
Appeal Decision

Site visit made on 16 December 2022

by Mr Cullum Parker BA(Hons) PGCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Appeal Ref: APP/J2210/W/21/3280935

Land adjoining 9 Linden Grove, Canterbury, CT2 8AB

- 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 Barry Cook of Deroco Ltd against the decision of Canterbury City Council.
 - The application Ref CA/20/02318, dated 7 September 2020, was refused by notice dated 19 February 2021.
 - The development proposed is erection of a detached two storey house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As part of its appeal submissions the Appellant suggests that the local planning authority determined the proposal on the basis of the drawings listed at List 5(c), namely 10A, 11A, 12C, 13B, 14B, 15B, 16B, and 17B. The key change between the drawings appears to be the inclusion of a screen around 1.8 metres in height and obscured glazed serving the proposed roof terrace. Unhelpfully, the Council do not appear to have listed the drawing numbers for which they determined the proposal against on the Decision Notice. Moreover, the date on both the 'original' and 'revised' drawings remain, also unhelpfully, the 18 February 2019.
3. I cannot be certain as to whether these amended plans were advertised for public consultation. However, given that they show a relatively minor change in the proposal scheme of a feature already shown on earlier drawings which would seek to reduce a potential impact, I do not consider that any parties would be prejudiced by considering the proposal in light of the amended drawings in this case.

Main Issue

4. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Conservation Area and preserve the setting of nearby listed buildings.

Reasons

5. The appeal site consists of a vacant plot of land set back from the highway known as Linden Grove. To the front of the site there is partially demolished red brick wall set in a mainly English bond with coping brick top. Within the

site there is a single storey shed like structure with monopitch roof (labelled as 'existing garage' on the submitted drawings. The area to the front of the site appears to be used for parking vehicles and for storage of refuse. There are also trees present on the appeal site.

6. Numbers 9 to 12 form a two storey red brick terrace with gable end, which is a Grade II listed building. This terrace is formed of Flemish bond with burnt headers, with plain clay tile roofs and recessed timber casement windows. It is located (and attached) perpendicular to a three storey building facing onto St Dunstons Street. The significance of this listed buildings derives in part from its architectural features; including materials and their composition within the building, and from its historical association with this part of Canterbury and its evolution.
7. Opposite these and the entrance to the appeal site is a large segment of wall which is formed mainly of red brick set in an English bond. To the south of the appeal site, nos 3, 4 and 5 is another terrace dating from the mid to late C20th of three two storey houses with mansard located within a Dutch barn style gable roof. Attached to this terrace is Linden House, which is a two storey five bay house with attic and basement. This terrace and Linden house are set back a short distance from Linden Grove, whereas the terrace of nos 9-12 and the opposite garden wall are located on the pavement/highway.
8. The significance of this part of the Conservation Area derives from the use of historic materials such as brick and clay roof tiles, the change in the residential nature of the street scene compared to St Dunstons Street – including the verdant character of which the trees play an important visual role; and the unplanned layout of the area where buildings are typically situated directly adjacent to the highway are located a short distance back from it.
9. The appeal scheme seeks the erection of a two storey flat roofed two-bedroomed house. It would have a roof terrace with parapet wall and glazed screen as shown on drawing PL0044.18.12 C. The building would be constructed using timber shingle cladding, some render and aluminium frames. Due to the garage to the front of the site, the building would be set back some distance from the road. This can be seen in drawing PL0044.18.17A where the siting of the proposed dwelling in relation to the Dutch gable style mansard end at nos 3, 4 and 5 Linden Grove is visible.
10. I note that the Appellant has sought to use timber shingle cladding and a flat roof design in order to minimise the visibility of the building. In this respect, they seek to relate the proposal to the garden areas behind rather than its relationship with the built form in Linden Grove. However, in practical terms, the result would be an unusual square- or cuboid-shaped building which fails to preserve the character and appearance of this part of the conservation area which is typically formed of red brick faced buildings with gabled-ended roof forms.
11. I am cognisant of the Appellant's suggestion that the proposed building is not seen in concert with other buildings in Linden Grove due to its set back from the highway and that it relates closer to the garden setting beyond. However, the proposed building, with its two storey form, and unorthodox shape and materials in this location does not relate to either some form of garden building overlooking a courtyard or to its street scene context.

12. Moreover, I note the suggestion from the Appellant that the site is currently overgrown, that it has been used for anti-social behaviour and the dumping of rubbish, and that the four trees identified on the appeal site in the *Arboricultural Assessment* (November 2019) are considered to be within Category C; that is of low quality with an estimated life expectancy of at least 10 years¹. In this respect it could be said that clearing the site would enhance this part of the conservation area. However, such activities could potentially take place without the requirement of planning permission. In any case, the clearing of the site and the erection of a two storey dwelling that would be at odds with the character and appearance of the area would not enhance it.
13. As such, I find that the materials, design and layout of the proposed dwelling would be at odds with the prevailing pattern and character of development in this location. It would therefore have a negative impact on the significance of the conservation area and on the setting of the nearby listed building. As such the proposal would fail to preserve or enhance the character or appearance of the conservation area and fail to preserve the special interest of the nearby Grade II listed building. These are both matters which require special regard to the desirability of preserving, as set out in sections 66(1) and 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended.
14. I find that this harm would be no greater than less than substantial harm, as set out in the *National Planning Policy Framework* (the Framework). Paragraph 199 of the Framework sets out that great weight should be given to the asset's conservation and in this respect I give considerable weight to the desirability of preserving the heritage assets. Paragraph 202 indicates that where less than substantial harm is identified, this should be weighed against the public benefits of the proposal.
15. The Appellant sets out what they consider the public benefits are in this case². This includes the visual improvement of the appeal site, that the appeal proposal has been carefully designed to take into account the context, and that the resulting building will make an efficient and optimum use of the land, and make a small contribution to housing within a sustainable urban location where the housing figures from the Department for Levelling Up, Housing and Communities in January 2022 indicate that the Council has failed the government's housing delivery test in that it is delivering only 65% of its housing target.
16. Some of these public benefits do not necessarily require the appeal scheme in order to be achieved. Others could potentially be achieved on other sites where the harm identified here is not present. I therefore find that the proposed public benefits in this case do not outweigh the less than substantial harm identified.
17. As such, the proposal conflicts with Policies DBE3, HE1, HE4, HE6 and HE8 of the *Canterbury District Local Plan 2017*, which, amongst other aims, seek to support proposals which protect, conserve and enhance the historic environment. It would also conflict with the historic environment policies of the Framework set out above, which provide a clear reason for refusing the development proposed.

¹ It should be noted that, as acknowledged within the Appellant's evidence, there is no space within the appeal site for these trees to be replaced in line with s197 of the TCPA.

² Statement of Case, page 8, paragraph 5.14

Other Matters

18. The local planning authority's second reason for refusal refers to the failure to demonstrate that the proposal would achieve nutrient neutrality in regard to the Stodmarsh Nature Reserve SAC and RAMSAR, which is a European site that would be affected. However, there is no need to consider the implications upon it arising from the proposal, if any, because the scheme is unacceptable for other reasons.
19. I note the objections made by interested parties. However, given my findings on the main issue that the proposal would be unacceptable I have not considered these matters in any further detail.

Conclusion

20. The proposed development would be contrary to the adopted development plan when considered as a whole, and there are no material considerations indicating a decision otherwise than in accordance with it. The proposal would also be contrary to the Policies within the Framework relating to heritage assets, and these provide a clear reason for refusing the development proposed.
21. For the reasons given above I conclude that the appeal should be dismissed.

C Parker

INSPECTOR