to the positioning of T3 close to the appeal property.
 8. T3 is not protected through a Tree Preservation Order and the appeal site is not within a Conservation Area. Nonetheless, Policy NR3 of the Borough Local Plan 2013 to 2033 (the BLP) requires, amongst other matters, that development proposals should protect and retain trees and then explains that where harm to trees, woodland or hedgerows is unavoidable, provide appropriate mitigation measures that will enhance or recreate habitats and new features.
 9. Policy NR3 of the BLP also explains that development proposals should carefully consider the individual and cumulative impact of proposed development on existing trees, including those that make a particular contribution to the appearance of the streetscape and local character/distinctiveness.
 10. Further, paragraph 131 of the National Planning Policy Framework 2021 (the Framework) explains that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change.
 11. From my site visit, I noted that T3 is visible from a number of vantage points in the surrounding area, such as from various points on Knights Road and Gallys Road. T3 can also be viewed when leading from the footpath to the west which connects Gallys Road with Pierson Road and from the park to the south-east of the appeal site.
 12. It was evident to me from my site visit, that T3 provides for a positive contribution to the visual amenity of the surrounding area, due to the overall scale of its crown which provides for a pleasant natural backdrop between and behind the buildings in the foreground, helping to break up the building form.
 13. Turning to the potential effects of the proposals upon T3, I have some doubt as to the feasibility of delivering the approach indicated on the Ground Foundation plan at Plan 3t, as a result of the proviso in the AIA that this would be subject to engineering specifications. It seems to me, without further detail on this point, I do not have certainty that the development would not result in root damage to T3 which could ultimately result in T3 deteriorating and dying. I also do not consider that without this further detail and assurance, I can appropriately secure this method of construction via a planning condition.
 14. But even if it was possible for the proposed development to avoid root damage to T3, the raising of the crown as suggested in the AIA would also result in harm to the character and appearance of the area. Further, and as suggested in the AIA, it would appear highly likely that over time, there would be pressure for further removal of lower branches, due to the proximity to the roofline of the proposed extension to these branches, as a consequence of foliage and the potential for damage from the branches.

15. Whilst not an overriding factor in my decision, I am also not convinced that the pressure to remove branches from T3 would be the same with or without the proposed extension. It seems to me, that the perceived nuisance and ultimately the pressure to remove branches, would increase the closer the building form would be to T3. The appeal proposal would result in a change from a flat roofed single storey form to a two storey pitched roof with a footprint closer to T3.
16. I have taken account of the proposed landscaping to the front of the appeal property, but additional landscaping would not compensate for the likely effects outlined above to T3, which contributes positively to the visual amenity and character of this area and as the AIA recognises is a mature Category B tree of a moderate quality and value with an estimated remaining life expectancy of between 20 to 40 years.
17. I am therefore of the view, that the likely effects of the appeal proposal would result in harm to the appearance of T3 and could also result in its deterioration and potential removal. The likely effects upon T3 would therefore result in a material visual change that would lead to harm to visual amenity and the character and appearance of the area.
18. As a consequence, I find that the proposal would conflict with policy NR3 of the BLP and paragraph 131 of the NPPF.

Conclusion

19. For the above reasons, and having taken all other relevant matters into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. I therefore conclude that the appeal should be dismissed.

J Evans

INSPECTOR