



Appeal Decision

Site visit made on 19 February 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2024

Appeal Ref: APP/G5180/D/23/3332099

4 Denbigh Close, Chislehurst, Bromley BR7 5EB

- 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 Peter Hickson against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/23/03059/FULL6, dated 7 August 2023, was refused by notice dated 3 October 2023.
 - The development proposed is a part single storey, part two storey rear extension, partial garage conversion and first floor rear balcony.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Main Issue

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

Reasons

4. Located in a predominantly residential area, the site comprises a detached dwelling within a large plot. An area Tree Preservation Order (TPO) covers various types of trees in the former grounds of Elmstead Grange, Elmstead Lane, and Cranmore, Walden Road. This includes three mature oak trees in the rear garden of the appeal site.
 5. The Arboricultural Survey and Planning Integration Report (ASPIR) indicates that the oak trees on the site are in a satisfactory condition. From my observations on site, the trees appear to be healthy, and, although located in a private rear garden, due to their condition, height and canopy, they make a significant and positive contribution to the character of the area.
 6. The proposed extension would be sited close to the tree canopy of two of the oak trees (T1 and T2), within their root protection areas (RPAs) according to British Standard 5837 Trees in Relation to Design, Demolition and Construction (BS5837). The ASPIR shows temporary ground protection to avoid compaction of the soil from the passage of heavy vehicles on the area of the proposed extension and surrounding path, and a construction exclusion zone in the remaining parts of the RPAs, with the use of tree protection fencing.
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7. Due to the existing external paving and raised internal floor level, it is indicated that the proposed extension could be built on a structurally integral floor slab supported by short piles, with the new path laid using a no dig specification. However, there is no certainty that the proposed development would be built using this method and, indeed, the ASPIR indicates that this would be subject to engineering design. Further, although smaller than a previously refused scheme, as the proposal would extend beyond the existing path into land which rises towards the trees, there would be significant intrusion into the soil. Therefore, although root depths can vary and sandy soil can benefit them, from the information before me, I cannot be certain that the proposal would not harm the roots and integrity of the protected trees.
8. The appellant refers to the availability of compensatory rooting areas and to other appeal decisions where the Inspectors found that proposals would not harm the overall root systems. However, much of the existing house is already within the RPA for tree T1 and the proposed extension would encroach significantly further into it as well as introducing built development into the RPA for tree T2. Whilst I acknowledge that BS5837 provides recommendations which allows justified deviations from them, I am not convinced that the proposal would not have a harmful impact on the tree root systems as a whole.
9. It is indicated that the trees would be retained. Nevertheless, although trees will tolerate reasonable pruning and require routine maintenance, the extension would be so close to the crown of one of the oak trees (T1) that minor branch tips may have to be pruned back for scaffolding clearance. Therefore, due to the proximity of the proposed extension to the tree, I am not satisfied that the proposal would not harmfully damage its crown.
10. The extended house would be much closer to the trees than the existing dwelling. As such, there would be an increased likelihood of future pressure to prune or remove the trees from occupiers perceiving a risk of branch or tree failure, and greater potential for harm from falling tree branches and debris.
11. The appellant suggests a condition requiring the submission of an arboricultural method statement prior to the development commencing. However, this would not overcome the harm I have found due to the position of the proposed extension in relation to the protected trees.
12. Consequently, I conclude that the proposal would harm protected trees. This would be contrary to Policy 73 of the BLP where it seeks to retain trees in the interests of visual amenity and protect trees of environmental importance. It would also conflict with the Framework which requires decisions to recognise the intrinsic character of trees.

Other matters

13. The Council does not raise concerns or find development plan conflict in relation to several other matters, including the appearance of the extension and living conditions. There is no compelling evidence before me that would lead me to reach a different conclusion to the Council on them. Nevertheless, these are neutral factors.

Conclusion

14. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the

Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

A Wright

INSPECTOR