

## Appeal Decision

Site visit made on 14 March 2017

**by Daniel Hartley BA Hons MTP MBA MRTPI**

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

**Decision date: 23 March 2017**

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**Appeal Ref: APP/N5090/W/16/3164405**  
**Parkside, Hadley Common, Barnet EN5 5QG**

- 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 and Mrs Luay and Carolyn Allawi against the decision of the Council of the London Borough of Barnet.
  - The application Ref 16/4842/FUL, dated 18 July 2016, was refused by notice dated 21 September 2016.
  - The development proposed is the demolition of the existing dwelling and the erection of a single replacement dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Council has referred to the Totteridge Conservation Area Character Appraisal in the first reason for refusal appearing on its decision notice. The Council has confirmed that this was an administrative error and that it should have referred to the Monken Hadley Conservation Area Character Appraisal Statement 2007 (Character Appraisal). I have therefore determined this appeal taking into account the latter document.

### Main Issue

3. The main issue is whether or not the proposal would preserve or enhance the character or appearance of the Monken Hadley Conservation Area including the effect of the proposal upon protected trees.

### Reasons

#### *Conservation Area*

4. The appeal site comprises one large dwelling known as Parkside (previously two dwellings known as Parkside and Bonnyes) which is positioned within a very large residential plot, is set back from the main road (Hadley Common) and includes significant and mature landscaping (including some trees which are the subject of a Tree Preservation Order) within its gardens. Whilst the appeal property is used as one single residence, there is a difference between the original Parkside dwelling, which is symmetrically arranged around a central portico enclosed entrance doorway, and the former Bonnyes dwelling which does not have the same sense of symmetry and is lower in height.
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5. The site falls within the Monken Hadley Conservation Area (CA). There are other large and imposing properties (for example Sylvan (now called Highclare House), Dixon and Latimer house) in the immediate street. They are not identical in terms of appearance, but they follow an essentially linear pattern and they are similar in terms of their overall large scale. There is a sense of space between and around the existing buildings and an abundance of trees/shrubbery to the front of the dwellings and on the other side of Hadley Common (i.e. the copse of mature trees known as Hadley Woods). Collectively, these distinctive characteristics add positively to the character and appearance of the CA.
6. It is proposed to demolish the existing property and to erect a two storey dwelling (with accommodation in part of the roof space) constructed using handmade red bricks and brick quoins for the walls and with a central stone portico. There would be sash windows with stone surrounds. There would be two lower side wings to the main dwelling and the central element of the property would include two chimney stacks and front/rear dormer windows. A basement area is proposed which would extend beyond the front wall of the dwelling (including light wells) and which would partly be used for the parking of five vehicles with access gained via a car lift. The appellant has submitted an arboricultural impact assessment and preliminary arboricultural method statement prepared by Patrick Stileman Ltd: it is proposed to remove some existing trees/landscaping and to provide new planting.
7. The appeal site falls within Area 7 of the Character Appraisal which states at paragraph 7.7 that *"assessing each property individually, travelling in a north-westerly direction up towards the village centre, the listed Hadley Hurst is the first focal point after the previously highly vegetated boundary. This encloses some late 20<sup>th</sup> century properties which are of little architectural merit and are quite highly screened by vegetation"*. The host dwelling is one of the properties which are considered to be of *"little architectural merit"*, but nonetheless both this property and the other 20<sup>th</sup> century properties add positively to the character and appearance of the CA for the aforementioned reasons above.
8. I have carefully considered the scale, proportions, position and design of the proposed dwelling and how it would be viewed in the street-scene and from public areas. The appellant has usefully provided details about the other neighbouring 20<sup>th</sup> century dwellings (as it appears to have been requested at pre-application advice stage) and I am satisfied that in terms of height, footprint, position, bulk and overall scale, the proposed dwelling would sit comfortably and proportionately within the residential plot, and that there would continue to be a regularity of large spaces between and around residential dwellings in the street. In this regard, I do not agree with the Council that the development would result in a cramped or overly prominent building. It may be slightly larger than the existing dwelling, but when viewed from public areas, including the main road and the adjacent public footpath, I do not consider that the change would be material.
9. I acknowledge that the dwelling would be positioned slightly closer to the main road than is currently the case. However, the re-positioning would be relatively minor, and in this regard there would not be a significant change to character and appearance when viewed from the main road. The proposed dwelling would not depart significantly from the essentially linear pattern of

- development on Handley Common and there would continue to be a sense of space between the front of the proposed dwelling and the boundary with the main road. Existing frontage landscaping would continue to have a softening impact.
10. The Council has raised concerns about the provision of a basement (with light wells) to the front of the building. Whilst the Council considers that such development is not characteristic of the CA, I note that there is a basement which has been allowed at Highclere House (next door but one to the host property) which was allowed on appeal in 2009 (Ref APP/N5090/E/08/2091393). Furthermore, I note the appellant's references to other identified light wells in other parts of the CA. In any event, the provision of a basement, and the proposed light wells, would not be discernible to the passer-by given the nature of the underground proposal and the provision of boundary landscaping, and when viewed from within grounds of the appeal site, this development would not be intrusive, out of scale or prominent when read against the well-designed and substantial parts of the main dwelling.
  11. The proposed car lift would be a small structure, and whilst it may be noticeable when in use, particularly from within the site, this would only be for short periods of time. For the vast majority of time the relatively small lift/platform would be flush with the level of the surrounding land, as confirmed by the appellant, and would have a flagstone top to match the immediate surroundings. In visual terms this would be better than the car lift that exists at the nearby property at Grove End House which has a stainless steel appearance.
  12. Subject to the sensitive use of colour/material, for most of the time the car lift would not be prominent or conspicuous to passers-by or when viewed from within the residential plot. Any limited visual harm caused from when the lift was in use would be easily offset by the fact that for the most part cars would not be parked to the front of the building. This would ensure that the area to the front of the property was predominantly free from parked cars thereby positively promoting a sense of open space between the dwelling and the main road. Subject to a planning condition controlling the final appearance of the lift, I am satisfied that this part of the development would be acceptable and that it would preserve the character and appearance of the CA.
  13. None of the dwellings in the immediate area are identical in terms of appearance (as acknowledged by the Inspector who considered APP/N5090/E/08/2091393), but in general terms they have a greater sense of symmetry when compared to the host property which was formerly two dwellings. I consider that the proposal would seek to address this matter in so far that it would introduce a coherent and symmetrical property which would suitably reflect the scale, massing and proportions of the surrounding substantial dwellings. The proposed materials and fenestration details would add interest to the appearance of the building without it looking out of place when viewed from within the CA. Whilst the upper parts of the dwelling would be visible from the street, as is the case now, the frontage hedge and trees would continue to have a softening impact.
  14. In respect of the above matters, and in the context of Paragraphs 133 and 134 of the National Planning Policy Framework (the Framework), I conclude that in terms of the scale and design of the dwelling, including its basement and car

lift, it would preserve the character and appearance of the CA. Therefore, in this regard, no harm would be caused to the significance of the Conservation Area and the proposal would adequately accord with the design and conservation aims of Policies DM01 and DM06 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012; the Conservation Appraisal and the Framework.

### *Protected Trees*

15. In the rear garden it is proposed that some trees would be felled which are either in a poor condition and/or have low amenity value. However, most of the boundary trees/planting would be retained and significant new planting would be proposed (I noticed on my site visit that some planting had already taken place). Overall, and in this regard, subject to a planning condition requiring replacement planting in the rear garden, I do not consider that the proposal would cause harm to the character and appearance of the CA.
16. However, and notwithstanding the above, it is proposed to construct part of the dwelling within the root protection area (RPA) of Tree 24 which is a large Turkey Oak and which is a category B3 tree of *"moderate quality"*. The appellant's Arboricultural Impact Assessment and Preliminary Arboricultural Method Statement prepared by Patrick Sileman Ltd states that there is a *"25.2% incursion (blue hatching) over RPA by single-storey element and new patio area. This is 4% the tree's total RPA which is an insignificant amount particularly given that development is to one side of the tree only with roots entirely unaffected to the south, west and east"*. In addition, there would be almost a 2% incursion into the RPA of Tree 2 and a small incursion of the RPA of Tree 7 from the extended driveway.
17. In considering the views above, I have taken into account paragraph 5.3.1 of BS 5387:2012 (Trees in relation to design, construction and demolition – recommendations) which states that *"the default position should be that structures (see 3.10) 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(s) (see Clause 7). If operations within the RPA are proposed, the project arboriculturist should: a) demonstrate that the tree(s) can remain viable and that the area lost to encroachment can be compensated for elsewhere, contiguous with its RPA; b) propose a series of mitigation measures to improve the soil environment that is used by the tree for growth"*. Furthermore, paragraph 7.1.2 states *"the ability of a tree to tolerate some disturbance and alteration of its growing conditions depends on specific circumstances, including prevailing site conditions, and in general, the older the tree, the less successfully it will adapt to new conditions"*.
18. In respect of the above, the appellant has not persuaded me that there is an overriding justification for departing from the default position of ensuring that all structures are located outside of the RPA. The appellant states that the amount of incursion into the said RPAs of the aforementioned trees would not be significant, but I have very little information to persuade me that the trees would be unaffected/ would remain viable. Whilst I can understand the appellant's desire to seek planning permission for a dwelling which is of a size/design as proposed, this has to be weighed against the need to protect important trees.

19. Tree 24 is a large category B tree and makes a relatively positive contribution to the setting of the rear garden and to the overall character and appearance of the CA. It is of some age, and hence even a 4% incursion into the RPA could have a catastrophic impact upon its health and longevity. My concerns about the effects of the development upon existing trees more generally (including potentially Tree 24) is compounded by the fact that I do not have detailed information about the extent or position of utility apparatus/trenches. The appellant has stated that there are existing utility services and connections to the house and that it is not envisaged that there would be any changes arising out of the construction of the appeal building. However, a new dwelling is proposed and there may be a requirement to move existing utility services/connections. Given the number of protected trees on the site, I consider that this is the sort of information that should be submitted up front and not dealt with by planning condition.
20. Even if one were not to agree with my conclusion above, tree T24 would be in close proximity to the rear of the proposed dwelling and the appellant accepts that it would *"cast shade to the house"*. Whilst it may not cast shade to the entire dwelling, I do think that the amount of shade that would be cast would be of a magnitude whereby there would pressure to remove it all together. Given that the tree has high amenity value, I do not consider that this would be acceptable. I do not doubt that it would be possible to re-design the dwelling so that the entire property was outside of all the RPAs, and in turn, this would ensure that any pressure to remove existing trees was minimised. However, such a proposal is not before me.
21. For the collective reasons outlined above, I conclude that the proposal would not accord with the tree protection and amenity aims of Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 and Policy 7.21 of the London Plan 2016. Furthermore, the proposal does not fully and adequately accord with the guidance as contained within BS 5387:2012 (Trees in relation to design, construction and demolition – recommendations), as referred to in the appellant's arboricultural reports, which is a relevant and weighty material planning consideration.

### **Other Matters**

22. Given the distance of the appeal property from Hadley Hurst (a listed building), and taking into account the position and scale of the existing dwelling when compared to the appeal proposal, I conclude that the proposed dwelling would preserve the setting of the listed building, having regard to Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990.
23. I have taken into account comments made by consultees at planning application stage. These comments have been addressed in the reasoning above.
24. None of the other matters raised lead me to reach a different conclusion on the main issue.

### **Conclusion**

25. Whilst in design terms the proposed dwelling would preserve the character and appearance of the CA, part of it would be positioned within the RPA of a number of trees. The appellant has not provided adequate justification for

encroaching into the RPAs. In the absence of any compelling justification for encroaching into the RPAs, there is potential for significant harm to be caused to the overall health and longevity of such trees. In addition, I have insufficient information about the position and extent of proposed utility trenches/services and so cannot fully assess whether or not such development would have an adverse impact upon protected trees/other vegetation. Furthermore, and in any event, Tree T24 is in close proximity to the rear of the proposed dwelling and would shade parts it: therefore there would likely be pressure to unacceptably remove this tree which has a high amenity value. These latter considerations are of overriding concern.

26. Whilst it may be possible to address the above overriding concerns by means of amendments to the layout/position of the dwelling and the provision of an amended arboricultural report, these are not matters which I am able to pursue as part of this appeal. For these reasons, I therefore conclude the appeal should be dismissed.

*Daniel Hartley*

INSPECTOR