Planning Inspectorate

Appeal Decision

Site visit made on 1 February 2025

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2025

Appeal Ref: APP/N1730/D/24/3351457
10 Magnolia Way, Fleet, Hampshire GU52 7JZ

- 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 Clarke against the decision of Hart District Council.
- The application Ref is 24/00913/HOU.
- The development proposed is erection of a two-storey front infill extension and front porch. Alterations to existing roof and fenestration.

Decision

1. The appeal is dismissed.

Main Issue

2. The Council raises no objections to the appeal proposal in terms of the design of the front infill extension or its effect on the living conditions of neighbouring occupiers. Furthermore, there are no objections to the proposed alterations to the roof and fenestration. There are no reasons to disagree.

3. The main issue in this appeal, therefore, is the effect of the appeal proposal on an oak tree protected by a Tree Preservation Order (TPO).

Reasons

4. The TPO protected tree is a 20m high, mature oak standing in the front garden of 10 Magnolia Way (No 10), close to its eastern boundary. It appears to be in good physiological and structural condition. The oak is visible in the street scene from a wide area and has high amenity value. It is also designated as a Category A tree by the Council.

5. The canopy of the oak spreads over part of the front garden of the appeal property. The proposed front extension would be within its Root Protection Area (RPA). It is proposed to construct the extension using a pile and slab foundation. There would be 4 piles with a suspended slab above the existing soil level. The inner floor of the extension would comprise timber joists suspended off the existing house slab and the new piled slab, with a void beneath.

6. In support of the proposal, the appellant submitted an Arboricultural Planning Report (APR). This includes an Arboricultural Method Statement which proposes a precautionary approach towards tree protection during the proposed construction. This accords with the requirement of British Standard 5837:2012 *Trees in relation*

to design, demolition and construction - Recommendations (BS 5387) which provides guidance and recommendations for development in proximity to trees.

7. This appeal has been determined in the context of BS 5387 Clause 5.3.1 which states that 'the default position should be that structures are located outside the RPAs of trees to be retained. However, where there is an overriding justification for construction within the RPA, technical solutions might be available that prevent damage to the tree'. This default position is reinforced by Clause 7.1.1 of BS 5387 which states that 'construction within the RPA should accord to the principle that the tree and soil structure take priority, and the most reliable way to ensure this is to preserve the RPA completely undisturbed'.

8. The appellant's APR indicates that the foundations would be designed by an engineer on a site-specific basis, with arboricultural advice sought to ensure that any design takes sufficient account of the biological requirements of the oak. The smallest practical pile diameter would be used to minimise the risk of striking tree roots and to reduce the size of the piling rig that is required for their installation. Where uncured concrete is to be used, the piles would be sleeved to a minimum depth of 1m to prevent leachate from entering the rooting zone. This methodology would generally comply with the precautionary approach set out in BS 5837.

9. However, among other things BS 5837 Clause 7.5.2 indicates that site investigation should be used to determine the optimal location of piles. Paragraphs 7.8.6 and 7.9.2 of the APR refer to the requirement for exploratory site investigations to be carried out prior to installing piled foundations and that if major roots are found, then piles will be relocated to an alternative position as specified by a structural engineer or other appointed person.

10. It therefore appears that the relevant site investigations have not yet been undertaken, even though the evidence with this appeal and my observations at the site visit indicate that there is a realistic potential for major roots to be affected by the proposal. Furthermore, the identified location of the piles may well have to be revised once site investigations have been carried out. There could then be consequential changes to the design of the proposed extension. To my mind the absence of completed and evidenced site investigations introduces a lack of certainty which renders the appeal proposal too imprecise to be acceptable in the circumstances of the appeal site's context.

11. In my judgement, a completed site investigation is also required to accurately assess the acceptability of the proposed works in the context of previous construction activity nearby. Such an approach would accord with BS 5837 Clause 5.3.2 which refers to the cumulative effects of incursions into the RPA which can be damaging and should therefore be avoided.

12. The site investigation could confirm the acceptability of the proposals in this regard or could find that further loss of rooting area and pressure on the oak's RPA would be unacceptable. It appears to me unlikely that these effects, if identified, could be mitigated within the curtilage of No 10 or elsewhere due to constraints around the site. Therefore, further evidence is required to convincingly demonstrate that the proposed works would not push the tree beyond an acceptable tolerance of further disturbance and alteration of its growing conditions.

13. Although it is not included in the reason for refusing planning permission, the Council's officer report and tree officer consultation refer to the absence of an overriding justification for the appeal proposal. BS 5837 Clauses 5.3.1 and 7.1.3, indicate, in summary, that the potential impact of a proposal on a tree should be assessed where no alternative design solutions are available. I therefore consider it reasonable to consider this further. The appeal proposal is for an extension to No 10 to provide additional living space. No evidence has been provided to support a need for the proposed extension. Furthermore, there are no details demonstrating why the required accommodation could not be provided outside the RPA. Based on the submitted evidence, I conclude that there is no overriding justification for the proposal which would outweigh the potential harm to the oak.

14. Overall, I conclude that there is insufficient justification for the proposed incursion into the RPA of the protected oak. It has not been demonstrated that the tree would remain viable in the long term. Damage to, and ultimately, the loss of this protected tree would harm the character and appearance of the surrounding area. Furthermore, as set out above, the proposal fails to address some elements of the guidance and recommendations of BS 5837.

15. Accordingly, the appeal proposal conflicts with Policies GEN1 and CON8 of the Hart District Local Plan (Replacement) 1996-2006 and Policy NBE9 of the Hart Local Plan (Strategy and Sites) 2032 which, collectively and among other things, seek to protect the character and appearance of the District and allow development only where it has been demonstrated that affected trees are capable of being retained in the longer term.

16. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Elaine Benson

INSPECTOR