

*Delegated Report
Oakwood, 203 High Road, Chigwell, IG7 5BJ
EPF/1100/22*

Description of Site:

The application site is a two storey detached dwelling on the Northwest side of the High Road in Chigwell. There are no listed buildings attributed to the site and it is not within a Conservation Area. The site is not within the Metropolitan Green Belt. Two TPO protected trees are present on the site.

Description of Proposal:

Proposed single storey and two storey side and rear extension, front porch, conversion of garage into habitable room, rear conservatory and enlargement of the rear dormer (Revised application to EPF/0676/21)

Relevant Site History:

EPF/0676/21 - Proposed single storey & two storey side & rear extension, front porch, conversion of a garage into a habitable room, rear conservatory & enlargement of a rear dormer – Refuse Permission:

1. The proposed development fails to demonstrate that it would not adversely affect a legally protected tree which is located in the rear garden. The potential loss of this tree is contrary to Policy LL10 of the Adopted Local Plan and with Policy DM 5 of the emerging Local Plan.

Policies Applied:

Epping Forest Local Plan and Alterations (1998/2006)

The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

CP1 – Achieving sustainable development objectives
CP2 – Protecting the quality of the rural and built environment
DBE2 – Effect on neighbouring properties
DBE8 – Private amenity space
DBE9 – Loss of amenity
LL10 – Adequacy of provision for landscape retention

Epping Forest District Local Plan (Submission Version) 2017

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 48 of the NPPF.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

In general terms it is considered that the Submission Version of the Plan is at an advanced stage of preparation and the policies are considered to be consistent with the NPPF. As regards unresolved objections, some policies within the Submission Version have more unresolved objections than others. All of these factors have been taken into consideration in arriving at the weight accorded to each of the relevant policies in the context of the proposed development listed below:

SP1 - Presumption in Favour of Sustainable Development
 DM3 - Landscape Character, Ancient Landscapes and Geodiversity
 DM5 - Green and Blue Infrastructure
 DM9 - High Quality Design

Summary of Representation:

No. of neighbours consulted: 23, 1 comment received

205 HIGH ROAD: COMMENT – neighbours have not had the opportunity to discuss the plans with the applicants at the time of writing, so are unable to fully comment on the scheme.

PARISH COUNCIL: No comment at the time of writing

Main Issues and Considerations:

The main issues to consider for the assessment of the application are as follows:

Trees and Landscaping
 Design
 Impact on the Living Conditions of Neighbours

Trees and Landscaping

The Council's Trees and Landscaping team were consulted on the application and have provided the following comments:

We OBJECT to this application on the grounds that it is contrary to –
 Policy DM5 Submission version of EFDC Local Plan (Dec 2017) – ‘Development proposals must be accompanied by sufficient evidence to demonstrate that the retention and protection of trees (including veteran trees)...’

Policy DM3 Landscape character, Ancient Landscapes and Geodiversity – ‘...proposals should be sensitive to their setting in the landscape, and its local distinctiveness and characteristics’

Justification

We raise no objection to the side extension, front porch, conversion of garage or enlargement of the rear dormer. This objection relates to the rear extension / conservatory.

In the rear garden there is a large oak tree – the submitted Arb report ages this as ‘over mature’ and comments that it is a possible veteran tree. We have visited the site and do consider that the tree is a veteran. In view of the historic and conservation value of this tree it was made the subject of a Tree Preservation Order (ref TPO/EPF/08/21).

The garden of the property measures approx. 15metres from the existing rear elevation of the house to the rear boundary fence. There is an existing patio of approx. 5metres in depth, and a raised wooden decking area that leads from this patio and encompasses the stem of the oak. There is also a considerable change in levels between the house and existing patio level and the level of the garden in the vicinity of this tree.

The proposal is to place a 5metre depth, single storey extension on the patio area and then to create a new 5 metre patio. Unfortunately, the submitted architects drawings have not shown the existing or proposed layout in relation to the tree, however the Arb reports ‘tree protection plan’ clearly shows the relationship.

We have a number of issues with the proposal –

- Published guidance on working within the calculated rooting area of veteran trees
- Arb report – calculated rooting area
- Future liveability

The oak is a veteran (and the subject of a TPO). Veteran trees typically provide a range of niche habitats associated with species of fungi, lichens and saproxylic invertebrates, some of which are rare or endangered and only occur on trees that have achieved veteran status. Whilst we fully accept that there are methodologies for construction of new buildings within a trees calculated rooting area (as shown on the submitted structural design drawing) we are advised from several sources that such methodologies should not be undertaken within the rooting areas of veteran trees.

We take our guidance on this from a number of sources –

- Paragraph 180(c) of the NPPF (updated 2021) ‘development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.’ An example of an exceptional reason is given as nationally significant infrastructure projects where the public benefit would clearly outweigh the loss or deterioration of habitat. That is not the case with this proposal.

- British Standard BS5837:2012 ‘Trees in relation to design, demolition and construction – Recommendations’. Section 4.5.11 advises that where veteran trees are present ‘The implications of their presence on the use of the surrounding land should be assessed at the earliest possible stage of the design process. Where such trees are to be retained, particular care should be taken in the design to accommodate them in a setting that aids their long-term retention.’ And in the section on ‘permanent hard surfacing within the RPA’ (section 7.4) we are advised that this section ‘does not apply to veteran trees, where it is recommended that no construction, including the installation of new hard surfacing, occurs within the RPA.

- Government Standing advice (ie a material planning consideration) – ‘Ancient woodland, ancient trees and veteran trees: advice for making planning decisions’ (Published Jan 2022) advises that ‘A buffer zone around an ancient or veteran tree should be at least 15 times larger than the diameter of the tree. The buffer zone should be 5m from the edge of the tree’s canopy if that area is larger than 15 times the tree’s diameter’.

So, based on these publications and the research undertaken when producing them we object to the proposal. We fully accept that the existing house and patio are within the calculated rooting area of this tree. However, when the house was originally built there was

little, if any guidance on development near trees. As this is a new proposal we have to apply current guidance and policies to the application. None of these publications suggest that the guidance only relates to trees on open land as opposed to those in private gardens, as such we consider that the guidance relates to veteran trees irrespective of the adjacent land use.

The submitted Arb report advises the oak has a stem diameter of 100cm. So ordinarily we would multiply this by 12 to calculate the trees rooting area (as described within section 4.6.1 of BS5837:2012) which equates to 12m radius. However, Government Standing Advice advises that 'A buffer zone around an ancient or veteran tree should be at least 15 times larger than the diameter of the tree. The buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter'. The Arb report has not taken this into account.

We also have concerns regarding the 'future liveability' of the property. The majority of this part of the garden space is taken up with the crown spread of this tree, and the proposal would see the new patio retained under its crown. A tree at this close a proximity to the new extension could lead to applications to cut back or fell the tree due to limited sunlight to the conservatory and apprehension by the owners that that the tree may fall and hit their house, or that it is over bearing on the house. Section 5.3 of BS5837:2012 guides us to consider the 'characteristics and condition of the trees, with due allowance and space for their future growth and maintenance requirements' which we do not consider has been taken into account. We consider this is a foreseeable future issue with this proposal, and it should be considered at design stage, it is not appropriate that this is left to post development via applications to work to protected trees, particularly given the veteran status of this tree.

To conclude, we consider that it has not been satisfactorily demonstrated that the proposal could be implemented without a detrimental impact on this veteran tree; and that if developed as proposed it is foreseeable that there will be future pressure by the owners for unacceptable levels of work / felling of the tree.

Design

The proposal involves the erection of a part single, part two storey rear extension, the conversion of a garage to a habitable room, the construction of a front porch, enlarging an existing rear dormer and the erection of a rear conservatory.

The two storey extensions would be a continuation of the main ridgeline and would be subservient additions to the main dwelling. The rear conservatory would also be a subservient addition and of a neutral appearance. The front porch would also provide a neutral appearance to the dwelling, as would the enlarged dormer. Overall there are no design concerns with the proposal.

Impact on Living Conditions

Due to the sufficient distance away from neighbouring dwellings and north facing orientation of the site, it is considered that the development would not cause excessive harm to the living conditions of neighbours in regard to loss of visual outlook, loss of light or loss of privacy.

Conclusion:

The proposed development fails to demonstrate that it would not adversely affect a legally protected tree which is located in the rear garden. The potential loss of this tree is contrary to Policy LL10 of the Adopted Local Plan and with Policy DM 5 of the emerging Local Plan. It is recommended that planning permission is refused.