



Appeal Decision

Site visit made on 07 November 2020

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2020

Appeal Ref: APP/U5930/W/20/3250892

Windmill Court, 20 Grosvenor Park Road, London 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 A Latif against the decision of London Borough of Waltham Forest.
 - The application Ref 193056, dated 10 September 2019, was refused by notice dated 27 February 2020
 - The development proposed is erection of a 2 bedroom dwelling (detached)
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development was amended to "*subdivision of the amenity area and construction of a two-bedroom dwelling house*" after the application was submitted. The original description was sufficiently clear as to the nature of the application and I have utilised that description for the purposes of this appeal.

Main Issues

3. The main issues are whether the proposed development would preserve or enhance the character and appearance of the Orford Road Conservation Area (ORCA), including the effect of the proposed removal of protected trees; and the effect of the proposal on the living conditions of occupiers of neighbouring properties, specifically the occupiers of No.20 Windmill Court.

Reasons

Character and appearance

4. The appeal site is situated on Grosvenor Park Road within the ORCA, between the 'host building' No.20 Windmill Court and the pedestrian access to Eastbank Close. No.20 is situated on a prominent corner and has the appearance of a substantial domestic house with elaborate architectural detailing. Part of the appeal site is enclosed with close-boarded fencing. A group of Lime trees which are protected by A Tree Preservation Order (TPO)¹ extend along the eastern boundary of the site with Eastbank Close.

¹ TPO 8-97, Group G3.

5. Grosvenor Park Road is characterised by a mix of attractive Victorian era two-storey cottages, larger detached villas, semi-detached and detached terraced houses, as well as limited modern infill and 1960s style blocks of flats. The character is verdant, offering an attractive tree-line approach to the site. The site is also situated opposite a children's play park bounded by trees, which further contributes to the verdant character.
6. The gap between No.20 and the adjacent property, No.18, is somewhat larger than the varied other gaps between properties along the road, due not only to the size of No.20's plot, but also due to the intervening Eastbank Close pedestrian access. The impression remains that No.20 is a substantial domestic house with associated grounds. The subdivision of No.20's original plot by close-boarded fencing harmfully erodes this impression and the introduction of the proposed dwelling into this space would end the impression entirely, causing harm to the character and appearance of the ORCA. The proposed dwelling has been designed with a hipped roof, render, string course and materials with the intent of matching the surrounding Victorian buildings. However, in seeking to fit the dwelling into the narrow plot, the resulting design would have uncharacteristically small proportions for the area which would fail to align with neighbouring properties, emphasising the cramped appearance resulting from the narrow plot width and loss of space around No.20.
7. The Arboricultural Impact Assessment (AIA), submitted after the Council's decision, categorises the protected Lime trees as in 'fair' condition. The trees are visible in the ORCA due to their size and height, though the most visible trees are those closest to the front boundary and these, T3 and T4, form part of the verdant approach characteristic of Grosvenor Park Road. The other trees contribute to the visual amenity and character and appearance of the site and No.20 but make a less substantial contribution to the ORCA. Trees T3, T4, T5, T6, T7 and T9 would be removed and potential soil compaction is expected for trees T1, T2 and T8. Trees T1 and T2 make a significant contribution to the character and appearance of the ORCA given their position at the front of the site.
8. Whilst the trees will require ongoing maintenance and pollarding given the urban context and there may be decay within the trees, there is no evidence to suggest the trees have a greatly reduced life expectancy. The AIA suggests that there may be potential for subsidence to No.18 and I did observe a large crack in the side elevation of No.18 during my visit; however, the AIA does not establish subsidence and the justification given for the removal of the trees is the development. Whilst the proposal would include mitigation planting, including a living green wall which would be mostly screened from view and an additional 3-4 extra-heavy standard trees, given the proximity of any replacement trees to the proposed dwelling, they would likely face the same pressures to be removed over time. The AIA also suggests a S106 Agreement could be put in place to secure planting of street trees as mitigation, but no such agreement has been put in place.
9. For these reasons, I consider that the proposal would appear cramped and uncharacteristic with the area, which would be exacerbated by the loss of the protected trees and which would not be effectively mitigated by either the design of the dwelling or proposed planting. The proposal would not preserve or enhance the character and appearance of the ORCA and would result in less

than substantial harm to this heritage asset, affecting its significance. The public benefit arising from the proposal would be the provision of a single dwelling, constructed as infill development in a sustainable location close to facilities and services. However, the harm to the ORCA, site and character of the surrounding area, to which I attach significant weight, clearly outweighs this modest and limited public benefit, contrary to policy 7.4 of the London Plan (LP), adopted 2016, policies CS2, CS12, and CS15 of the Waltham Forest Local Plan- Core Strategy (CS), adopted 2012, and policies DM28 and DM29 of the Waltham Forest Local Plan- Development Management Policies (DMP), adopted 2013, as well as the guidance within the Framework. These policies seek, amongst other things, to secure high-quality design that preserves or enhances local distinctiveness and the character and appearance of the Conservation Area.

Living conditions

10. The proposed dwelling would be sited in line with No.20 and would have a side-to-side relationship with this host building. The side elevation of No.20 fronts the site and contains windows at basement, ground and first floors. The basement windows are situated in open lightwells below ground-floor level. These windows face north east and serve habitable rooms. The ground-floor and first-floor windows have direct views out into the amenity area and towards the lime trees. Whilst the proposed dwelling would be smaller in overall scale and depth than No.20, it would nonetheless introduce a solid wall at two-storey height which would severely restrict the amount of daylight that each of the rooms in this elevation would receive. As a result, these habitable rooms would be gloomy, though it is acknowledged that the ground-floor flat is dual aspect.
11. Moreover, the close proximity and height of the wall would remove the outlook for these rooms and would have an overbearing and oppressive impact. The proposed green wall would not mitigate this impact, albeit it may be more pleasant in appearance than a plain wall. The recently installed close-boarded fence regrettably has an adverse impact on the outlook of the ground-floor windows and demonstrates the further impact that would be caused by a two-storey building in such close proximity.
12. The close-boarded fence already restricts access by occupants to a significant proportion of the existing communal amenity space for the flats and the proposed dwelling would result in a total loss of the main amenity area for occupiers of the flats. The small area of hardstanding at the front of the site would not provide an adequate quantity or quality of amenity space. Whilst Wingfield Park is readily accessible, it is essentially a children's play park which would not offer a satisfactory form of amenity space to meet the needs or reasonable expectations of the occupiers of No.20.
13. For these reasons, I conclude that the proposal would cause unacceptable adverse effects to the living conditions of the occupiers of No.20 Windmill Court, contrary to policy 7.6 of the LP, policies CS2, CS13, CS15 of the CS and policies DM7, DM29 and DM32 of the DMP. These policies seek, amongst other things, to promote health and well being through good design and adequate provision of living conditions, including provision of outdoor space.

Other Matters

14. The parties have referred to a previous appeal² relating to a development proposal at the appeal site. The current appeal scheme and previous appeal scheme are similar in nature and effect. I have accordingly concurred with the conclusions of the previous Inspector in respect of the main issues, based on the specific circumstances of the current appeal.

Conclusion

15. For the reasons stated above, I find that the appeal proposal would fail to maintain or enhance the character and appearance of the ORCA, resulting in less than substantial harm which is not outweighed by the public benefits of the proposal. I also conclude that the proposal would have an unacceptable adverse effect on the living conditions of occupiers of neighbouring property, for the reasons set out above. The proposal would conflict with the relevant policies of the Development Plan, as well as the guidance in the Framework, and I therefore conclude that the appeal should be dismissed.

Kim Langford Tejrar

INSPECTOR

² APP/U5930/W/16/3157590