



Appeal Decision

Site visit made on 17 November 2020

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/E5330/W/20/3253600
115 Langton Way, Blackheath SE3 7JU

- 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 Shirley Gibbs against the decision of Royal Borough of Greenwich Council.
 - The application Ref 19/4333/F, dated 19 December 2019, was refused by notice dated 3 April 2020.
 - The development proposed is erection of 2 bedroom single storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the fourth bullet point of the above header is taken from the original planning application form. I note that the Council's decision notice and the appeal submissions refer to a differently worded description which includes reference to the proposed installation of an access gate, and I note that the plans show such an access. I have determined the appeal on that basis.

Main Issues

3. The main issues are:
 - i) whether the proposed development would preserve or enhance the character or appearance of the Blackheath Conservation Area (the CA), and in the event that any harm is identified, whether that harm would be outweighed by any public benefits of the proposal;
 - ii) the effect of the proposed development on the living conditions of the residents of 1 Vicarage Avenue in respect of daylight and sunlight.

Reasons

Character or appearance of the CA

4. The site is located in the CA and as such special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the CA. The CA is characterised by the spacious, leafy avenues that were laid out in the nineteenth century. The area of the CA in which the site is located comprises of predominantly residential buildings with a variety of designs and ages and, away from the main through roads, has a sedate and generally open and

spacious character. Langton Way is much more informal and organic in appearance than the more formal villas and town houses in Shooters Hill Road and St John's Park, having developed gradually from its origins as a mews or back lane to the big houses on Shooters Hill Road. Some of the old coach houses remain after conversion to dwellings and there has been much infilling.

5. Shooters Hill Road and St John's Park are linked by Vicarage Avenue which provides a pleasant, distinctively open and spacious, pedestrian route between the two. That open and spacious characteristic is enhanced by the verdant nature of that link with a wide grassed strip containing various trees and shrubs in between two footways, with grass verges that generally separate those footways from the adjacent property boundaries. There are existing buildings that face onto Vicarage Avenue on both sides, notably 1 Vicarage Avenue, adjacent to the appeal site, set approximately mid-way along, and the two and three storey development of 1970s flats at 133 Langton Way covering a significant amount of the space on the opposite side of the avenue.
6. It is also evident that other significant amounts of modern infill development have occurred along Langton Way, including several examples highlighted by the Appellant. However, in the context of Vicarage Avenue itself, the predominantly open and spacious characteristic is importantly maintained and contributed to by the mature, verdant and largely undeveloped rear gardens of properties fronting Langton Way, Shooters Hill Road and St John's Park. The flats at No 133 referred to above are also largely set well back from the Vicarage Avenue boundary, maintaining that sense of spaciousness, albeit closer at the northern end where it is seen in the context of the adjacent church which is immediately adjacent to that boundary. No 1, whilst in a prominent position within Vicarage Avenue, is also set back to a degree and also well away from the dwellings to its north and south with long, maturely vegetated gardens in between.
7. The proposed dwelling would only be single storey in height. However, unlike the modest sized outbuilding it would replace, it would occupy a significant amount of No 115's existing rear garden and would abut the existing Vicarage Avenue boundary wall, which would also result in the loss of scope for retaining existing overhanging shrubs. Together with the degree of height projection beyond the top of that wall, these factors would combine to make the proposed dwelling stand out as an alien, jarring and cramped feature within the confines of the existing garden width, in that open and spacious context I have described above. The roof would be gently sloping, but nevertheless from the other side of Vicarage Avenue in particular would be likely to add to the massing effect of the proposal seen from that vantage point. The proposed green roof would have the potential to soften the appearance to some extent but its longer-term maintenance and survival as an effective mitigating feature could not be guaranteed.
8. The proposal would result in the removal of an existing sycamore tree which has reached a level of maturity such that it is a significant feature in the context of Vicarage Avenue. Taking account of the Arboricultural Advice submitted on behalf of the Appellant, the tree is considered to be in good health with scope for substantial further growth which I have no basis to disagree with. That tree, whilst only one of a number within and in the close vicinity of Vicarage Avenue, nevertheless makes a valuable and prominent contribution to the verdant nature of this locality. Furthermore, whilst it does

not provide a complete screening effect of 1 Vicarage Avenue, and with less likely effect in winter due to leaf loss, it does nevertheless also make an important contribution, along with other trees in the vicinity to softening the appearance of that dwelling and maintaining the open and spacious character of Vicarage Avenue.

9. The tree is close to the dwelling and boundary wall at 1 Vicarage Avenue and the site's boundary wall. However, I have not received any substantive evidence to indicate that it is currently causing harmful damage through root incursion or branch shedding from the canopy. Furthermore, I have received insufficient evidence to demonstrate that it could not be managed in such a way that it would not cause damage in the future whilst maintaining its amenity value. I therefore consider that the loss of that tree would not only harmfully detract from the verdant, open and spacious character of Vicarage Avenue but that there are no overriding factors in terms of its future effect on the structure of No 1 or the adjacent boundary walls, or on the safety and amenities of the occupiers of No 1.
10. It is proposed to plant an appropriate new tree on the site to replace the sycamore concerned. Whilst such a tree would have the potential to contribute to the verdant nature of the surroundings, it would inevitably take a while to become established, and could also not be guaranteed to be maintained or survive in the longer term whilst growing towards maturity. It would also not have the same softening effect of the house at No 1 as is the case with the existing tree as it would be further away from that property. Over and above the existing degree of screening of the site from public view provided by the site's boundary wall, the proposed replacement tree would also be at least partially screened from such viewing by the upper part and roof of the intervening proposed new dwelling. For these reasons, the intended planting of a replacement tree would not represent sufficient mitigation in itself for the loss of the sycamore.
11. The Appellant refers to other cases where the Council has approved development resulting in the removal of trees. However, the circumstances in terms of the locations of those other sites is different to that relating to the appeal which I have in any case considered on its own merits.
12. The proposed gateway in the existing Vicarage Avenue boundary wall would not appear as an unexpected or unusual feature in the context of the existing gateway to No 1, and in any case would only cause a small break in that wall. This is also in the context of the variety of types of boundary treatments alongside Vicarage Avenue generally. However, this does not deflect from the harm that I have otherwise found would be caused by the proposed development in respect of this main issue.
13. The Grade II listed Church of St John the Evangelist (the LB) to the north-west of the site is also within the CA. It makes an important contribution to the Blackheath skyline and is visible to varying degrees from Vicarage Avenue. However, due to the degree of separation from the site, intervening buildings and mature vegetation, together with the single storey nature of the proposal, the setting of the LB would be preserved. Furthermore, in terms of locally listed buildings in the locality, within the CA, the degree of separation from the proposed development would ensure that their integrity would not be directly

affected. These neutral factors also do not however deflect from my findings relating to the harm that would be caused to the integrity of the CA.

14. For the above reasons, the proposed development would fail to preserve the character and appearance of the CA. As such, in respect of this issue, it would be contrary to policies 7.4, 7.6 and 7.8 of the London Plan and policies DH1, DH3, DH(h) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (the CSDP) as well as the Blackheath Conservation Area Appraisal (2013), which together, amongst other things, require development to be informed by the surrounding historic environment, conserve the significance of heritage assets and their settings, preserve or enhance the character or appearance of CAs, be of a high quality design and enhance the public realm.
15. The Council in the third reason for refusal in its decision notice also refers to policies 7.19 of the London Plan and OS(f) of the CSDP. Those policies relate to ecology, biodiversity and access to nature rather than specifically to character and appearance considerations relating to trees. As such they are not directly relevant to this main issue.
16. I have had regard to paragraph 193 of the National Planning Policy Framework (the Framework) in terms of giving great weight to the CA's conservation, which is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In this case, the harm that I have found would be caused to the significance of the CA would be less than substantial due to the relatively small scale of the proposed development. As such, under paragraph 196 of the Framework, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
17. The proposed development would have the benefit of adding to the local supply of housing. Furthermore, it would comprise a smaller dwelling to allow down scaling and the freeing up of a family sized dwelling at No 115, with adequate amenity space for both. There would also be likely economic benefits during the construction phase in terms of the provision of construction jobs. Additionally, there would be the potential for some biodiversity benefits relating to the proposed green roof, albeit subject to it being appropriately maintained in the longer term and that the proposed development would be partly replacing existing planted garden land. However, it is likely that the above benefits would be fairly small, relating to only one new dwelling, thereby attracting limited weight.
18. For the above reasons, I conclude on this issue that the public benefits of the proposed development would be insufficient to outweigh the less than substantial harm that would be caused to the significance of the CA.

Living conditions of the residents of 1 Vicarage Avenue in respect of daylight and sunlight

19. The proposed dwelling would be positioned close to the boundary with 1 Vicarage Avenue, alongside which that property has a single storey side extension which extends to the rear of that house. At its maximum height, at the ridgeline, the proposed dwelling would be noticeably higher than the adjacent extension, albeit not to a large extent due to the shallow angle of the proposed roof. However, that highest point would be towards the front half of that neighbouring extension and the roof would then slope down from that

- point, either side of the ridge, alongside the boundary. The extent to which the proposed dwelling would project above the height of No 1's extension would therefore decrease either side of the proposal's ridgeline. It would also be slightly set away from the boundary, as are the rooflights serving No 1's side extension.
20. There would be a likelihood of short periods of the day, particularly in the winter months, when some shadow would be cast across those rooflights of No 1. However, as there is more than just one rooflight, together with the above factors, the extent of any overshadowing would be such as to be unlikely to cause a harmful loss of sunlight into the room concerned. Furthermore, the degree of separation from the rooflights and the reducing height of the proposed roof from its ridge would minimise the extent to which there would be lost sight of the sky and natural daylight through the rooflights concerned. The juxtaposition of the proposed dwelling alongside No 1's extension, together with its reduced height towards the rear of No 1 due to the sloping roof, would also ensure that the rear garden of No 1 would be unlikely to suffer a harmful loss of sunlight and daylight.
21. For the above reasons, I conclude on this issue that the proposed development would not cause unacceptable harm to the living conditions of the residents of 1 Vicarage Avenue in respect of daylight and sunlight. As such, in respect of this issue, it would accord with policies 7.6 of the London Plan and DH(b) of the CSDP which together, amongst other things, relate to preventing an unacceptable loss of amenity to adjacent occupiers, including in respect of daylight and sunlight.
22. The Council refers in the second reason for refusal in its decision notice to its Supplementary Planning Document: Residential Extensions, Basements and Conversions Guidance. However, as the proposal relates to a new detached dwelling, that document is not relevant in this case.

Conclusion

23. I have found that the proposed development would not cause unacceptable harm to the living conditions of the residents of 1 Vicarage Avenue in respect of daylight and sunlight. I have also found that the proposed development would preserve the setting of the LB and would not directly affect the integrity of locally listed buildings in the locality, the effect being a neutral one. However, these factors do not deflect from my finding that the proposed development would fail to preserve the character and appearance of the CA without providing any public benefits sufficient to outweigh the less than substantial harm.
24. Therefore, for the above reasons, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR