



Appeal Decision

Site visit made on 23 July 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2024

Appeal Ref: APP/N4720/W/24/3342896

Grosvenor House, Grosvenor Mount, Leeds LS6 2DZ

- 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 J Pinder against the decision of Leeds City Council.
- The application Ref is 23/07055/FU.
- The development proposed is described as a 'new dwelling.'

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal relates to the erection of a detached dwelling within the grounds of Grosvenor House, a Grade II listed building. The evidence indicates that the Council previously granted listed building consent (LBC) for the scheme,¹ but it has not explained why such consent was deemed necessary for the proposal. There is nothing before me which confirms that the proposal includes any works for the demolition, alteration or extension of the listed building and/or any structures identified as being curtilage listed².
3. The appeal before me concerns only the application for planning permission, and I am required to determine it against the statutory duties set out in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 (the Act). The grant of LBC for the proposal is not therefore determinative.
4. The listing description and my observations indicate that the southern elevation is the principal (front) elevation of Grosvenor House. The garden area and appeal site are therefore to the side, rather than the rear of the dwelling as suggested by the Council. I have described the location of the appeal site as such throughout my decision.
5. Notwithstanding the suggestion that the proposed dwelling would be occupied by the appellant's relatives, the plans, appeal statement³ and description of development indicate that the proposal is for an independent open market dwelling, rather than an annexe. I have determined the appeal on this basis.

Main Issues

6. The main issues of this appeal have flowed from the Council's reasons for refusal. S.66(1) of the Act requires me to have special regard to the desirability

¹ Application reference 23/03360/LI and confirmed by email from the Council dated 5 July 2024.

² The conditions of which are prescribed at Section 7(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.

³ Section 6 of the appellant's appeal statement.

of preserving a listed building, its setting, and any features of special architectural or historic interest which it possesses. Consequently, I have also included a main issue on whether the proposal would preserve the setting of Grosvenor House. The main parties were given the opportunity to comment on this matter during the appeal process and I have considered the responses received.

7. The main issues of this appeal are therefore;

- Whether the proposal would preserve the setting of the Grade II listed Grosvenor House;
- Whether the proposal would preserve or enhance the character or appearance of the Headingly Hill, Hyde Park and Woodhouse Moor Conservation Area (CA), including the effect on trees;
- Whether the appeal site would be a suitable location for housing with regard to the development plan; and
- The effect of the proposed development upon the living conditions of the future occupiers, with particular regard to outlook and light.

Reasons

Significance of Listed Building

8. The appeal site comprises a grand Victorian villa constructed of stone with a slate hipped roof. It has a symmetrically balanced south-facing façade with rich architectural detailing. Features include but are not limited to, a central porch formed of an entablature supported by fluted columns, and tall casement windows with moulded architraves or iron balconettes. It has a pleasing and balanced ratio of window openings to wall. The architectural quality of its form, materials and fabric contribute to its special interest as a high-status property. Insofar as it relates to this appeal, the significance of the heritage asset derives from its evidential, historic and aesthetic value.
9. Pertinent to the appeal, I have had regard to the definition of 'setting' set out in Annex 2 of the National Planning Policy Framework (the Framework). The side garden to Grosvenor House which forms part of the appeal site, is the proximate surroundings, with Grosvenor Mount and the nearby dwellings forming the broader environs in which the asset is experienced.
10. Grosvenor House was originally set in more extensive and ornamental gardens that extended to the south⁴, emphasising the stature and importance of the asset and those that lived there. These gardens have been separated from the appeal site and now form the publicly accessible Dagmar Wood. This has already compromised the setting of the listed building.
11. What is now the garden area of Grosvenor House maintains physical, visual, functional and historic links with the asset. Free from buildings, its undeveloped nature can be appreciated in public views from within Grosvenor Mount, as well as in private views from the dwellings opposite. The existing garden area of Grosvenor House thus forms the asset's immediate setting. Although altered through the laying out of car parking spaces in relation to a former office use, it

⁴ As shown in the 1890 ordnance extract within the appellant's appeal statement.

is a modest but important remnant which possesses links to the historical development of the appeal site and wider area.

Effects of the Appeal Proposal

12. The proposed 2-bedroomed dwelling would result in the introduction of considerable built form within the building's immediate setting, that would undermine and erode the undeveloped and spacious qualities of the site. It would further disrupt the physical, visual, functional and historic associations between the listed building and the land.
13. The height and scale of the proposed dwelling would be subservient to Grosvenor House and its set back position would mean that it would not interrupt westerly views of the asset from the adjacent highway. However, it seems to me, that the incorporation of uncharacteristic design features including a partial oversailing mono-pitched roof with boxy eaves detailing, extensive glazing and an inharmonious external finish, would present a building in stark and incongruous contrast to the refined proportions of the listed building, and the spaciousness of its setting.
14. Despite being set at a slightly lower land level, the proposed dwelling would be visible through the hit and miss fence and vehicular entrance gates. The scale and form of the proposed development would detrimentally compromise the asset's immediate setting, fundamentally changing how the building is experienced from within Grosvenor Mount and neighbouring dwellings. The separation gap would be insufficient to mitigate the harm generated, and potential pressure to subdivide the plot formally from the asset following future occupation, would also be harmful. The positive contribution that the setting makes to the listed building's significance and the ability to appreciate that significance would therefore be diminished.

Conclusion – Significance of Listed Building

15. The proposal would fail to preserve the setting of the listed building. The contribution that the setting makes to the special interest and significance of Grosvenor House would be diminished, resulting in harm to the overall significance of this asset. As such, it would fail to satisfy the requirements of S.66(1) of the Act and Policy P12 of the Leeds Local Plan; Core Strategy (as amended by the Core Strategy Selective Review 2019) (CS), which seeks to ensure the settings of listed buildings are preserved. It would also fail to accord with the provisions of the Framework which seek to conserve and enhance the historic environment. I will come back to the heritage balance required by the Framework, later in my decision.

Character and Appearance of the CA

16. In accordance with the duty imposed by S.72(1) of the Act, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The CA encompasses a large area of urban development to the north of Leeds. 19th century architecture predominates including substantial stone villas and terraces, although 20th century infill development is also evident. A mature landscape setting and sense of space is generated by the often-large villa plots, the commodious street geometry and green spaces such as Woodhouse Moor park to the south. This spatial composition, along with the historical and architectural quality of the built form,

shapes the significance of the CA. As a generous stone villa set in a large prominent plot at the junction of Grosvenor Mount and Grosvenor Road, the appeal site contributes positively to the pleasant, verdant and spacious character of the CA.

17. The proposed development would notably lessen the spaciousness of the existing garden area to Grosvenor House and markedly reduce the separation distance between it and adjacent built form to the east. This loss of undeveloped land would clearly harm a key characteristic of the CA locale.
18. There is some variety in the style and materials of the buildings within Grosvenor Mount. However, bungalows are wholly uncharacteristic of the surrounding townscape. There is no suggestion that pastiche is the only option within an urban context. Rather, new development should respond positively to the character, local distinctiveness and form of its surroundings, as advocated within *Neighbourhoods for Living; A Guide for Residential Design in Leeds* (2003).
19. Common architectural features within the CA include bay windows, hipped roofs, gabled projections and chimneys. The use of stone and slate for buildings and boundary walls also provides a degree of uniformity to the street scene. The proposed atypical mono-pitched and flat roofs and detailed design as described above, would result in a dwelling that would not reflect or enhance the local distinctiveness of the area. The resultant scheme would not sit comfortably within the site. This discordance would be readily apparent from within Grosvenor Mount and nearby private views.

Trees

20. The Council considers that the proposed dwelling would fail to meet the minimum guideline distances to adjacent trees forming part of the Dagmar Wood tree belt, that immediately borders the appeal site to the south⁵. It provides a table which demonstrates that there would be shortfalls in the minimum distance required from all of the affected trees, some which would be significant (Trees T2 and T3)⁶.
21. The appellant suggests that this has been shown to be simplistic in its guidance by a previous Inspector's decision. However, the decision does not refer to the Development to Trees Guidance. Neither does it discuss the land levels relative to the proposed extension and a single tree. Trial digging demonstrated to the Inspector that the proposal would not interfere with the root protection area (RPA) of the tree.
22. The appellant's Arboricultural Survey Data (ASD) is clear that the survey has been prepared from a visual assessment, without any detailed investigation. Although reference is made to the proposed pads for the external terrace being hand dug, it is not clear from the evidence that significant tree roots would not be present due to the change in land level, or that hand digging could take place without interference to such roots within the RPA. I do not therefore find the current circumstances comparable to the previous appeal decision.

⁵ As set out in the Leeds City Council's Guideline Distances from Development to Trees; Securing Space for Existing and New Trees 2021 (Development to Trees Guidance).

⁶ As set out in the Tree Officer consultation response and repeated in the Council's officer report.

23. It is clear that a number of adjacent trees are of moderate quality, with an expected lifespan of at least 20 years without the proposed development. Even if I could accept that appropriate methods of construction could be used in this instance to prevent harm to the adjacent trees, their closeness is likely to result in pressure for the trees to be removed or lopped, given the potential shading of rooms and terrace to the southern elevation, a matter I will come back to later in my decision. Such works would be harmful to the verdant character and appearance of the CA as identified above.

Conclusion – Effect on the Conservation Area

24. The proposal would harm the aesthetic and historical value of the CA, including through the potential loss of trees. Although the harm would be localised and limited given the scale of development, such negative impacts can cumulatively erode the quality of the CA as a whole.
25. The proposal would not preserve or enhance the character or appearance of the CA. Conflict is therefore found with Policies P10, P11 and P12 of the CS, Policy N19 of the Leeds Unitary Development Plan (Review 2006) and Policy HD1 of the Headingley Neighbourhood Plan. It would further fail to accord with the Headingley Hill, Hyde Park and Woodhouse Moor Conservation Area Appraisal 2012 and the Development to Trees Guidance. Together these policies and guidance seek amongst other things, to ensure that proposals demonstrate an understanding of context, including the relationship with existing trees, and that new buildings within CA's preserve or enhance the character or appearance of the area.

Public Benefits and Heritage Balance

26. When considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of the level of harm identified⁷. I have found harm to the setting of the listed building and the character and appearance of the CA. Given the type and scale of the development proposed, I find the category of harm to be individually and cumulatively, 'less than substantial.' This is nonetheless, of considerable importance and weight. Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
27. One additional dwelling would be added to the local housing supply through the development of a small site. Economic and social benefits would flow from the construction and occupation of the property, as well as from future occupiers supporting local services and facilities. However, these benefits are tempered by the limited scale of development such that they carry modest weight. In the absence of any evidence to the contrary, the provision of accommodation for the appellant's relatives would be a private, rather than public benefit.
28. The modest weight I attach to the public benefits of the scheme are insufficient to outweigh the great weight I must give to the conservation of the listed building and the CA. Conservation in this context means sustaining, and not harming, an asset's significance. Conflict would occur with paragraph 206 of the Framework, as the harm to the significance of the listed building and CA, including from development within their setting, would not have clear and convincing justification.

⁷ Paragraph 205 of the Framework.

Suitable Location

29. Policy H2 of the CS supports new housing development on non-allocated land subject to compliance with a number of criteria. It states that greenfield land should not be developed if it has intrinsic value as amenity space or for recreation or for nature conservation, or makes a valuable contribution to the visual, historic or spatial character of an area.
30. I have explained above how the appeal site contributes positively to the historic and spatial character of the area, and that its development would be harmful to the setting of the listed building and the character and appearance of the CA. I have also clarified that the granting of LBC is not a determinative matter in respect of this s78 appeal.
31. The Council recognised the valuable contribution the appeal site makes to the CA and considered that a harmful effect would be exerted on the character and appearance, a view that I share. In light of the valuable contribution the appeal site makes to the visual, historical and spatial character of the area, it follows that the proposal would not be in a suitable location for new housing development. Conflict is found with Policy H2 of the CS, as set out above.

Living Conditions

32. The plans indicate that a private garden area would be provided to the north of the proposed dwelling. This would be very small in nature and constrained by a small number of semi-mature trees, such that it is not clear that there would be sufficient space to sit out, dry washing and for children to play. Moreover, the space would not be directly accessible from the dwelling with future occupants instead having to walk around the outside of the dwelling to reach it. The external terrace would be little more than a walkway, although some sitting out may be possible to the southern elevation. I find the proposed amenity space for the dwelling to be lacking in size and quality.
33. Despite the use of full height glazing, the proximity, density and height of the tree belt to the south, along with the oversailing roof would limit the amount of light that could penetrate the southern elevation and the associated terrace⁸, even in winter when the trees are not in leaf and the sun is lower in the sky. This would present particularly depressing and gloomy conditions for the southern terrace and bedroom one which would have no other source of outlook for the future occupants. A rooflight would at least provide additional daylight to the bedroom.
34. Whilst it is claimed that climate change requires shading from the mid-day sun, the height and proximity of the trees to the southern elevation of the dwelling is likely to cause significant shading in this instance. No substantive evidence such as a daylight and sunlight assessment has been provided to support the view that sufficient light would be received by the habitable rooms and outdoor spaces all year round. Pressure to lop or remove existing trees outside of the appeal site is therefore likely to occur. This is endorsed by the appellant's evidence that the Council has already been contacted regarding branches overhanging the appeal site, without the presence of the proposed dwelling.

⁸ As acknowledged by the appellant within section 6 of their appeal statement.

35. Notwithstanding the above, the principal living area would not be so detrimentally affected given the open aspect and direct afternoon/evening sunlight that would be provided through the opening in the western elevation.
36. The proposal would have an adverse effect on the living conditions of the future occupiers of the proposed dwelling with regard to the outlook from bedroom 1, outlook and light from the southern terrace and a lack of quality, private amenity space. It would conflict with Policy Land2 of the Natural Resources and Waste Development Plan Document 2010 which seeks to conserve trees where possible. Conflict is also found with policies BD5, GP5 and LD1 of the UDP, which seek to ensure that existing trees are retained in a healthy condition, and do not have a significant adverse effect on the amenity of buildings, including useable space and penetration of daylight and sunlight.

Other Matters

37. Reference is made to an extension permitted by the Council at 1 Headingly Terrace located nearby, also within the CA. The full details of this permission nor the planning context in which it was permitted, are not before me. Neither is it clear whether No 1 is a listed building. In any event, as an extension to a dwelling, it is a different form of development to that proposed. From the evidence presented, I cannot be sure that the circumstances are comparable. Even if they were, the extension appears as a simple outbuilding from within the street scene which would not be the case with the appeal scheme.
38. The appellant has sought to address concerns relating to the refusal of a previous proposal⁹. Nevertheless, that does not automatically mean that the current scheme is acceptable. I am required to determine the proposal before me and with which I have found harm for the reasons given. Concerns regarding the Council's handling of the application are a matter for the parties.
39. The relevance of the reference to Graham Niven's picture of beech trees in East Lothian is unclear. Whilst it possibly suggests that there may be gaps between the crowns of mature trees, that does not indicate that trees even in winter would allow sufficient light penetration to enable appropriate living conditions for the occupants of neighbouring dwellings.

Planning Balance and Conclusion

40. The benefits of the proposal as discussed above, carry modest weight in the appeal's favour. However, the proposed development would fail to preserve the setting of the Grade II listed Grosvenor House and fail to preserve or enhance the character or appearance of the CA. Individually and cumulatively less than substantial harm would be caused to the significance of the heritage assets. Furthermore, it would not be a suitable location for new housing development and would have an adverse effect on the living conditions of future occupiers. Together these matters attract substantial weight against the appeal.
41. The proposed development would conflict with the development plan and there are no material considerations which indicate that a decision should be made other than in accordance with it. Accordingly, the appeal is dismissed.

M Clowes - INSPECTOR

⁹ Planning application reference 23/03359/FU as set out in the Council's officer report.