
Appeal Decision

Site visit made on 3 October 2016

by Mike Hayden BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 October 2016

Appeal Ref: APP/Q3060/W/16/3152823

Land adjacent to 18 Gregory Street, Nottingham NG7 2LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by PDRH Ltd against Nottingham City Council.
 - The application Ref 16/00531/PFUL3, is dated 7 March 2016.
 - The development proposed is the erection of 2 no. C3 class dwellings, creation of a new vehicular access and removal of 3 no. trees (T1-T3) which are the subject of tree preservation orders.
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Decision

1. The appeal is dismissed and planning permission is refused for the erection of 2 no. C3 class dwellings, creation of a new vehicular access and removal of 3 no. trees (T1-T3) which are the subject of tree preservation orders.

Main Issues

2. The Council did not issue a 'decision notice' following the submission of this appeal against non-determination, but has set out the reasons for which it would have been minded to refuse the application in its appeal statement. Taking account of this, the appellant's statement of case and representations from neighbouring occupiers and other interested parties, the main issues in this appeal are:
 - whether the proposed development would preserve or enhance the character and appearance of Old Lenton Conservation Area, including the setting of non-designated heritage assets at 18 and 20 Gregory Street; and
 - the effect of the proposed development on the living conditions of future occupiers, with regard to outlook, daylight/sunlight and private amenity space, and of the occupiers of 20 Gregory Street, with regard to privacy.

Reasons

Character and Appearance

3. The appeal site comprises the former garden to 18 Gregory Street, one of the original buildings in the Old Lenton Conservation Area, which dates back to the origins of Old Lenton as a rural village. Although the site is now in separate ownership and the garden has become somewhat overgrown and unkempt, it was evident from my site visit that its openness and mature trees continue to make a positive contribution to the character and appearance of the Conservation Area. It helps to preserve the remnants of the more open grain
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of development still seen along Gregory Street, which reflects the rural history of the village. The site also provides the landscaped setting to 18 and 20 Gregory Street, both locally listed buildings, the views, orientation, form and architecture of which comprise some of distinctive features of special interest defining the character and appearance of the Conservation Area as a whole.

4. It is common ground between the main parties that the appeal site could, nevertheless, accommodate some residential development. Permission was granted in 2003 and 2004 for a single dwelling on the site, which preserved the character and appearance of the site and the Conservation Area. The approved dwelling had a simple elongated form reflecting the character of the historic buildings along Gregory Street. It was orientated to face the street, respected the building line and retained sufficient of a set back from the front boundary to preserve the openness of the site and views of no. 18.
5. However, the appeal proposal would insert two detached dwellings into the former garden to no. 18. Although set back from the front boundary behind the line of mature trees, the dwellings would sit well forward of the front wall of the house at no. 20, which defines the predominant building line on this side of Gregory Street. The dwellings would also be separated by a relatively narrow gap of around 2 metres and their combined built footprint would extend across much of the distance from the front to the back of the site. The overall effect of this would be a visually cramped development, particularly in comparison with the space surrounding the properties at 18/18a, 18b and 20 Gregory Street, which would harm the open character and appearance of the site and its contribution to the Conservation Area. The forward position of the dwellings on the site would also partially obscure views of no. 18, harming its setting as an important feature at the southern entrance to the Conservation Area.
6. The shape and design of the proposed dwellings, in particular the gabled roof projections of varying widths and the long narrow rear extension to the house on plot 2, would also jar with the simpler historic form and architecture of the adjacent buildings at nos. 18 and 20. I acknowledge that Old Lenton has undergone significant infill development, particularly during the last century, resulting in a variety of more contemporary styles of dwelling along Gregory Street and elsewhere within the village. However, the close relationship of the appeal site with the locally listed buildings at nos. 18 and 20 is such that the contemporary architecture of the proposed scheme would cause harm to the setting, character and appearance of these properties and their contribution to the Conservation Area as a whole.
7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 132 of the National Planning Policy Framework (the Framework) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a conservation area, great weight should be given to the asset's conservation. Paragraph 133 goes on to say that where a proposed development will lead to substantial harm, consent should be refused, unless outweighed by public benefits.
8. In this case, I consider that the impact of the proposed development on the openness of the appeal site and on the setting, character and appearance of 18

and 20 Gregory Street, as described above, would cause substantial harm to the character and appearance of the Old Lenton Conservation Area as a whole. I acknowledge that the appeal proposal would bring an unkempt site into positive use for new housing. However, the current condition of the site is not such as to persuade me that the benefits arising from the proposed scheme would either enhance the Conservation Area or outweigh the harm which would be caused to its character and appearance.

9. Accordingly, I conclude that the proposed development would fail to preserve or enhance the character and appearance of the Old Lenton Conservation Area. Consequently, it would be contrary to Policies 10 and 11 of the Greater Nottingham Aligned Core Strategies Local Plan (Part 1) (2014) (Core Strategy) and saved Policy BE12 of the Nottingham Local Plan (2005), which seek to conserve locally and nationally important heritage assets and ensure development preserves or enhances the character or appearance of Conservation Areas. It would also conflict with paragraphs 132 and 133 of the Framework, as explained above.

Living Conditions

10. The proposed dwellings would be orientated with their principal elevations facing the front and southern side boundaries of the appeal site. The presence of mature trees along both of these boundaries and the proximity of the dwellings to the tree canopies would be likely to result in a degree of overshadowing to the main living rooms and bedrooms, particularly in the summer months.
11. However, at the time of my site visit, the majority of the site was in sunlight. It is also proposed that the Hornbeams along the southern boundary of the site would be reduced to 3 metres in height to form a hedge, lessening their overshadowing effect on the house on plot 2. The Council's tree officer supported this in principle as a way of managing the protected Hornbeams. Therefore, in the absence of more detailed sunlight and daylight evidence, I am not persuaded that the habitable rooms of the two proposed dwellings would be unduly overshadowed.
12. With regard to garden space, plot 1 would benefit from a west facing private garden to the rear of the property, which aside from a single mature tree on the boundary with 18a Gregory Street, would be largely open and unaffected by tree cover. The garden to plot 2 on the south side of the proposed dwelling would be substantial in area, measuring some 22 metres wide by between 5 and 8 metres deep. Whilst the front section of the garden would be overshadowed by two Sycamore trees on the front boundary of the site, the proposed works to the Hornbeams along the southern boundary would ensure the remainder of the garden provided an acceptable standard of private amenity space to future occupiers, which would not be unduly overshadowed.
13. I have also considered the concern expressed by the occupiers of 20 Gregory Street, about the potential effect of the proposed development on the privacy of their front and rear gardens. Whilst the main habitable rooms to the dwelling on plot 2 look towards no. 20, the combination of the separation distances, the side wall to no. 20 and the oblique angles of view from upper floor windows of plot 2 would prevent in any significant overlooking of the private garden areas to no. 20.

14. Therefore, I conclude that the appeal proposal would not result in unacceptable living conditions for future occupiers of the proposed dwellings, in terms of outlook, daylight/sunlight or private amenity space, nor that the privacy enjoyed by the occupiers of 20 Gregory Street would be unduly harmed. Accordingly, it would be consistent with criterion 2(f) of Policy 10 of the Core Strategy, which seeks to ensure development achieves an acceptable impact on the amenity of neighbouring residents and paragraph 17 of the Framework, which seeks a good standard of amenity for all existing and future occupants of buildings.

Other Matters

15. I note the vehicular access and parking spaces to serve the two dwellings would satisfy highway safety and parking standards and that the proposed development would meet the Sequential and Exception Tests in respect of flood risk and mitigation.

Conclusion

16. Whilst the proposal would be acceptable in terms of its effect on living conditions, highway safety and flood risk and would bring an unkempt site back into positive use, these considerations do not overcome or outweigh the substantial harm the proposed development would cause to the character and appearance of the Conservation Area. Accordingly, for the reasons given above and having taken account of all other matters, I conclude that the appeal should be dismissed.

M Hayden

INSPECTOR