



Appeal Decision

Site visit made on 30 July 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/Q3060/W/19/3228906

Land to the rear of 11 Western Terrace, The Park, Nottingham NG7 1AF

- 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 Phoenix Planning (UK) Ltd against the decision of City of Nottingham Council.
 - The application Ref 18/01400/PFUL3, dated 12 July 2018, was refused by notice dated 23 December 2018.
 - The development proposed is full planning application for the erection of a single storey detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, the Council's decision notice describes the proposal as 'erection of a single storey detached dwelling' and I note that the appellant has used this description on the appeal form. The revised description accurately describes the proposed development, and I have therefore considered the appeal on that basis as no party would be prejudiced or caused any injustice by me taking this course of action.
3. The application form was completed in the name of Mrs Paula Daley, but the appeal form is completed in the name of Miss Paula Money. However, both names provided have also given Phoenix Planning (UK) Ltd as the company name. I have therefore considered Phoenix Planning (UK) Ltd to be the appellant in this case.

Main Issues

4. The main issue in this case is the effect of the development on the character and appearance of the area, with specific regard to the Nottingham Park Conservation Area and a tree subject to a Tree Preservation Order.

Reasons

Character and appearance

5. The site lies within the Nottingham Park Conservation Area (the Conservation Area). It originally formed part of the garden to No11 Western Terrace, which is one of the original estate houses within the 19th century Park Estate. The house has subsequently been converted to apartments, and the garden separated from the dwelling. The site is accessed from Pelham Crescent.

6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in respect of development affecting conservation areas, states that special attention shall be paid to the desirability of preserving or enhancing the character and/or appearance of the area.
7. The Conservation Area is characterised by a number of large original estate houses set in substantial gardens. The Park Estate was a privately planned estate of approximately 350 properties from the mid-19th century. It was set out to give a spacious and tranquil atmosphere in comparison to the urban nature of the city itself. The larger villas are of high quality, designed by prominent architects of the time, and were constructed with local topography in mind. Whilst there has been some 20th century infill, the estate is relatively intact, which contributes to the significance of the Conservation Area.
8. The garden as set out in the original development has been reduced by the erection of additional properties and is now separated by fencing from the main dwelling. From my site visit, it is apparent that the site has become overgrown, but No11 is still visible beyond when seen from Pelham Crescent.
9. Despite the fact that the proposed dwelling would be single storey with a flat roof, there would still be visibility from Pelham Crescent behind the boundary walls, and as such, the characteristic layout of villa to garden would be unacceptably compromised and diminished.
10. There is an existing tree protected by a Tree Preservation Order within the site, in addition to later planting. Given the proposed location of the dwelling and the proximity of the protected tree, despite the submitted arboricultural information, I am not convinced that the protected Lime tree would not be affected by the excavation works that would be required to facilitate the development, which could result in the removal of the tree, were it to be damaged.
11. In relation to the shading of the property, I find that the orientation between the existing vegetation and the proposed dwelling would limit the shaded areas to a level that would not facilitate the need to remove the protected tree in order to achieve reasonable levels of natural daylight and sunlight. The Tree Preservation Order placed on the tree would also ensure that any works proposed in the future would have to go through an appropriate process. I am also not convinced by the arguments of the Council in relation to leaf litter being of a level from one protected tree that would warrant an application for removal of the tree. I am also satisfied that the re-planting of the existing trees that formed part of a previous planning application would be acceptable, and not cause harm from overshadowing, or leaf litter.
12. Nevertheless, I find the proximity of the proposed dwelling to the tree subject to a Tree Preservation Order as set out above, would likely result in unacceptable damage or even loss of the tree, which would have a significantly harmful effect on the character and appearance of the area and the Conservation Area.
13. I have been made aware of the Council's document 'The Park : A Conservation Plan for the Nottingham Park Estate', which states that the original estate houses and their original garden areas are the key element that define the special archaeological and historic interest in The Park and that any new development in the original gardens which undermine this historic relationship

will be resisted. There is some disagreement between the parties in relation to the weight that can be attached to this document, given the level of change to the area since it was written and adopted.

14. I have noted that the appellant has raised concerns in relation to the use of the site, and that it is attracting anti-social behaviour. However, this is not a suitable reason for granting an application, and the site could be made secure in other ways than to simply allow the proposal. Despite the separation of the garden and No11 Western Terrace, the site remains an area that benefits the setting of No11, in line with the Conservation Plan.
15. I therefore conclude that the appeal proposal would fail to preserve or enhance the character or appearance of the Conservation Area. The harm would be less than substantial with regard to the terms set out in Paragraph 196 of the National Planning Policy Framework. The scheme would not include any public benefits, and as such, the harm identified clearly outweighs any benefits in this case.
16. As such, I find the proposal are in conflict with Policy BE12 and NE6 of the Nottingham Local Plan (2006), Policies 10 and 11 of the Greater Nottingham Aligned Core Strategies (2014) which when taken as a whole, seek to ensure that proposals preserve or enhance the character of appearance of a Conservation Area, protect trees protected by Tree Preservation Orders and ensure that proposal make a positive contribution to sense of place and enhance landscape character. This is further reinforced with a specific focus on the Nottingham Park Estate in the Conservation Plan.

Other Matters

17. The appellant has brought to my attention other development within the locality that has been permitted. However, I am not in possession of full details of any such permissions, so I cannot draw any comparisons. Nonetheless, I have dealt with the proposal on its own merits, and the existence of other development does not justify this proposal that would cause the harm that I have identified.
18. The proposal would offer a new dwelling with the accompanying social and economic benefits of new housing. The dwelling would be accessible to shops and services and would provide an additional housing unit to meet housing need. These factors do favour the proposal, however, given the size of the contribution (one dwelling), the scale of this benefit would be limited. Overall, when taken together, these benefits would not be sufficient to overcome the harm that I have identified.

Conclusion

19. Therefore, for the reasons above, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR