



Appeal Decision

Site visit made on 30 November 2022

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 DECEMBER 2022

Appeal Ref: APP/D3640/D/22/3306009

4 Brompton Gardens, West End, Woking, Surrey GU24 9GN

- 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 N Murphy against the decision of Surrey Heath Borough Council.
 - The application Ref 22/0435/FFU, dated 3 May 2022, was refused by notice dated 12 August 2022.
 - The development proposed is erection of single storey side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, specifically relating to a protected tree.

Reasons

3. The appeal property is a 2-storey detached house on a moderate sized plot. The house is positioned in the middle of the plot with garden space on all sides. Not far from the property is a protected oak tree (TPO/06/22), which although is located within a neighbouring property's rear garden, is positioned close to the boundary fence with the appeal property. Some principal branches of the tree currently overhang the garden space of the appeal property where the proposed extension would be located.
4. I saw on site that the protected oak tree is a significant feature of Brompton Gardens that provides an attractive vista from the access drive. It can also be seen from other parts of the wider residential area, including Beldam Bridge Gardens and Lucas Drive, and is a positive addition to the street-scene in these locations. Overall, it is a good size and makes an important contribution to the verdant character of the area.
5. The proposal is supported by a Tree Report prepared by SMW (Tree) Consultancy Ltd. It identifies that the foundations of the proposed extension would intrude into the Root Protection Area (RPA) of the protected tree. It calculates the intrusion to be 3.59%. It concludes that, given the tree has no other root growth restriction, this very minor intrusion would not affect the trees current health provided specialist foundations are used.
6. I understand that British Standards on Trees in Relation to Design, Demolition and Construction (BS5837) recommend locating structures outside of the RPA

of trees to be retained, and where operations are proposed within the RPA, it should be demonstrated that the tree can remain viable and that the area lost encroachment can be compensated for elsewhere, contiguous with its RPA. The likely tolerance of the tree to root disturbance or damage, based on factors such as species, age, condition and past management should also be considered.

7. As identified in the comments of the Council's Arboricultural Officer, there has been previous incursions into the RPA of the protected tree. I saw on my site visit that there is a driveway to the north and shed at the base of the tree that have both been constructed within the RPA. In addition, there was also a pergola type structure within the RPA. It is likely that these incursions would have reduced the RPA of the tree, however it appears that they have not been taken into consideration in the Tree Report. The Tree Report therefore does not adequately assess the impact of the proposal on the tree, and despite the proposed specialist foundations, there is no evidence before me that the tree would remain viable after further incursion into its RPA.
8. In terms of future pressure to prune or remove the tree, although the amount of canopy which would overhang the proposed extension could be considered small, I saw it would include some principal branches. The branches would be significantly higher than the single storey extension and therefore there would be no risk of direct damage to the extension from contact with these branches moving in the wind. Also, given the relationship between the proposed extension and the tree and the position of the proposed windows, it is unlikely that there would be a significant impact on the light received by or the outlook from the extension. Nonetheless, there would be leaf litter that would likely affect gutters and there would also be the perception that significant damage to the extension would result if the tree was compromised in any way. Given this, despite the tree being protected, there is a tangible risk that the proposal would result in future pressure to extensively prune or remove the tree.
9. The appellant has provided a map showing the location of oak trees in the surrounding area of West End where there has been planning applications approved for development that has resulted in RPA encroachment greater than the 3.6% that would result from the proposal. However, I do not have any details of the approved developments before me, nor any details of the affected trees with regards to their condition or value or whether they are protected. In any event, each application should be judged on its own merits. I have judged the proposal based on the evidence before me and my own observations and cannot rule out harm to the long-term viability of the protected tree.
10. For the reasons above, it has not been demonstrated that the proposal would not result in harm to the long-term viability of the protected tree. The proposal therefore conflicts with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies (2012), which seeks to ensure that new development protects trees. It would also conflict with the aim of the National Planning Policy Framework to retain existing trees wherever possible.

Other Matters

11. The appellant asserts that there have been procedural failings during the Council's determination of the application. It has been put to me that the Council failed to discuss the application with the appellant. Also, that the Council did not allow opportunity for the tree report to be updated or for

resolutions to be identified to address the concerns raised by the Council's Arboricultural Officer. Whether or not that was the case, and while I appreciate the appellant is keen to identify an agreeable design solution, I must consider the appeal before me and cannot rule out harm to the long-term viability of the protected tree.

Conclusion

12. With regard to the above, I find the proposal would conflict with the development plan, read as a whole. It has not been demonstrated that there are any material considerations of sufficient weight to indicate that a decision should be taken otherwise in accordance with it. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR