The Planning Inspectorate

Appeal Decision

Site visit made on 19 July 2023

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2023.

Appeal Ref: APP/J1535/D/23/3320074
2 Turners Court, Lambourne, Romford, Essex RM4 1UQ

- 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 Ozlem Uzunkuyu against the decision of Epping Forest District Council.
- The application Ref EPF/2673/22, dated 23 November 2022, was refused by notice dated 25 January 2023.
- The development proposed is single storey outbuilding for use as a personal gym for the dwellinghouse.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since it made its decision, the Council has adopted the Epping Forest District Local Plan 2011-2033. As this plan replaces the previous Local Plan, I have had regard only to the policies referred to in the decision notice from the newly-adopted plan.

Main Issue

3. The main issue is the effect of the proposed outbuilding on three protected trees.

Reasons

4. The appeal property is a two storey mid-terrace dwelling located in a residential cul-de-sac of similar properties.

5. Policy DM5 of the adopted Local Plan concerns green and blue infrastructure, and includes the requirement that development proposals must be accompanied by sufficient evidence to demonstrate that the retention and protection of trees will be successfully secured in accordance with relevant guidance and best practice.

6. The proposed outbuilding would be sited in the rearmost part of the host dwelling's back garden. The main parties agree that this location is within the overlapping root protection areas (RPA) of three protected trees standing in neighbouring gardens. The two lime trees and an oak tree are mature

specimens of substantial size and prominence. As such, the three trees have considerable amenity value seen from the rear gardens and wider surrounding area.

7. I acknowledge that the current proposal seeks to respond to the reasons for refusal of two previous applications for an outbuilding in the same location. An arboricultural report includes recommendations for the design of the building's foundations to protect the trees' roots, while a construction method statement (CMS) demonstrates how these recommendations would be implemented.

8. The submitted drawings show a section of the proposed building, with a notation that the 'pile foundation will be designed by a structural engineer according to the tree report'[1]; and a detailed drawing of the pile foundation and slab construction is included in the CMS. However, this shows a concrete base slab that is suspended above ground level, which is not apparently the case with the submitted section drawing. Consequently, it is not fully clear how the detailed design of the foundation relates to the submitted drawings as a whole. As the Council notes, based on the available information, the detailed design of the foundations could result in a taller building on site, with consequential effects that have not been assessed.

9. The arboricultural report says that 'no underground services are to be installed through any RPA'[2]. However, the submitted drawings show a toilet, shower and sauna to the rear of the building, and the 'tree constraints plan' in the report shows the whole footprint of the proposed building within the trees' RPAs. It is unclear, therefore, how any water supply, sewage and waste water disposal or electricity supply would be provided to the building without this having some implications for the trees' roots.

10. I note in this regard that the CMS says when the locations of the tree roots are known it would be possible to work around them when installing cables and drainage. However, in the absence of further details of the extent of any necessary works to provide services to the building, it is not possible to find that there is sufficient evidence to demonstrate that the protection of trees will be successfully secured, as required by Policy DM5.

11. Therefore, for these reasons, I must conclude that the proposed outbuilding would have a materially harmful effect on three protected trees. As such, the proposal is contrary to Policy DM5 of the Epping Forest District Local Plan 2011-2033 (2023), as described above. Policy DM3 of the Local Plan is less relevant in this case as it concerns the effects of development on landscape character.

12. In reaching this conclusion I have had regard to the representation made by Lambourne Parish Council.

Conclusion

13. For the reasons given, it is concluded that the appeal should not succeed.

J Bell-Williamson

INSPECTOR

[1] Drawing ref 11.22/04.
[2] Paragraph 4.7.1.