



Appeal Decision

Site visit made on 21 January 2025

by **D J Barnes MBA BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th February 2025

Appeal Ref: APP/T0355/D/24/3344609

12 Franklyn Crescent, Windsor SL4 4YT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mohamed Afan against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 23/02655.
 - The development proposed is described as the erection of a front second floor part extension following existing ground floor plan, integral garage conversion to a habitable room and alterations to fenestration following demolition of existing conservatory. Rear side double storey extension is also part of the application 23/02479/CPD.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The National Planning Policy Framework was revised in December 2024 but its contents do not alter the assessment of this appeal.

Main Issues

3. It is considered that the main issues are the effects of the proposed development on (a) the character and appearance of the surrounding area and (b) the habitat of a protected species.

Reasons

Character and Appearance

4. The appeal property is a detached 2-storey dwelling which has a tiered rear garden with the tiers defined by a retaining wall, albeit a wooden framed planting bed also exists. The effect of the tiering is that the large patio area adjacent to the property's rear elevation is about 1.5 metres higher than the lower tier. The proposed development includes the erection of a 2-storey rear extension whose footprint would occupy a significant proportion of the rear patio area. The proposed extension's rear elevation would, however, be set back from the retaining wall.
5. Within the rear garden's lower tier is a large oak tree which is within an area Tree Preservation Order (TPO). Its canopy encroaches above the upper tier's patio area. The appellant's *Tree Survey and Arboricultural Impact Assessment* assesses this tree to be of category A1 quality and there are no reasons to disagree with this

assessment, particularly where the tree makes a positive contribution to the visual amenity, character and appearance of the surrounding area. The tree can be seen from neighbouring properties and from Franklyn Gardens through the gaps between the detached dwellings.

6. Reference is made by the appellant to a Certificate of Lawfulness concerning the erection of a rear extension as permitted development (Ref 23/02479/CPD). However, the council claims that to erect this extension it could still require separate consent if works to the protected tree are necessary. Whether such works are necessary is uncertain and, for this reason, this appeal scheme has been assessed on its own circumstances.
7. There is a difference of opinion between the council's and appellant's Arboriculturists concerning the extent of the tree's Root Protection Area (RPA) because of the implications of the retaining wall. No details on the depth of this wall's foundations have been provided and this could not be established during the site visit. However, and although the comments of the council's Arboriculturist have been carefully considered, because of the significant difference in ground levels between the tiers and the likely depth of any raft foundations for the proposed extension, the appeal scheme would not cause significant damage to the tree's root system.
8. The council's Arboriculturist has also expressed concerns about the proposed development increasing the potential for lopping works to the tree's canopy or pressure to fell the tree. The design of the proposed rear extension includes windows that would face towards the tree at a later date. At ground floor level, the window serving the habitable room would have an outlook not visually dominated by the tree and its canopy. By reason of its siting and size, this proposed opening would also enable adequate daylight to reach this habitable room notwithstanding the extent of the tree's canopy.
9. At first floor level, the proposed windows of the office and bedroom would have an outlook towards the canopy of the tree. By reason of the proximity, the canopy would restrict the outlook from these windows and also adversely affect daylight and sunlight reaching these rooms. Further, being category A1, the tree still has the potential to grow and this would most likely further reduce both the outlook and the levels of daylight and sunlight reaching the proposed first floor windows. For these reasons, there would be the potential for the future occupiers to at least seek consent to lop the tree's crown to improve the living conditions associated with these proposed habitable rooms. There may also be pressure for more extensive works involving the felling of the tree.
10. Therefore, the council's Arboriculturist's concerns about the proposed extension increasing the potential for lopping of the canopy or even felling a protected tree are in this case are well founded. Accordingly, there is no certainty that the proposed development could be erected without detriment to the protected tree at a future date. Such detriment would have the potential to diminish the positive contribution made by the tree to the visual amenity, character and appearance of the surrounding area. Accordingly, it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area and, as such, it would conflict with Policy NR2 of the Borough Local Plan 2013-2033 (LP). Amongst other matters, this policy requires development proposals to carefully consider the individual and cumulative impact of

a proposed development on existing trees, including those that make a particular contribution to the appearance of the streetscape and local character/distinctiveness.

Protected Species

11. The Council has identified that the property is within 200 metres of a woodland which has the potential for roosting bats. The bat trigger prepared by the Bat Conservation Trust indicates that there could be the potential for bats to roost at the property, particularly because there is weatherboarding. In the absence of any survey information about the presence of this protected species and the level of activity, it is not possible to ascertain the likely impact, if any, on bats. Therefore, and in the absence of being able to identify appropriate mitigation, it is not possible to be satisfied that the imposition of conditions would be appropriate in this case because there is no certainty that no adverse harm would be caused to a protected species and its habitat and a licence would be issued to undertake the proposed development.
12. For these reasons and in the absence of any evidence to the contrary, it is concluded that the proposed development could cause unacceptable harm to protected species and, as such, there could be a conflict with LP Policy NR2 which refers to protected species and habitats being safeguarded from harm or loss.
13. Accordingly, for the reasons given, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR