

Appeal Decision

Site visit made on 15 November 2016

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 12 December 2016

Appeal Ref: APP/U5930/W/16/3157590

20 Windmill Court, Grosvenor Park Road, Walthamstow, Essex E17 9PG

- 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 Adbul Latif against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 161200, dated 19 February 2016, was refused by notice dated 17 May 2016.
 - The development proposed is the erection of a two storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The street names on the application form and the appeal form are different. For clarity, I have used the street name from the appeal form, which reflects my observations on site. Also, as the Council have confirmed the site is within the Orford Road Conservation Area (ORCA), I have considered the appeal on this basis.

Main Issue

3. The main issues are (i) whether the proposed development would preserve or enhance the character or appearance of the ORCA, including the effect of the proposed removal of the protected Lime trees; and (ii) the effect of the proposed dwelling on the living conditions of the occupants of Windmill Court, with regards to daylight, outlook and communal amenity space provision.

Reasons

Character and Appearance

4. The appeal site is adjacent to 20 Windmill Court which has been converted from its previous use as The Windmill public house into flats. No 20 is situated on a prominent corner in the ORCA and is an elaborate building with a shallow pitched slate roof, deep eaves and elaborate decorative brickwork. The appeal site forms part of the grounds of No 20 which has retained the appearance of a substantial domestic house set within a landscaped garden. Grosvenor Park Road offers an attractive tree-lined approach to the site, lined by a mix of two storey cottages, villas, semi-detached and terraced houses that typify the Victorian era. A group (G3) of Lime trees that are protected by Tree
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Preservation Order (TPO) 8/97 extend alongside the eastern boundary of the site adjacent to Eastbank Close.

5. The proposed dwelling would occupy a relatively narrow plot. Although the dwelling has been designed to reflect the adjacent Victorian Villas, in terms of its setback, hipped roof, fenestration and the use of materials, the dwelling would nevertheless be narrow and occupy the vast majority of the available plot width. Whilst I recognise a mixture of styles can be found locally, the proposal would significantly alter and harm the character and appearance of the ORCA, in that the proposed development would end the impression of No 20 being a substantial domestic house set within a landscaped garden.
6. The Lime trees are considered to be in a fair condition according to the Arboricultural Impact Assessment (AIA) despite being outgrown pollards. The most visible tree is T2 due to its position near to the front boundary. Even though T2 is to be retained, T3 and T4 would be lost. In combination, T2, T3 and T4 are part of the attractive leafy approach provided by street trees that characterises Grosvenor Park Road. Trees T5 to T8 contribute to the character and appearance of the site and No 20, but their role is less significant in the ORCA as they are set back and screened by development either side. By retaining T8, it would continue to contribute to the ORCA.
7. While some decay may be present within or beneath the pollard head of each Lime, the life expectancy of each tree remains between 20 and 40 years. I recognise that due to the placement of trees within the group and the tendency for Lime trees to grow quite large, regular maintenance would be required and they may result in subsidence or potential damage to 18 Grosvenor Park Road. Nevertheless this is not sufficient justification for the removal of six Lime trees, some of which play a vital role in the character and appearance of Grosvenor Park Road and the ORCA.
8. As the AIA acknowledges there are few opportunities for replacement planting other than a living green wall on either flank elevation or four new trees at the front and rear of the site. Although the appellant is willing to enter into a Section 106 agreement to deliver several trees in Grosvenor Park Road or surrounding roads, no agreement has been submitted as part of this appeal. Whilst a living green wall would assist in maintaining a leafy setting, the majority of each living green wall would be screened from view by neighbouring built form and the hedge along the front of the site. Whereas the canopies of the Lime trees extend above the eaves line of No 20 and would still contribute to the ORCA for a substantial period of time.
9. Thus, I consider the proposed development would be cramped and would lead to a significant harm to the character and appearance of the ORCA which would be magnified by the loss of a number of Lime trees subject of a TPO. The result of this would be a prominent form of development which would fail to preserve or enhance the character or appearance of the ORCA. This harm would not be mitigated by the living green walls, even in the long term.
10. With regard to paragraph 134 of the National Planning Policy Framework (the Framework) the harm to the ORCA would be less than substantial. Even so this still amounts to a harmful impact which adversely affects the significance of the ORCA as a heritage asset. Public benefit would arise from a dwelling being built on a previously developed site in a sustainable location close to a wide variety of facilities and services. Occupants would also benefit from compliance

with design criteria found in Lifetime Homes. However, the harm to the ORCA and the site would, to which I attach considerable importance and weight, in my view, clearly outweigh this modest public benefit.

11. I therefore conclude, on this issue, that the proposed development would harm the character and appearance of the Grosvenor Park Road, including through the loss of a number of protected Lime trees which would not preserve or enhance the character or appearance of the ORCA. The proposal would therefore be contrary to Policies CS2, CS12, and CS15 of the Waltham Forest Local Plan Core Strategy (Core Strategy), Policies DM28 and DM29 of the Development Management Policies Local Plan (DMPLP), the Urban Design Supplementary Planning Document (UDSPD) and paragraph 134 of the Framework. These policies and guidance, together, amongst other things, seek to secure high quality design that preserves or enhances local distinctiveness and the character and appearance of the conservation area.
12. Although the Council refer to Core Strategy Policy CS13 and Policy DM32 of the DMPLP on this issue, these policies, amongst other things, seek to promote health and well-being and ensure development does not adversely affect the living conditions of neighbours. They are not therefore relevant to this issue.

Living Conditions

13. The flank elevation of No 20 contains habitable windows at basement, ground and first floors. These windows face north east and serve a combination of bedrooms and kitchens. Windows in the basement are set beneath external ground floor level which is held back by a brick retaining wall with iron railings above. Occupants in the ground and first floors have direct views out into the amenity area and towards the row of Lime trees.
14. Due to the proposal's two storey height it would introduce a solid wall that would severely restrict the amount of daylight that each of the rooms in this elevation would receive, in particular during the morning. The bedrooms and kitchen would as a result be gloomy. Also, because of the close proximity of the proposal to No 20, it would remove the current outlook that these rooms enjoy. Instead of looking out onto the amenity space, occupants would have an outlook onto a living green wall. Whilst the appellant considers this a form of mitigation, it is not a view that I share. By positioning the dwelling directly opposite and in close proximity to these windows, the proposed development would create an oppressive relationship that would lead to a detrimental loss of daylight and outlook in these rooms, especially to those in the basement and ground floors.
15. I could see that the existing communal amenity space was not fenced off and was being used for storage, gardening and the storage of refuse. Even though the proposed dwelling would be supported by a satisfactory amenity space, it would result in the complete loss of the communal amenity space for the flats. Although there are areas of hardstanding to the front and side of No 20 which could be used to dry washing, but these areas are small.
16. Wingfield Park is opposite the site and is very accessible, but most of the park contains playground equipment. I do not therefore consider that it offers a satisfactory form of communal amenity space provision for the occupants of the flats. It would be a reasonable expectation of occupants to be able to socialise or store refuse and recycling in their own communal amenity space.

17. For these reasons, on this issue, I conclude that the proposed dwelling would significantly harm the living conditions of the occupants of Windmill Court, with regards to daylight, outlook and communal amenity space provision. The proposal would be contrary to Policies CS2, CS13 and CS15 of the Core Strategy, Policies DM7, DM29 and DM32 of the DMPLP and the UDSPD. These together, amongst other things, seek development that makes a positive contribution to improving health and reducing health inequalities to create successful communities by providing external amenity spaces and maintaining the standard of daylight and outlook for existing occupants.

Conclusion

18. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR