The Planning Inspectorate

Appeal Decision

Site visit made on 7 December 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2020

Appeal Ref: APP/N5090/D/20/3257489
Church End House, 44 Totteridge Village, Whetstone, London N20 8PR

- 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 Fausto Furlotti against the decision of the Council of the London Borough of Barnet.
- The application Ref 19/4514/HSE, dated 14 August 2019, was refused by notice dated 30 June 2020.
- The development proposed is the erection of a new garage, with residential accommodation in the roof space for use ancillary to main house, following demolition of existing garage.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a new garage, with residential accommodation in the roof space for use ancillary to main house, following demolition of existing garage at Church End House, 44 Totteridge Village, Whetstone, London N20 8PR, in accordance with the terms of the application, Ref 19/4514/HSE, dated 14 August 2019, subject to the conditions listed at Annex A.

Main Issues

2. The main issues are the effect of the proposed development on the significance of the Totteridge Conservation Area (TCA) and the setting of the Grade II listed Church End House.

Reasons

3. The development of this area began in the middle ages as an agricultural settlement, when St Andrew's Church was also constructed. In the 18th and 19th centuries, several large houses were built around the church, including Church End House, which was originally the Vicarage.

4. Church End House is a substantial, detached, brick dwelling with a tiled roof. It is set within generous grounds that include lawns, mature trees and hedges and an access driveway. There is a single-storey, pitched-roof outbuilding which forms part of the northern boundary of the property, next to a private road that provides access to Church End House and other nearby properties, including the single-storey, white-rendered Parish Hall and associated car park.

5. Both Church End House and the wider TCA are designated heritage assets and their significance stems from the historical development of Totteridge. The traditional design and materials of Church End House, and other nearby

buildings, together with the spaces and mature landscaping around them, makes a further contribution to their significance.

6. The appeal concerns the unlisted outbuilding in the curtilage of Church End House, which dates from the mid–late 20th century and has been used most recently as a domestic garage. The outbuilding is positioned some distance to the side and rear of the main dwelling, with two mature trees, part of the lawn and the access driveway between them.

7. The proposed development would see the existing outbuilding demolished and replaced with another, somewhat larger building on the same footprint, albeit extended some 4.0m towards the east and with a roof ridgeline some 1.4m higher than the existing.

8. The proposed outbuilding would be orientated to face towards Church End House, as existing, and would contain four vehicular openings on the southern elevation, serving ground floor garage space. The extended northern elevation would have a similar appearance to the existing northern elevation and would also form part of the northern boundary of the curtilage of Church End House.

9. On the eastern elevation would be a doorway leading to a 1-bedroomed flat on the first floor. Four dormer windows would be inserted into the southern roof slope below the ridgeline and above the eaves and aligned with ground floor openings. Together with a further window to be inserted on the eastern side elevation, these dormer windows would provide natural light to the residential space.

10. In views of Church End House from the north, by the Parish Hall, the outbuilding would be included within its setting, alongside the boundary fence, nearby buildings and vegetation. In views from the private road to the south and west, the outbuilding would be largely screened by various mature trees and hedges.

11. I have had regard to the statutory duties under Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires decision makers to have special regard to preserving the setting of a listed building or any features of special architectural or historic interest it possesses; and, to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

12. The proposal would have a different appearance to the existing outbuilding, particularly in views from the south, east and west; it would also be significantly larger in size.

13. However, its orientation and position would be very similar to the existing building and its design, scale and massing would remain subservient and sympathetic to Church End House and in-keeping with the character and appearance of the TCA. The evidence indicates that the proposed materials would also be more congenial to Church End House and the wider TCA than those of the existing outbuilding. Consequently, the proposal would preserve and enhance the character and appearance of the TCA and the setting of Church End House.

14. A number of protected trees have been removed from the appeal property as a result of their poor condition, separate to this proposal, including mature Beech trees T4 and T7 shown on plan Ref. TCP 7367 rev b. A small Bay tree (T8) by

the eastern end of the existing outbuilding would also need to be removed as part of the proposal.

15. A tree report has addressed tree retention and re-provision of trees associated with the proposal. Suitably worded conditions regarding trees and landscaping within the site would ensure that those trees that have been or will be removed would be replaced, and those that are to be retained would be protected. This would preserve and enhance the setting of Church End House and the character and appearance of the TCA.

16. For these reasons the proposed development would make a positive contribution to the significance of the TCA and of the setting of Church End House. It would, therefore, accord with Policies CSNPPF (presumption in favour of sustainable development) and CS5 (creation of high quality spaces) of Barnet's Local Plan Core Strategy 2012; with Policies DM01 (character and amenity) and DM06 (heritage and conservation) of Barnet's Local Plan Development Management Policies 2012; and, with Policies 7.4 (local character) and 7.6 (architecture) of the London Plan 2016.

Other Matters

17. The appellant has indicated that the proposed flat would be occupied by a family member with disabilities, ancillary to the main dwelling. I am satisfied that the residential space within the proposed building could be conditioned so as to be used in this way, and not as a separate dwellinghouse.

18. The Council is subject to the Public Sector Equality Duty (PSED) contained at Section 149 of the Equality Act 2010 (the Act). From the evidence, the Council's decision to refuse planning permission would adversely affect a person with a protected characteristic for the purposes of the PSED. However, there is no evidence that the Council had due regard to the PSED in refusing planning permission.

19. Whilst it does not follow from the PSED that planning permission should be granted, the failure to have due regard to the PSED conflicts with the Act. Discrimination against one person by another because of a protected characteristic, either directly or indirectly, is prohibited conduct and unlawful[1].

20. In determining this appeal, I have had due regard to the PSED. Had I found the proposed development to be harmful to the significance of the specified designated heritage assets and so was minded to dismiss the appeal, I would have needed to consider this matter further. However, as I have found no such harm there is no need for me to do so in this case.

Conditions and Conclusion

21. The Council has provided a list of conditions to be attached to any grant of planning permission, which I have considered in light of Government guidance and amended accordingly.

22. In addition to the standard commencement condition, a condition specifying the approved drawings and requiring the approval of materials to be used in the external surfaces of the approved development would be necessary for reasons of certainty and to protect the character and appearance of the area.

[1] Part 2, Chapter 2 of the Act.

23. Conditions concerning the approval of tree protection measures; wildlife protection and enhancement measures and of a landscaping scheme would be necessary to protect the character and appearance of the area and to protect and support biodiversity.

24. A condition specifying the ancillary nature of the proposed residential accommodation to the host dwelling would be necessary for reasons of certainty and to prevent the accommodation being used as a separate planning unit.

25. Conditions requiring the approval of the proposed window details and the levels of the proposed development relative to surrounding land would be necessary to protect the character and appearance of the area and for reasons of public safety.

26. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is allowed.

Andrew Parkin

INSPECTOR

Annex A – Conditions

1) The development hereby permitted shall commence within three years of the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved documents:

   Site Location Plan dated 17 March 2016; 435315/2; TCP7367 rev b; Arboricultural Impact Assessment report (AIA 7367 rev b).

3) a) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building hereby approved have been submitted to and approved in writing by the Local Planning Authority.

   b) The development shall thereafter be implemented in accordance with the materials approved under this condition.

4) a) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until a plan showing details of existing trees to be retained / removed within the site; a dimensioned tree protection plan for retained trees; and, a method statement detailing measures to prevent damage to retained trees consistent with the submitted Arboricultural Impact Assessment report Ref. AIA 7367 rev b, have been submitted to and approved in writing by the Local Planning Authority.

   b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection measures shown on the tree protection plan and detailed in the method statement approved under this condition, have been implemented. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

5) a) A scheme of landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any new planting, shall be submitted to and agreed in writing by the Local Planning Authority prior to the first occupation / use of the hereby approved development.

   The scheme should include, as a minimum, details of: 2No new Beech trees to replace removed trees T4 and T7, and 1No new Bay tree to replace tree T8 following its removal.

   b) All works contained in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following first occupation / use of the building.

   c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

6) The development hereby permitted shall not be occupied, or used, at any time other than for purposes ancillary to the residential use of the dwelling known as Church End House.

7) a) No development shall take place until details of the levels of the building in relation to the adjoining land and highway and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority.

   b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

8) a) No development shall take place until details of the windows in the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The details should include plans at 1:10 including a section to demonstrate the thickness of the new unit.

   b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.

9) a) No site works or works in connection with the development hereby approved shall be commenced until details of the protective measures to be implemented for the wildlife species protected by law and details of any mitigation measures, including the timing of development works and special techniques, have been submitted to and approved in writing by the Local Planning Authority.

   Ecological Enhancement measures should include:

   i. One bat box (e.g. 2F Schwegler or similar), suitable for a range of bat species, should be erected on retained standard tree in an unlit part of the site.

   ii. One bird box (e.g. 2H Schwegler or similar), should be erected on a retained standard tree in an unlit part of the site.

   b) The development shall be implemented and thereafter maintained in accordance with the approved details.