



Appeal Decision

Site visit made on 14 September 2023

by Philip Willmer BSc Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 03 January 2024.

Appeal Ref: APP/L1765/D/23/3320607

Mulberry House, Oakmore Park, Durley, Hampshire, SO32 2NU.

- 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 David and Katherine Phillips against the decision of Winchester City Council.
 - The application Ref 22/02013/HOU, dated 6 September 2022, was refused by notice dated 9 March 2023.
 - The development proposed is described as: *The proposed works will see the demolition of an existing garage structure and the construction of a new larger garage structure, the conversion of an existing outbuilding to a larger annex with small porch extension and new pitched roof dormers and all associated works.*
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing garage structure and the construction of a new larger garage structure, the conversion of an existing outbuilding to a larger annex with small porch extension and new pitched roof dormers and all associated works at Mulberry House, Oakmore Park, Durley, Hampshire, SO32 2NU in accordance with the terms of the application, Ref 22/02013/HOU, dated 6 September 2022, and the plans submitted with it, subject to the conditions set out at the end of this decision:

Main Issue

2. I consider the main issue to be the impact of the proposed development on the Ancient Woodland and the biodiversity within it and thereby its impact on the character it provides to the surrounding area.

Reasons

3. Mulberry House is a substantial detached dwelling set in a large mature garden plot with a number of existing outbuildings. The main house is one of four large dwellings built in the 1990's on the site of a former school. Mulberry House is bounded to the east by open countryside. The south-east corner of the property extends into an area, identified by the Council as ancient woodland.
4. The appellants propose the demolition of an existing garage and the construction of a new larger garage, the conversion of an existing outbuilding to an annex with a small porch extension and new pitched roof dormers.

5. The Council, subject to a condition to resist any potential for the separation of the ancillary accommodation to form a separate dwelling, raise no objection to the design of the proposal. From what I have seen and read I have not formed a contrary view. Nevertheless, the Council are concerned about the development's potential impact on the ancient woodland, the biodiversity within it and thereby the potential harm to the character the woodland provides to the surrounding area.
6. Ancient woodland is considered to be an irreplaceable resource and habitat. Natural England's standing advice, along with that of the National Planning Policy Framework (the Framework) and Policies CP16 and CP20 of the Winchester District Local Plan Part 1 (Adopted April 2017) (WDLPP1) seek to protect ancient woodland from development that would result in its loss or deterioration other than in exceptional circumstances. Furthermore, they advise that no development should be approved which sits within a buffer zone of at least 15 metres of an ancient woodland.
7. Part of the area of defined ancient woodland extends towards the main house and includes the existing access drive, area of hardstanding for vehicle turning and parking, mature residential garden area, the existing outbuilding to be altered, the garage/carport block to be replaced and what appeared to be an enclosed play area with a substantive tree house. Other than the tree that has been cut back to facilitate the construction of the tree house and a neighbouring tree (identified as T7 in the Arboricultural Survey and Report) there are no other trees in the immediate area of the proposed development. Accordingly, therefore, by reason of the existing established development the physical boundary of the original ancient woodland has effectively been realigned to that of the established residential curtilage.
8. The existing outbuilding is partially within the area defined on the Council's plan to be within the area of the ancient woodland. However, today as set out above, it currently sits within the previously developed residential curtilage of the property where there are no longer any trees in close proximity of the building. Accordingly, I do not consider, given this, the distance of the existing outbuilding from the remaining trees in the ancient woodland, and the limited likely additional activity resulting from the building's use as an annexe, that the proposed alterations would have any harmful impact on the retained woodland.
9. The proposed replacement garage would, as well as being located in the defined area of ancient woodland, where I assume there were previous trees now removed, would also fall within a 15 metre buffer zone of the woodland. However, there is already an existing garage on the site. The area around the garage has previously been disturbed by reason of levelling of the site, laying of hard paving, landscaping and no doubt the parking of cars next to as well as in front of the garage.
10. The Arboricultural Survey and Report, as well as providing a report on the condition of the nearby trees, also provides comprehensive advice on necessary protection works to be undertaken during any construction work on this project. These are all matters that, if I were minded to allow the appeal, could be conditioned. Accordingly, I do not consider that the proposal would result in further harm to the ancient woodland.
11. A preliminary Roost and Nest Assessment has also been provided. While providing a number of advisory notes to be taken into account during the

building operation the roost and nest assessment report indicates that the development would not cause harm to either roosting bats or nesting birds. Therefore, based on this evidence I do not consider that the proposal would result in significant harm to the biodiversity of the area.

12. For the forgoing reasons I do not judge that the proposed replacement garage would result in the loss or deterioration of the ancient woodland or cause significant harm to existing biodiversity. I therefore conclude in respect of the main issue that the proposed development would not result in the loss or deterioration of the ancient woodland or the biodiversity within it. It would therefore not cause harm to the character that the ancient woodland provides to the surrounding area. The proposed development would therefore accord with the objectives of the Framework and WDLPP1 Policies CP16 and CP20 as they, along with other things, to protect ancient woodland and irreplaceable habitats.

Conditions

13. The conditions follow from those suggested by the Council. To ensure a high quality development, I shall include a condition about the materials to be used in the construction of the external surfaces of the building.
14. I will condition the design and installation of external lighting to protect both the environment and protected species from light pollution.
15. In order to ensure the protection and viability of the retrained trees, the ancient and semi-natural woodland and to minimise the impact of construction on both the trees and the biodiversity of the area I will impose conditions to afford necessary protection during the construction phase of the building contract.
16. I shall require, by condition the proposed annexe to be retained as ancillary residential accommodation to the main house, to avoid harmful impact on the character of the area.
17. In the interests of certainty, I shall impose a condition requiring the development to be undertaken in accordance with the approved plans.

Conclusions

18. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Philip Willmer

INSPECTOR

Schedule of Conditions Appeal Ref: APP/L1765/D/23/3320607

- 1) The development hereby permitted shall begin not later than 3 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 be as detailed on the planning application form.
- 3) The annex hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Mulberry House.
- 4) No development shall take place until a qualified arboriculturalist, approved in writing by the local planning authority has been appointed to supervise and oversee the works effecting the retained trees.
- 5) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The details in the CMS shall set out how the construction will be planned to mitigate and or minimise its effect on the Ancient and Semi-Natural Woodland. The CMS shall include details of proposed working hours, siting of storage of equipment and materials along with measures to control dust and litter. The CMS shall include for the arrangement of a pre-contract site meeting attended by the appellants' professional team (where appointed) or a representative for the appellants', the contractor's site manager, the appellants' arboricultural consultant and the local planning authority's tree officer. Development shall be carried out in accordance with the recommendations and or details arising from the meeting.
- 6) No development shall take place nor any equipment, machinery or materials to be brought on to the site for the purposes of the development until the protective measures have been undertaken in accordance with the approved plans and particulars, and inspected and approved by the local planning authority's tree officer (Tel: 01962 848360) and they shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, other than hereby approved, nor shall any excavation be made, without the written approval of the local planning authority. Any subsequent deviation from the prescribed protection works shall first be agreed in writing by the local planning authority.
- 7) No arboricultural works shall be carried out to any tree other than hereby approved.
- 8) No development shall take place until a bat scoping assessment has been undertaken on the existing building, hereby permitted to be altered to form an annexe, by a qualified ecologist. Subject to the result of that assessment further surveys or mitigation measures may be deemed necessary if the works are considered likely to disturb any bats identified. Development shall then be carried out in accordance with the approved details.
- 9) The mitigation recommendations set out in the Preliminary Roost and Nest Assessment (PRandNA) as prepared by Ecological surveys Ltd,

December 2022 shall be adhered to throughout all phases of the development. The enhancement for birds shall be completed as set out in the PRaNA prior to the first occupation of the completed buildings hereby permitted.

- 10) No development shall take place until details of any new external lighting has been submitted to and approved in writing by the local planning authority. The lighting scheme shall be designed in accordance with Guidance Note 08/18 produced by the Bat Conservation Trust and the Institute of Lighting Professionals. The details shall include a layout plan with beam orientation, a schedule of fittings including type, mounting height, aiming angles and luminance output. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

End of Schedule