
Appeal Decision

Site visit made on 19 March 2024

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10.04.2024

Appeal Ref: APP/L5240/D/24/3337236

12 Hadley Wood Rise, Kenley CR8 5LY

- 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 Marcus and Roisin Mckenna against the decision of the Council of the London Borough of Croydon.
 - The application Ref 23/01970/HSE, dated 19 May 2023, was refused by notice dated 9 November 2023.
 - The proposed development is for the erection of two storey side extension and internal / external alterations. Alterations to land levels, formation of retaining walls in rear garden.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development having regard to the character and appearance of the area and in particular the effect on a protected tree.

Reasons

3. The appeal site comprises a two-storey, detached house with detached garage and off-street parking on the driveway to the side. The local neighbourhood is predominantly residential in nature.
4. The oak tree that is protected by a Tree Preservation Order is within the rear garden of no. 3 Glendale Rise, a property which adjoins the appeal site. The tree is an attractive and well-formed tree of its species and clearly visible from the public domain. As a result it makes an important and positive contribution to the visual amenity of the locality. As the loss of the tree would cause harm to the character and appearance of the area, to which I afford considerable weight, any reasons to justify mitigating future harm to the tree must therefore be convincing.
5. Whilst the protected tree is outside the appeal site, its canopy and Root Protection Area (RPA) overrides the site's boundary. The appeal scheme would be within part of the RPA and underneath the canopy. The potential for post development pressure to prune the tree is acknowledged in the appellant's evidence. It is stated that the internal layout has been designed such that principal windows look out towards the front and rear of the building rather than to the south and the canopy of the tree.

6. However, the submitted plans demonstrate that this would not be the case. At ground floor level a large set of bi-fold doors are shown to be installed in the elevation facing the tree. Given the high likelihood that these would be fully glazed, they would reasonably be expected to provide a substantial source of light to the kitchen and dining room.
7. This notwithstanding, the presence of the tree would mean that the doors would be in almost constant shade under the canopy, and as such the general environs of the accommodation in this part of the house would be dark and gloomy. To my mind, the overshadowing that would arise may lead to pressure to cut back or remove the preserved tree in the longer term, which the Council would find difficult to resist.
8. I am aware that works to the tree have been granted express consent by the Council independently of the appeal proposal, and I saw at my site visit that these have been carried out recently. I also recognise that it is not unusual for trees in urban settings to be managed, and reduced in size and pruned in accordance with good practice. In this respect the appellant has identified other examples of where incursions into the RPA of trees with significant amenity value have been agreed and accepted by the Council. Nevertheless, as the appeal scheme would result in large doors being installed under the canopy this would in all likelihood subject the protected specimen to additional pressure for repetitive pruning works, which could adversely affect the health of the tree. I am also cognisant that each scheme should be dealt with on its own merits.
9. I am told that incursion of the development into the RPA would be between 4% and 7.4%. However, the Council remains concerned that the suggested RPA does not take account of existing structures. As a result, it is possible that the rooting system of the protected tree extends in fact further into the appeal site.
10. Having these concerns in mind and taking a precautionary approach to this issue, there is insufficient evidence to enable me to ascertain whether the RPA as calculated by the appellant is correct and, if not, what size it should be. Given the sensitivity of roots to change and the importance of the specimen to the character and appearance of the area, I am not convinced that the proposal would not have damaging consequential effects on the longer-term health of the oak tree.
11. On this basis I am unable to conclude that the proposal could be accommodated without causing unacceptable harm to the long term longevity and well-being of the protected tree. It would be inconsistent with Policies SP4, SP7, DM10 and DM28 of the Croydon Local Plan 2018 and Policy G7 of the London Plan 2021 which seek the protection and retention of existing trees of value that contribute to the setting and local character of an area.

Conclusion

12. With all factors taken into account, I dismiss the appeal.

C Hall

INSPECTOR