



Appeal Decision

Site visit made on 5 July 2017

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

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

Decision date: 1 August 2017

Appeal Ref: APP/M2270/W/17/3170639

2 Somerville Gardens, Tunbridge Wells TN4 8EP

- 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 Miss Laura Anstey against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/07232/FULL, dated 2 November 2016, was refused by notice dated 23 December 2016.
 - The development proposed is described as 'New build residential development to create a three bedroom house to replace the existing garages on the site'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are considered to be: the effect of the development on the character and appearance of No 2 Somerville Gardens, its surroundings and the Conservation Area; and the effect on the living conditions of neighbouring occupiers at Nevill House and Warwick House, Boyne Park, in respect of privacy, outlook and natural light.

Policy Context

3. The application is required by statute to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan here includes the Tunbridge Wells Borough Core Strategy 2010 (the CS) and the saved policies of the Tunbridge Wells Borough Local Plan 2006 (the BLP).
4. BLP Policy EN1 provides amongst other things that the design of development respects its context and would not cause significant harm to the residential amenities of adjoining occupiers.
5. BLP Policy EN5 provides amongst other things that development in a conservation area will only be permitted if it satisfies criteria including that:
 - '1. The proposal would preserve or enhance the buildings, related spaces, vegetation and activities which combine to form the character and appearance of the area;'
 - '4. The scale, massing, roofscape, use of materials, detailing, boundary treatment and landscaping would preserve or enhance the character of that part of the conservation area in which the proposal would be situated;'

- '6. The proposal would not result in the loss of trees, shrubs, hedges or other features important to the character of that part of the conservation area in which the proposal would be situated; and'
 - '7. In meeting the car parking and access requirements, the character and amenity of the area would not be adversely affected.'
6. CS Core Policy 4 provides amongst other things that: 'The Borough's heritage assets, including Listed Buildings, Conservation Areas, Scheduled Ancient Monuments, archaeological sites and Historic Parks and Gardens will be conserved and enhanced and special regard will be had to their settings'
7. Material considerations include the National Planning Policy Framework (the Framework) and national Planning Practice Guidance (PPG) .

Reasons

Character and Appearance

8. The appeal site is located within the Royal Tunbridge Wells Conservation Area where there is a statutory duty under S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the area's character or appearance. The published Conservation Area Appraisal is a material consideration.
9. In the Conservation Area Appraisal the appeal site is within Area 11 Molyneux Park/Boyne Park. The area around the appeal site is dominated by very large late Victorian/Edwardian detached villas of which 2 Somerville Gardens is one. No 2 Somerville Gardens occupies a prominent corner position in the Conservation Area. Originally a large house, it has been converted to flats.
10. The Conservation Area Appraisal refers to the generous scale of these large buildings in red brick following English vernacular details with tile hanging, timbered and rendered panels at first floor levels and elaborate woodwork. Chimneys are described as critical features. Whilst the Appraisal notes the great individual variety within the overall principles, it also comments that: 'it is the consistency of the appearance of the area that is of primary importance in creating its special character.'
11. The Appraisal notes there has been damage at street level from: the loss of original paving: the introduction of car parking to front areas; and the erosion of well-defined front boundaries. Boundary hedges and planting in front gardens are described as key vegetation elements and are at risk from removal for car access. There is criticism of the impact of infill housing of unsympathetic and mean scale, detailing and material, and of the adaptation of older buildings to this style. The main threats to the integrity of the conservation area are described as including from insensitive alteration to the original houses, and from loss of garden and boundary wall features. From what I saw of the area I endorse the above appraisal.
12. Under the heading 'Intrusions' at paragraph 15.4.3 of the Conservation Area Appraisal there is specific criticism of some infill development and of a garage block in Court Road that is similar to that which is proposed here for demolition. It is not clear if the reference in that paragraph to Somerville 'Road' was intended to refer to Somerville 'Gardens' and whether the comment 'ditto' was a reference to these garages at No 2 or to something else. Nevertheless the subject garage block to

the side of No 2 is a mean flat-roofed structure which appears to occupy part of the former garden. The Council considers that the removal of the present garage would not detract from the conservation area. I concur. However it does not follow that any replacement use or structure for the site would necessarily conserve or enhance the area.

13. On a visual appraisal map 2b that is part of the Conservation Area Appraisal there are arrows that define key views/vistas. Most of these are solid blue lines as shown in the key. However a dotted blue line with an arrow appears to pass through the gap which the appeal dwelling would occupy and to extend far to the east. It is not clear why the line is dotted and what distant view is meant to be available as I could not identify an important view when on site. Nevertheless the gap between 2 and 4 Somerville Gardens above the present garages does make a contribution to the spacious character of the area. The visual appraisal map also identifies the hedge along the frontage as an enclosing feature. That sense of enclosure would be reduced by the proposed new driveway opening.
14. Other parts of the original front garden are currently given over to an undefined parking area for about 4 vehicles. The appeal scheme would create a separate access and parking area there with the further loss of boundary enclosure and a loss of more of the front garden to paving and what the application describes as an increase in overall parking provision for the two properties to 7 vehicles.
15. The proposed dwelling would be a four storey structure attached to the side of the much larger original house. It would consequently appear as if it were an extension to that dwelling. However it would be a modern design in different materials and without any of the English vernacular detailing that characterises both the host dwelling and the Conservation Area more widely. Neither would the design and materials reflect the consistency of appearance that the Appraisal identified as of primary importance in creating the area's special character.
16. Much of the previous infill development in the area has been of a modest scale which has still allowed the original large houses to dominate the streetscene. However the height of the dwelling proposed here would make its contrasting design detailing and materials much more prominent, whether viewed from the street or from private land. I consider that it would in consequence fail to preserve or enhance the character or appearance of the conservation area.
17. Whilst I could not identify what is claimed to be a key long distance view or vista across the site, the height of the structure would considerably reduce what is at present a visual gap between the neighbouring houses and thus reduce the area's apparent spaciousness, also to the detriment of its character.
18. By reducing the enclosure of the streetscene and giving over more of the former front garden to paved car parking, I consider that the formation of the new access would also fail to preserve or enhance the character and appearance of the conservation area.
19. For the above reasons I conclude on this issue that the development would harm the character and appearance and local distinctiveness of No 2 Somerville Gardens, its surroundings and the Conservation Area. It would thereby contravene relevant development plan policies including BLP Policy EN5 and CS Core Policy 4. The Framework at paragraph 132 accords great weight to the conservation of designated heritage assets. In this case there would be less than substantial harm to the significance of the heritage asset. The Framework provides at paragraph

132 that great weight should be given to the conservation of the designated asset and at paragraph 134 that less than substantial harm should be weighed against the public benefits of the proposal.

Living Conditions

20. No 2 Somerville Gardens (including the appeal site) stands at a significantly higher level than the neighbouring houses in Boyne Park to the North West. The size and number of the windows in No 2 which face in that direction would suggest that there was originally open ground here. Some mainly oblique views will currently be available from these windows towards the rear garden and a balcony in the adjacent Nevill House and towards the rear garden at Warwick House beyond, except where screened by vegetation. Because the proposed dwelling would stand further to the south west there would be increased opportunities for more direct views from rear windows down into the rear garden and balcony areas at those dwellings. Some more oblique views would also be available into rear windows at the nearest house.
21. This is a closely-developed suburban area where there is already some overlooking between properties and consequently a lack of complete privacy. For example there are already some opportunities for overlooking from the rear windows of Nevill House towards the garden of Warwick House (and vice versa). Moreover there are already some available views from No 2. The marginal loss of privacy would consequently be reduced.
22. However the height difference between the appeal site and the adjacent gardens, the fact that those existing gardens are already enclosed on most sides, and the especially the height of the proposed dwelling would in combination also make the dwelling appear overbearing in the outlook from those gardens and balconies. Furthermore there would be a reduction in what is already a limited view of the sky from the garden at Nevill House with an associated reduction in morning sunlight there.
23. I conclude on this issue that the development would have a detrimental impact on the living conditions of neighbouring occupiers in respect of an overbearing impact on outlook, some loss of privacy, and some loss of natural sunlight in the rear gardens and balconies of Nevill House and Warwick House. The development would thereby contravene BLP Policy EN1.

Other Matters

24. The development would have the benefit of providing one additional dwelling within the urban area in a location with ready access to employment, services and facilities. However I do not consider that this benefit outweighs the identified harm and the associated conflict with the development plan. Neither does this here constitute a public benefit sufficient to outweigh the less than substantial harm to the heritage significance of the conservation area in the terms of paragraph 134 of the Framework.
25. I acknowledge that planning permission has previously been granted for a new dwelling in the same location. However that permission has lapsed and it concerned a development of reduced height and of different design, material and details. Whereas other previous developments elsewhere have been drawn to my attention, there are material differences in the design and location such that they

are not directly comparable. Neither these nor the other matters raised outweigh the considerations that have led to my decision.

Conclusion

26. For the above reasons it is concluded that the development would be in overall conflict with the development plan and that is not outweighed by any other material considerations. The appeal should therefore be dismissed.

Robert Mellor

INSPECTOR