



Appeal Decision

Site visit made on 24 February 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 08 April 2021

Appeal Ref: APP/N1730/D/20/3262721

Inglewood, Branksomewood Road, Fleet GU51 4JS

- 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 & Mrs Grace against the decision of Hart District Council.
 - The application Ref: 20/00782/HOU dated 27 March 2020, was refused by notice dated 17 August 2020.
 - The development is retention of an outbuilding and provision of replacement tree planting.
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Decision

1. The appeal is allowed and planning permission is granted for outbuilding and provision of replacement tree planting at Inglewood, Branksomewood Road, Fleet GU51 4JS in accordance with the terms of the application, Ref 20/00782/HOU dated 27 March 2020 and the plans submitted with it (Nos: P-100 Rev C and GRIP/107/10), subject to the schedule of conditions at the end of this decision.

Applications for Costs

2. An application for costs was made by Mr & Mrs Grace against Hart District Council. This application is the subject of a separate Decision. In responding to that application, the Council has submitted a costs claim against Mr & Mrs Grace. That application is also the subject of a separate Decision.

Preliminary Matters and Main Issue

3. The Council authorised works to a number of the trees in the rear garden of the appeal site but the works undertaken exceeded that authorised. I am advised that the Council is taking separate action regarding the unauthorised removal of the previously existing trees. This action is not before me and is not therefore a matter for me to address.
4. The outbuilding is already in place at the rear of the garden but the planting proposals forming part of the submission have not been undertaken. Furthermore, there is no specific reason for refusal raised by the Council in respect of the outbuilding itself; the reasons for refusal relate to the effect of the loss of trees and lack of acceptable mitigation proposals to compensate that loss on the character and appearance of the Conservation Area. From all that I have read, and from my site visit I have no reason to take a different view. The outbuilding is of a size and form which does not appear out of place within the large garden area.

5. Accordingly, the main issues in this appeal are:
 - a) the effect of the loss of the trees on the character and appearance of the North Fleet Conservation Area, and
 - b) the effect of the proposed planting scheme on the character and appearance of the North Fleet Conservation Area.
6. There is reference in the Council Officer's report to another appeal in relation to the same matter, but I understand from the Appellant that due to procedural issues, it has been withdrawn.

Reasons

Issue a) Loss of Existing Trees

7. The appeal property is a large residential dwelling fronting Branksomewood Road on a generous L-shaped plot within a predominantly residential area comprising a variety of houses on a range of plot sizes. The outbuilding can also be glimpsed from Victoria Road, across the garden to No 42 Victoria Road. The appeal property is situated within the designated heritage asset of the North Fleet Conservation Area.
8. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas.
9. The Conservation Area is an attractive residential area, with mainly detached houses all set in a sylvan setting with a variety of deciduous and evergreen trees both along the front of sites and further within individual plots, providing a verdant backdrop and skyline, supplemented by generous planting within many of the individual gardens. The verdant frontages and backdrop to the residential properties providing a sylvan setting are part of the significance of the Conservation Area.
10. From the information provided by the Appellant, based on Google Street View Images with and without the trees which have been felled, the removal of mature trees has opened up a gap towards the rear of the appeal site and along the shared boundary with No 42 Victoria Road. The removal of these trees has therefore reduced the tree planting found within individual gardens within the Conservation Area and forming the backdrop and skyline to views. Notwithstanding the arguments presented in respect of their individual merits, there is no doubt in my mind that the removal of these trees has resulted in material harm to the sylvan character and appearance of the Conservation Area and to its significance.
11. I therefore conclude that the removal of the existing trees does not preserve the character and the appearance of the North Fleet Conservation Area. This conflicts with Policy NBE8 and NBE9 of the Hart Local Plan: Strategy and Sites 2016-2032 (Hart Local Plan 2016-2032), Policies GEN1(i) and CON8 of the Saved Hart District Local Plan (Replacement) 1996-2006 (Hart Local Plan 1996-2006), Policies 10 and 16 of the Fleet Neighbourhood Plan (Neighbourhood Plan) and the National Planning Policy Framework (Framework) with particular regard to Section 16, all of which seek to protect the character and appearance of local areas including the significance of heritage assets.

12. Paragraph 196 of the Framework sets out that where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal. The Planning Practice Guidance sets out that public benefits could be anything that delivers economic, social or environmental objectives as described in paragraph 8 of the Framework. It also advises that they should flow from the proposed development and should be of a nature or scale to be of benefit to the public at large and not just a private benefit. A public benefit could include a heritage benefit such as sustaining or enhancing the significance of a heritage asset and the contribution of its setting.
13. Given the extent of planting within the Conservation Area taken as a whole, and the scale of the removal of these individual trees, the harm I have concluded would amount to less than substantial harm to the significance of the designated heritage asset. I therefore now turn to consider the planting proposals that have been put forward as mitigation for the loss of existing trees and whether these would be a heritage benefit which might be regarded as a public benefit.

Issue b) Proposed Planting

14. Two planting options have been proposed as mitigation for the removal of these trees; in both schemes there would be 3no. Chinese Red Birch (*Betula albosinensis* 'Fascination') 2no. Snowy Mespil (*Amelanchier lamarckii*) and 1no. Katsura (*Cercidiphyllum japonicum*) informally grouped part way along the south east boundary of the rear garden, with either 6no. Fastigate Maidenhair trees (*Ginkgo biloba* 'Princeton Sentry') or 5no. Fastigate Maidenhair trees (*Ginkgo biloba* 'Princeton Sentry') and 4no. Italian cypress (*Cupressus sempervirens*) in the space between the rear of the outbuilding and the boundary fence.
15. In principle I consider that the proposed replanting under either of these schemes, would provide an attractive mix of trees that over time would make a beneficial contribution to the character and appearance of the Conservation Area, albeit some of the planting, particularly along the side of the rear garden would be more visible between gardens rather than in the wider street scene. Nonetheless, the presence of planting within gardens is clearly part of the cherished character and appearance of the Conservation Area.
16. Whilst mature trees potentially make the greatest contribution to the character and appearance of a local area at any one point in time, new planting is important to ensure the longevity of the planting and the contribution over time to the sylvan character and appearance of the Conservation Area.
17. The Council has raised a concern that, as the Gingkoes would be leafless for part of the year, the proposed replanting scheme would fail to provide adequate screening of the pool house. However, I am not persuaded that the objective of the planting should be to screen the pool house but rather to make a material contribution to the character and appearance of the Conservation Area. The sylvan character of the Conservation Area is made up of a variety of trees, including both deciduous and coniferous and so it is part of that character and appearance that during winter months some of the trees are leafless and individual buildings more noticeable. I have already agreed with the Council that the outbuilding taken on its own is of a scale and form which does not detract from the general character and appearance of the local area.

18. There is also a concern that the cypresses under the second option might have a more limited life span to ensure that longevity of the Gingkoes, but a management plan would be able to determine the appropriate balance of trees to remain to secure the optimum contribution to the character and appearance of the local area.
19. The further issue raised in this case is whether there is sufficient room in the space to the rear of the outbuilding to accommodate and support the proposed tree planting in order that they would be able to mature and make a positive contribution to the sylvan character and appearance of the Conservation Area. The Council has raised concerns that the planting distance would be less than half of the distance set out under BS5837:2012. The Appellant has argued that this is a recommendation only rather than a requirement and has provided further detailed information that the planting would be viable. From all the detailed information before me, I am satisfied that the proposed planting for the area to the rear of the outbuilding has been thoroughly researched with appropriate planting proposed.
20. The Appellant has offered a condition regarding replacement planting if the trees were to die within a period of five years from planting, which I agree should be imposed but furthermore, a condition should require a long term management plan to safeguard the health and longevity of the planted trees to ensure that they would continue to make a contribution to the significance of the Conservation Area.
21. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area as I am required to do. Whilst I have concluded under my first issue that the loss of the existing trees has caused less than substantial harm to the designated heritage asset, I am satisfied that the proposed planting, in terms of the number of trees and species proposed would be appropriate to and would both sustain in the longer term and enhance the sylvan character and appearance of the North Fleet Conservation Area. The preservation and enhancement of the significance of the heritage asset would therefore in my view amount to a public benefit and would mitigate the loss of the existing trees.
22. The planting proposals would therefore accord with Policies NBE8 and NBE9 of the Hart Local Plan 2016-2032, Policies GEN1(i) and CON8 of the Hart Local Plan 1996-2006, Policies 10 and 16 of the Neighbourhood Plan and the Framework with particular regard to Section 16, all of which seek to protect the character and appearance of local areas including the significance of heritage assets.

Conditions

23. The Council has suggested the imposition of a number of conditions in the event of planning permission being granted. A condition has been proposed to require a scheme for replacement planting to be submitted and approved. Whilst I agree that a condition, with stringent timing requirements is required, I have based my decision on either of the two schemes already prepared and submitted as part of the planning application. I have therefore amended the proposed condition to require the planting scheme to be based on one of those two submitted schemes. As already indicated, I consider that a condition should be imposed to ensure that if any of the replacement trees become diseased, damaged or die, they should be replanted in accordance with a

scheme to be agreed with the Council. I shall also impose a condition to require a maintenance schedule until the trees are established and thereafter a long term management plan. These conditions are all required to protect the character and appearance of the Conservation Area.

24. I further agree that conditions should be imposed for the control and noise of any plant associated with the outbuilding as built and that no openings should be constructed in the side and rear elevations as well as to restrict the use of the outbuilding for uses ancillary to the residential use of the dwelling house, known as Inglewood, all of which are necessary to protect the amenities of residential neighbours. I have amended the wording of the noise related conditions to ensure that the requirements are clear and precise.
25. These conditions are imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for submission of these further details, because permission is being granted retrospectively in respect of the outbuilding, and it is not possible to use negatively worded conditions to secure the approval and implementation of the outstanding matters before the development takes place.

Conclusion

26. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions (1 - 6 inclusive):

- 1) Unless a) within 2 months of the date of this permission a detailed scheme and full specification based on either the planting scheme shown on Plan 39-1048.01-B or 39-1048.02-B is submitted in writing to the Local Planning Authority for their written approval and unless b) the approved scheme is thereafter implemented in accordance with the timescale agreed with the Local Planning Authority, to be no later than the first planting season following the approval of details, the use of the outbuilding shall cease and all equipment and materials brought onto the land for the purposes of the outbuilding shall be removed until such time as a scheme as required by this condition is approved and implemented. The specification shall include the quantity, size, species, and positions of all trees to be planted, how they will be planted and protected and the proposed time of planting. The tree planting shall be carried out in accordance with the approved specification.
- 2) Unless within 2 months of the date of this permission a schedule of maintenance of the trees to be planted until successfully established together with a long term management plan is submitted in writing to the Local Planning Authority for their written approval, the use of the

outbuilding shall cease and all equipment and materials brought onto the land for the purposes of the outbuilding shall be removed until such time as a scheme as required by this condition is approved and implemented. The maintenance schedule and management plan shall be implemented as approved.

- 3) If, within a period of 5 years from the date of planting, any of the trees (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.
- 4) Unless within 3 months of the date of this permission a noise report is submitted in writing to the Local Planning Authority for their written approval, the use of the outbuilding shall cease and all equipment and materials brought onto the land for the purposes of the outbuilding shall be removed until such time as a scheme as required by this condition is approved and implemented. The report shall include background noise readings at the boundaries of the property known as Inglewood with adjacent properties to the side and to the rear when any plant within the outbuilding hereby approved is not in operation; noise readings from the mechanical plant within the outbuilding and details of any measures to be introduced to ensure that the noise levels with the plant in operation are no higher than the noise levels without the plant in operation. The approved measures shall be implemented in accordance with a timescale to be agreed with the Local Planning Authority and thereafter retained and maintained.
- 5) Notwithstanding the provisions of the Town and Country Planning General Development (England) Order 2015 (or any Order revoking or re-enacting this Order with or without modification) no additional openings shall be installed in the building hereby permitted.
- 6) The development hereby permitted shall not be used at any time other than for purposes ancillary to the residential use of the dwelling house known as Inglewood. The pool and outbuilding shall not be used for any commercial or non-domestic purposes and shall not be hired out, sub-let or otherwise used.