



Appeal Decision

Site visit made on 2 December 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

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

Decision date: 24th January 2020

Appeal Ref: APP/Y2620/W/19/3220419

5 Arden Close, Overstrand, Cromer NR27 0PH

- 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 Martin Storer against the decision of North Norfolk District Council.
 - The application, ref. PF/18/1330, dated 10 July 2018, was refused by notice dated 11 September 2018.
 - The development proposed is the erection of a two storey dwelling.
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue is whether the proposed development would preserve or enhance the Overstrand Conservation Area (CA), as well as preserve the setting of surrounding designated and undesignated heritage assets, with particular reference to the Grade II and Grade II* buildings of The Pleasaunce, and the significance of a registered and an unregistered park and garden.

Reasons

Legislation and policy considerations

3. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLCBA) prescribes a duty upon a decision maker to give special regard to the desirability of preserving a building or its setting or any features of special architectural or historic interest which it possesses. Additionally, s72 of the PLBCA seeks that in relation to CA's that special attention is paid to the desirability of preserving or enhancing the character or appearance of the CA.
4. The relevant development plan policies of the North Norfolk Core Strategy 2008 (CS) are Policy EN8 which amongst others, seeks that proposals aim to ensure that North Norfolk's built heritage is conserved and enhanced); CS Policy EN2 which seeks that development proposals should protect, conserve and enhance the special qualities and local distinctiveness of the area, including its historical character; and CS Policy EN4 which amongst a number of design principles, seeks to retain important landscaping and natural features.
5. According to paragraph 193 of the National Planning Policy Framework (the Framework), great weight should be given to an asset's conservation,

irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance. Paragraph 194 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a proposal would lead to 'less than substantial harm,' the harm should be weighed against the public benefits of the proposal.

Significance

6. The appeal site is an undeveloped parcel of land which lies adjacent to a former walled garden as part of the parkland formerly part of the greater country holiday estate of The Pleasaunce. The Pleasaunce contains a number of listed buildings which includes, the main early Arts and Crafts Country House (Grade II*); with formal registered park and gardens (Grade II) with structures such as the rose garden (Grade II); and covered walkway (Grade II*), clock tower, loggias, towers (Grade II*), a gateway (Grade II*); an entrance (Grade II) and a gazebo (Grade II*), which are attributed to architect Sir Edwin Lutyens with the garden attributed to Lutyens, Gertrude Jekyll and Lord and Lady Battersea.
7. The buildings which make up the Pleasaunce date from the late nineteenth century, however a large proportion of the more informal parkland and woodland surrounding the estate was sold off following the deaths of the owners of the estate, Lord and Lady Battersea. The gardens were more extensive in the early years of the twentieth century, however there are remnants of the historic garden remaining such as: a large component is still undeveloped parkland and woodland with part of the water garden, now incorporated in the garden of a house on the western boundary; the walls and gateway leading into the kitchen garden (where 5 Arden Close is currently constructed); a range of gardener's stores and early twentieth century glasshouses as well as remnants of the kitchen garden.
8. Some components of the parkland were sold off for sporadic development which maintained the parkland form such as 5 Arden Close, which was constructed in the 1930's in the former kitchen garden, and which has had a number of subsequent alterations and today has a more modern appearance. Whilst the formal component of the gardens to the Pleasaunce is designated as a Registered Park and Garden, the remaining informal parkland surrounding where the appeal site is located is part of an undesignated park and garden which is significant locally.
9. Other components of the former Pleasaunce parkland were utilised for housing development, predominantly during the mid-twentieth century. During this time more urbanised and planned housing developments such as Arden Close were constructed. These streets have a more formalised and planned appearance with predominantly single and one and a half storey bungalows were constructed with a regimented layout with similar setbacks of properties which have a low scale that reinforces the sense of spaciousness.
10. It is acknowledged that the appeal site has been severed (in terms of ownership) from the greater Pleasaunce estate, however the open landscaped setting, spaces and historic features such as the adjacent walled garden which was part of the estate's kitchen garden is still decipherable from both a tangible and intangible perspective. There is therefore an intrinsic historic relationship that is experienced with the undeveloped parkland and ancillary nature of the appeal site contributing positively to the Pleasaunce Estate and how the listed

buildings and spaces are experienced. This experience reinforces their location, relationships, historic identity and setting. This represents some of the relevant components of the significance of the listed buildings and park and garden.

11. The significance of the CA flows from the significance of the listed buildings and parkland surrounding which displays a number of positive aspects to the greater CA of Overstrand. Although there is not a CA Appraisal and management plan, the CA covers much of the settlement of Overstrand, which although appears to have earlier origins, the growth and development of the settlement is related to its role as a nineteenth and twentieth century seaside holiday destination. There is an inherent relationship to the sea, with large villas positioned so that glimpses can be gained. Many of the villas and historic buildings within the CA make positive contributions to the character and appearance of the area, in terms of their materials, design and layout. There is also an inherent spaciousness around the larger villas which develops a status and creates a spacious and well treed and vegetated character which assists in forming the local distinctiveness and character and appearance of the area, amongst other considerations.

Proposal

12. The proposal seeks to extend Arden Close to the appeal site via the development of a two storey dwelling which would be accessed from Arden Close and would follow similar building lines, layout and setback as to dwellings found within Arden Close. The building would be of a contemporary form and appearance with materials consisting of red brick, grey roof tiles and timber cladding. The dwelling would be positioned to the centre of the site and would result in the removal of 3 trees and the erection of a 1.5 metre boundary fence and associated hardstanding and vehicular parking areas.

Conservation Area considerations

13. Whilst the appeal site is accessed from the end of Arden Close along the same driveway that accesses 5 Arden Close; instead of being part of the regimented layout, the appeal property has much more in common with the informal and greater parkland environment which was once associated with the greater Pleasaunce estate. Whilst there are later dwellings within the historic parkland, (like 5 Arden Close) they have a more scattered form with a sense of spaciousness in and around built form which informs a different character and appearance to that of the more regimented character of Arden Close. Based on my analysis of the significance above, in extending the built form further along Arden Close, the development would encroach into the greater parkland environment causing detriment to the character and appearance.
14. It is inevitable that given the scale of development that the majority of existing parkland vegetation within the appeal site would be cleared. The introduction of a family dwelling along with a driveway and the associated residential paraphernalia would significantly change the well vegetated and parkland character of the appeal site. Consequently, the appeal site's positive greening influence at the end of Arden Close and in and around spaces associated with the historic parkland would be diminished. In that respect, I find that the development would have an unacceptable impact on the character and appearance of the CA.

15. Whilst the principle of a contemporary design might be appropriate for a new development in the area, the proposed form as a two storey dwelling is tall with an angular appearance that would be incongruous when considering the surrounding low scaled context. Whilst I note comments regarding the materials, red brick with grey roof tiles would be appropriate within the area. Although I note that timber cladding is part of the commonly found materials for a coastal location, the use of timber cladding in a well vegetated environment such as this is often problematic due to the discolouration and often quick decay of such cladding which may eventually cause a poor appearance to the CA.
16. Other concerns raised by the Council relate to pressure to remove trees as a result of dropping branches and loss of light which may have resultant impacts upon the character and appearance of the area. A total of 3 trees are to be removed by the proposal, which are each rated by the Arboricultural Impact Assessment¹ as having moderate amenity value. As previously discussed, the trees and vegetation on the site play an important role in sustaining the well vegetated and leafy character of the area. The loss of further trees from the site, even in part, would be harmful to the visual amenity of the area.
17. I acknowledge that it is possible to erect a proposed dwelling on the appeal site whilst safeguarding the remaining trees, subject to the advice in British Standard 5837:2012² and that the replacement planting would hopefully over time assist in delivering the well vegetated aspect which is part of the character and appearance of this component of the CA.
18. However, the creation of a residential curtilage would inevitably bring with it a risk of pressure to fell the remaining trees, given that they will block much of the light to the proposed dwelling and may occasionally drop branches and cause frequent maintenance issues with regards to the need to clear blocked gutters, maintenance issues, discolour the cladding etc.
19. The BS 5837:2012 also acknowledges such fears where it advises that the relationship of buildings to large trees can cause apprehension to occupiers resulting in pressure for their removal. As the cause of the problems associated with this well treed environment is easily obtainable, this may therefore likely result in pressure by future occupiers to seek to fell trees in order to improve the amount of light available and reduce the associated maintenance issues. I acknowledge the desire to undertake replacement planting, however this would be in a form that is residential in nature which with additional residential paraphernalia in the form of access paths, garages, vehicle parking etc, as opposed to the current woodland-like and informal parkland situation. This would have an unsatisfactory effect not only to the remaining trees, but resultant effects to the character and appearance of the area.
20. Consequently, the proposed development would not preserve or enhance the character and appearance of the CA, as required by s72 of the PLBCA. The harm caused, although serious, would be 'less than substantial,' within the meaning of the term in paragraph 196 of the Framework. In accordance with the Framework I give great weight to the harm caused. The proposed scheme would also be contrary to CS Policies EN2, EN4, and EN8.

¹ By Arbor Research Assoc, Dated July 2018

² Trees in relation to design, demolition and construction. Recommendations
<https://www.gov.uk/planning-inspectorate>

Listed Building and Registered/unregistered Park and Gardens Considerations

21. I note comments in the appellant's Statement of Case (SoC) that it is not considered that the appeal site is within the setting of The Pleasaunce. Reasons given include: because the appeal site is not near the listed buildings; that there have been a number of twentieth century dwellings erected within the former gardens; and that the site is not visible from the listed buildings.
22. As per the National Planning Practice Guidance³ the way in which we experience heritage assets (which can be from both private and public land) goes beyond views and that *'buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.'* Whilst I appreciate that the site is now in separate ownership, components of the historic informal parkland, gardens and historic features such as components of the walled garden has an intrinsic historic linkage and relationship to the greater estate, and based upon this historic relationship which is both tangible and intangible, that in my view the appeal site would be within the setting of the buildings and registered park and garden which form The Pleasaunce.
23. Having visited the site I can see the intrinsic relationship that the parkland setting contributes to the character and the historic development of the area as part of the greater parkland setting of The Pleasaunce. The added historic features such as part of the walled garden add to the experience of the historic environment and character of the area.
24. I note discussion within the appeal documents regarding the grounds of 5 Arden Close being designated as a non-designated heritage asset in 1995 in the form of an unregistered park and garden, with the appellant stating that no consultation was given regarding this inclusion. Although it is good practice to involve communities in the development of local lists of non-designated heritage assets, this is not actually a requirement, with non-designated heritage assets being able to be designated on the basis that they are significant locally.
25. As such, I believe the designation as the informal park and garden as a non-designated heritage asset is appropriate in this instance and that harm caused as discussed above is significant. Consequently, in accordance with paragraph 197 of the Framework, I afford weight to this identified harm to the non-designated heritage asset as part of this determination.
26. The appeal site is experienced as a vegetated and undeveloped component of the greater parkland setting which contributes to this significance and historic relationship of the former Pleasaunce Estate. The development of the appeal site would upgrade the status of the land which has historically functioned as ancillary parkland which was subordinate to the former kitchen garden nearby.
27. Whilst I appreciate opinions from the appellant that No.5 Arden Close now represents a more modern building within the grounds of the former parkland, and that the kitchen garden is only a remnant of its former use, the proposed scheme would result in the further severance of remaining spaces which contribute to how the historic parkland and associated structures such as the components of the walled garden is experienced. This would result in a loss of

³ Paragraph: 013 Reference ID: 18a-013-20190723, Dated 23 07 2019
<https://www.gov.uk/planning-inspectorate>

historic association of the land to its former form and function as part of the greater Pleasaunce Estate. The development of the appeal site would adversely affect the historic relationship and association of the buildings within the greater setting, and as such would be detrimental to the significance of the listed buildings and registered park and garden of the Pleasaunce via development within their setting.

28. Consequently, the proposed development would not preserve the setting of the listed buildings or registered park and garden as required by s66 of the PLBCA and the relevant considerations of the Framework and the Development Plan as outlined previously.

Consideration of Harm and Public Benefits

29. In relation to the listed buildings of the Pleasaunce; the registered park and garden, the proposal would fail to preserve the settings of these listed buildings, as required by S66 of the PLBCA. The proposal would also fail to preserve or enhance the character and appearance of the CA in accordance with s72 of the PLBCA.
30. The benefits of the scheme include the development of a small and deliverable site; the delivery of a dwelling which would make a modest contribution to meeting housing need; the short term employment opportunities in the construction of the dwelling; the socio-economic contribution to local services and expenditure from future occupiers to the viability of surrounding villages which is promoted as part of paragraph 78 of the Framework. These factors weigh moderately in favour of the development.
31. Overall, I therefore find that there would be insufficient public benefit to offset the identified harm and the development does not accord with the Framework. I therefore conclude that the proposal fails to preserve the special architectural and historic interest of the grade II listed building and the wider character and appearance of the CA, which I am required to have special regard and pay special attention by the PLBCA. The development would also conflict with CS Policies EN8, EN2, and EN4.

Other Matters

32. I note comments in the appellant's final statement with regards to the Council having a motive to refuse the application because in 2017 the Council published a Housing and Economic Land Availability Assessment (HELAA) which noted the appeal site as suitable for affordable housing. Whilst I have not been presented with a copy of the HELAA, these types of assessments are not policy documents. Whilst a site may be suggested as appropriate for development, these designations are typically made purely on land availability, rather than a consideration of other aspects such as heritage, and site specific considerations which may place constraints upon the site from being developed. Despite this, I have not given consideration to the HELAA and have based my decision on the evidence before me.
33. I note Appendix 1 of the appellant's SoC that has photographs of a property built on Harbord Road within the last 10 years and a property also on Harbord Road that was converted into a two storey dwelling via a loft conversion and placement of dormer windows. I have not been presented with any detailed information regarding either of the dwellings and how these decisions are

analogous to the considerations of the appeal scheme. Based on the photos provided, the loft conversion with dormer windows would not increase the ridge height of the dwelling to a two storey dwelling as proposed on the appeal site. In relation to the dwelling constructed in the past 10 years, it is unclear whether the elements of character and appearance are similar. Despite this, I do not find these examples give weight to the acceptability of the proposed scheme.

34. I also note two other properties referred to, a dwelling beside a Grade II listed Methodist Chapel on Cliff Road and a dwelling at 22 Cromer Road which according to the appellant resulted in excess of 40 trees being removed. Whilst I have not been presented with any information which shows the reasoning for the approvals, the setting of the Methodist Chapel appears to be very different to the considerations regarding setting of the appeal site which has more in association with the parkland setting as discussed above. Whilst I have no evidence to confirm whether there was in excess of 40 trees removed at the site along Cromer Road, the location of the site and its considerations do not appear to be analogous to the appeal site. As such I do not find these examples give weight to the acceptability of the proposed scheme.
35. I note comments with regards to Historic England not objecting to a previous application for a similar scheme which was refused. I also note that in this current application, that the Council considered that Historic England did not require to be consulted for this application and relied on the evidence and professional opinion given by their conservation team. The lack of objection or support from consultees does not necessarily mean that an application will be approved or refused, as the planning officer needs to make a judgement based upon information from a number of internal and external consultees with competing interests and opinions. The Council has considered all of the competing interests where their concerns regarding this scheme were reasonable and adequately justified.
36. I note comments with regards to the language used in the decision notice and that the terminology and phrasing used by the Council was unclear. I also appreciate and acknowledge the time spent by the appellants to represent themselves and provide a case in response to the concerns raised by the Council. Unfortunately, terminology used in town planning can be difficult to understand, however it must also be able to stand up to legal scrutiny in the case of appeals and legal challenges. I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme. The Council were fully justified in each of their reasons for refusal and had reasonable concerns about the impact of the proposed development which justified its decision.

Conclusion

37. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

J Somers

INSPECTOR