



Appeal Decision

Site visit made on 11 June 2024

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal Ref: APP/E5330/W/23/3327234

22 Foxes Dale, Blackheath, Greenwich SE3 9BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Satbir Kler and Mrs Amy Kler against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref is 23/1431/F.
 - The development proposed is demolition of existing building and erection of a replacement one and two-storey dwellinghouse (with roof-space accommodation) and associated bin storage, cycle storage and landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made against the Council of the Royal Borough of Greenwich by the appellant. This application is the subject of a separate Decision.

Preliminary Matters

3. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023, replacing the previous version dating from 5 September 2023. The amendments made did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework.
4. Following the submission of the planning appeal the Council provided a copy of an updated Officer Report, upon which the appellant has had the opportunity to comment. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to the submitted Officer Report in determining this appeal.
5. Following the determination of the planning application the Council have adopted the Urban Design Guide Supplementary Planning Document (2023) (SPD). It is mandatory for me to take account of the most relevant and up to date information in reaching a decision. Both parties have had the opportunity to comment on this document. I therefore have had regard to this document in the determination of this appeal.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the area including the Blackheath Park Conservation Area.

Reasons

7. The appeal site comprises 22 Foxes Dale, a large detached 'L' shaped dwelling with a hipped roof. The dwelling is located in a road of substantial, detached individually-designed dwellings which are set back from the road within landscaped plots. The site is located within the Blackheath Park Conservation Area (CA) which comprises predominantly residential roads to the north of Blackheath Park. The Blackheath Park Conservation Area Appraisal (CAA) sets out that the appeal site is part of the Castor Estate South, which comprises a mixture of 2 and 3 storey detached and semidetached dwellings set within long garden plots with some modern infill development.
8. The broad, attractive tree-lined avenues, densely landscaped grounds and large dwellings set within substantial plots contribute to the secluded and verdant character of the CA, which, along with the quality and diversity of housing, appears to be part of its significance. The appeal property is in keeping with the property types and sizes in the surrounding area and is sited within a mature landscape setting making a positive contribution to the character and appearance of the CA. Some of the trees within and adjoining the appeal site have a high amenity value and positively contribute to the verdant qualities of the street scene and the CA. These trees are protected by reason of being in a conservation area.
9. The proposal would result in the erection of a large, detached dwelling following the demolition of the existing dwelling. The replacement dwelling is of a traditional design. The existing house is fairly modest and does not appear to be of any identified architectural or heritage merit either individually or as a group of buildings. Whilst the existing 'L' shaped building form would be lost, this does not appear to be a defining feature of the properties in the surrounding area. Given the variety in design to properties in the surrounding area, including modern infill developments, the proposed dwelling would not appear out of keeping with the varied character of the surrounding area and there would be no loss of harmonious grouping within the street scene.
10. The proposed dwelling would be larger than the existing property and would have a greater width and depth. Nonetheless, the ridge height would be lower than the immediate adjoining neighbour 26 Foxes Dale and the dwelling would retain a deep set back from the road and set in from the site boundaries. Consequently, the development on the plot and the wider street scene would continue to have a feeling of spaciousness and the development would retain its subservient position within the plot and would not appear uncharacteristic or dominant.
11. The proposal is supported by an Arboricultural Report (AR). The dwelling would be located close to the southern site boundary shared with 24 Foxes Dale, along which there are a number of trees which overhang the appeal site (T2 and T4). T2 has a significant overhang which is visible from the surrounding area. This tree sits in front of a larger tree (T4) which is more visible from the surrounding area, and which would be unaffected by the proposal. Nonetheless, T2 positively contributes to the verdant qualities of the area, in particular in summer months when the trees are in leaf.
12. The AR sets out that to facilitate the proposal it would be necessary to prune the canopy to T2 back to the boundary. Based on my observations on site, this extent of pruning would unbalance and harm the appearance of this tree. This

would be appreciable from the surrounding area, reducing the positive contribution of this tree to the verdant qualities of the CA.

13. The site is within a CA, and I have a duty to have special regard to section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Whilst I find that the design and scale of the proposed dwelling itself would not result in harm to the character and appearance of the CA, nonetheless, the works to a tree required to facilitate the proposal would be harmful to the special qualities of the CA. Consequently, the proposal would detract from the character and appearance of the CA and would fail to preserve its significance. I find that the harm would be "less than substantial" in this instance but nevertheless of considerable importance and weight. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal.
14. There would be limited economic benefits during construction and some improvements to energy efficiency when compared to the existing dwelling. Additionally, it is stated that proposed landscaping would enhance the ecological value of the appeal site and the proposed pruning of T2 would alleviate excessive shading to 24 Foxes Dale. However, there is little substantive evidence that these matters, or the primarily private benefits of the proposal, would be sufficient to outweigh the harm that I have found.
15. Given the above, and in the absence of substantiated significant public benefit, I conclude that the proposal would fail to preserve the character or appearance of the CA. This would fail to satisfy the requirements of the Act and it would conflict with those aims of Policies D3, D4 and G7 of the London Plan (2021), Policies DH1, DH3, DH(h) and OS(f) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (2014), the CAA and the SPD which all require that development should have regard to the character of the area, preserve the significance of heritage assets such as Conservation Areas and wherever possible, retain existing trees.
16. The proposal would also be contrary to Chapters 12 and 16 of the Framework which states that great weight should be given to the conservation of heritage assets and recognises the important contribution by trees to the character and quality of urban environments.

Other Matters

17. The Council has confirmed that it is not able to demonstrate a 5-year supply of deliverable housing sites. Nonetheless, the appeal proposal is for a replacement dwelling and thus would not result in any net increase in housing supply. Therefore Paragraph 11. d) ii. of the Framework, which applies a presumption in favour of sustainable development, is not engaged in this instance.
18. The appellant has drawn my attention to a number of dwellings in the local area which, it is stated, are similar to the appeal proposal and I have taken these into consideration. As set out above I find that the design of the proposed dwelling itself would not be harmful to the character and appearance of the CA, but the works to a tree required to facilitate it would be. There is no compelling evidence that these extensions and dwellings required comparable works to trees and resultant impacts on the CA. Therefore, these decisions and dwellings to which my attention has been drawn do not appear to be directly

comparable to the appeal proposal and I therefore give them limited weight in this decision.

19. My attention has been drawn to a consent¹ which it is stated relates to a reduction in the height of T2. There are limited details before me regarding this decision and whether these works proposed a similar level of pruning of the canopy back to the boundary. Consequently, there is no compelling evidence before me that these works would result in a comparable unbalancing effect on this tree or a similar effect on the verdant qualities of the area.
20. It is suggested that the planting of additional trees within the appeal site would compensate for any harm arising from the pruning of T2, and that this could be secured by means of condition. There are no details before me setting out any replacement planting and thus I have no particular evidence that this replacement planting, would be capable of compensating for the harm arising to the established character of the area. Given this it would be inappropriate to deal with such a matter by condition.
21. The Council found that the appeal proposal would result in no harm to the living conditions of the occupiers of neighbouring properties or the highway network and, based on the information before me and my observations on site, I see no reason to reach a different conclusion. Nonetheless, compliance with the relevant planning policies on these matters is required in any case, and therefore this weighs neutrally in the planning balance.
22. It is stated that the appellant has amended the proposal since the time of the previous planning application². However, the amendments would still result in a proposal that would be harmful to the CA for the reasons outlined.

Conclusion

23. For the reasons given above, having regard to the development plan as a whole and all relevant material considerations the appeal is dismissed.

N Robinson

INSPECTOR

¹ Reference 20/2380/TC

² Reference 22/2857/F