
Appeal Decision

Site visit made on 19 October 2015

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 December 2015

Appeal Ref: APP/E5330/W/15/3030438

Garages Rear of 34 Foyle Road, Blackheath, Greenwich, SE3 7QZ

- 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 Foyle Developments Limited against the decision of Royal Borough of Greenwich Council.
 - The application Ref 14/3701/F, dated 18 December 2014, was refused by notice dated 13 February 2015.
 - The development proposed is demolition of existing garages and erection of 2 x 5 bedroom houses at two storeys over basement.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address was described on the original application form simply as Foyle Road, however both the Council's decision notice and the appellant's appeal questionnaire (at section D) more accurately describe the address of the site as Garages Rear of 34 Foyle Road. This was also the address used when the Council notified neighbours and interested parties of the appeal and therefore I do not consider that any party will have been prejudiced by using that more accurate address in the heading above.
3. The Council's second reason for refusal relates to a proposed traffic light system. The appellant, in their Transport Appeal Statement (May 2015), contained at Appendix 4 of their appeal statement, have stated that this element no longer forms part of their proposal, a position reiterated in their Transport Rebuttal Statement (October 2015).
4. However, in the interests of fairness I am obliged to determine the appeal on the basis of the application considered by the Council¹. Not to do so could potentially prejudice the interests of interested parties as I have insufficient evidence to suggest that the implications of such a change to the scheme have been fully considered. Notwithstanding that many respondents would appear to be aware of the proposed change, I cannot be entirely certain there are not interested parties who did not comment on the basis of being content with the scheme as submitted and are unaware of the proposed change.

¹ Paragraph M.2.1, Procedural Guide – Planning appeals – England, July 2015

Main Issues

5. The main issues raised by this appeal are the effect the proposal would have on the character and appearance of Westcombe Park Conservation Area, in particular the proposed traffic light system, and the effect the proposal would have on highway safety with particular reference to the adequacy of the proposed access leading from Foyle Road.

Reasons

Character and Appearance of the Conservation Area

6. The appeal site is situated behind terraced and semi-detached dwellings and contains a row of lock up garages in various states of repair. Foyle Road is typical of the Westcombe Park Conservation Area which is characterised by substantial Victorian, Edwardian and inter-war houses set in tree lined, gently meandering streets with particularly leafy and verdant rear gardens, a feature they have in common with the appeal site.
7. Other than the proposed location of the two traffic lights shown in appendix E of the appellant's Transport Statement (December 2014), there are no other details of their height, size or appearance although it would be reasonable to expect that in order to work effectively they would need to be reasonably conspicuous.
8. Whilst traffic lights are not uncommon in Conservation Areas at busier road junctions, and accepting that due to their location and purpose they could be more modest than those used at highway junctions, the introduction of such features, in the midst of a residential street which has an attractive and historic domestic streetscene, character and appearance, is likely to create an alien and incongruous feature in harmful contrast to its surroundings. In light of this fundamental situation, it would not be reasonable to rely on a condition to establish whether details of any such lights would be appropriate.
9. In the absence of any details which would illustrate that their design, size, location and configuration would be acceptable it has not been satisfactorily demonstrated that such harm would be avoided. The proposal would be contrary policies DH1, DH3 and DH(h) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (CSDP) which seek high quality design and to preserve or enhance the character and appearance of conservation area, amongst other heritage assets. For the same reasons it has not been satisfactorily demonstrated that this element of the proposal would satisfy the design and heritage aims of the London Plan (Consolidated with Alterations Since 2011) 2015 (London Plan) policies 7.4 and 7.8.
10. In the absence of any details it has not been satisfactorily demonstrated that the arrangement of the traffic lights proposed would comply with CSDP policy E(a) which seeks to avoid lighting pollution from outdoor lights including adverse effects on dwellings as a result. However, unlike the likely effect of the lights on the character and appearance of the conservation area, it would appear likely that any harm to the living conditions of nearby occupiers by way of light pollution could be avoided through an appropriate condition. There is no convincing evidence that light from the proposed dwellings themselves would be of a nature that would be harmful and I therefore do not find that the proposal is in conflict with this policy.

11. I have paid special regard to the desirability of preserving or enhancing the character and appearance of the Westcombe Park Conservation Area which is a designated heritage asset. Although I agree with Council that the proposed dwellings themselves, including their contemporary design, would be acceptable development within the Conservation Area, I conclude that the traffic light element of the proposal would cause material harm to that character and appearance.
12. Whilst this harm to its significance would be less than substantial, due to its relatively localised effect on the wider Conservation Area, in the context of paragraph 134 of the National Planning Policy Framework (the Framework), it has not been demonstrated that there would be any public benefits of the scheme which would outweigh that harm.
13. Although the appellant's subsequent intention to omit the traffic lights from the scheme would in itself avoid that harm, for the reasons set out in the Procedural Matters section above, I am obliged in the interests of fairness to all parties, to consider the appeal on the basis of the proposal before me. However, it is open for the appellant to engage with the Council on a pre-application basis as encouraged by the National Planning Policy Framework (the Framework) and make a fresh application should they consider such information would overcome the Council's refusal reason².

Adequacy of proposed access and highway safety

14. The site would be accessed from Foyle Road via a narrow gap between the gable walls and gardens of Nos 34 and 36. As well as the vacant lock up garages on the site, this access also provides access to a number of existing garages situated in the rear gardens of houses on Foyle Road which would continue to use the access.
15. The access has a slightly crooked alignment, the effect of which is that a clear view from the site onto Foyle Road and vice versa is only available from very limited vantage points at either end and for much of the route a view of either end is not afforded. Bearing in mind the evidence and representations from interested parties, the main potential adverse situations which would appear to be likely to arise are if a vehicle too large to negotiate the limited width were to become stuck and block the route (or to avoid such a situation, having to reverse back out onto Foyle Road) or vehicles, cyclists or pedestrians approaching one another along the access and one or other having to abort their journey to let the other pass, and the subsequent conflicts between users.
16. However, the majority of vehicles entering and leaving the site would be able to do so in forward gear (as there would be sufficient turning space within the site) and given the low speeds necessary to negotiate the narrow route it would appear very unlikely that any unacceptable harm to the safety of pedestrians, cyclists or drivers of vehicles (including those existing users of the access) using the access itself would occur in the case of such encounters; it is more likely to result in an inconvenience to one another.
17. The visibility at the junction with Foyle Road (for those exiting, entering or passing the junction), although limited, is assisted by the two mirrors at the entrance. The speeds of vehicles exiting the junction are likely to be very low (including any which have to reverse out of the access in an aborted manoeuvre) and therefore

² Paragraph M.1.1.1, Procedural Guide – Planning appeals – England, July 2015

- there is unlikely to be a risk of conflict with pedestrians (including children and older persons) or other vehicles to any greater degree than that which would be experienced from vehicles using the existing garages or those leaving the short drives and forecourts which some existing properties on Foyle Road have, the use of which would necessitate vehicles to use reverse gear to either enter or leave.
18. Bearing in mind that the occupiers of the proposed dwellings will be aware of the limitations of their access, as those of the existing users will no doubt be, and in all likelihood advise any expected visitors or deliveries accordingly, instances of vehicles have to reverse out would be unlikely to be frequent.
 19. Delivery or utility vehicles serving the site would be no different in respect to how other properties on Foyle Road would be served, the only difference being the length of the access that would have to be subsequently negotiated by other means possibly leading to longer waiting times on Foyle Road. Given that the proposal is for two additional properties this would not materially change existing conditions on the street.
 20. I have had regard to the Inspector's comments on the previous appeals on the site (APP/E5330/A/12/2178626 and APP/E5330/E/12/2180345) including his conclusion that the access would not be adequate to serve all the vehicular movements likely to be generated by four substantial dwellings without an unacceptable (even if very intermittent) risk to traffic and pedestrian safety. However, bearing the above in mind I consider that the movements associated with two, albeit large, dwellings would be materially different and lower than intermittent risk to such a level that it would not longer present an unacceptable level of harm to vehicle or pedestrian safety. Given the likely number of vehicle movements this would be the case irrespective as to whether the traffic light system mentioned above were provided.
 21. Overall, I do not consider that the addition of two dwellings in this location would harm highway or pedestrian safety to an unacceptable degree.
 22. For the reasons set out above the proposed development would not be in conflict with either policies IM(a) or IM(b) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (CSDP) concerned with impact on the Road network and the protection and enhancement of the Borough's footpaths and cycleways respectively. The proposal would be consistent with the Framework (paragraphs 32 and 35) as a safe and suitable access to the site can be achieved for all people.
 23. However, my findings on highway safety do not outweigh the harm to the character and appearance of the conservation area identified above.

Other matters

24. There is significant concern from interested parties about the effect of the proposal on the protected trees on the site and in particular T4 (identified as a Poplar), including the effect excavations could have on its roots. However I note that the Inspector considering a more extensive development concluded that the previous scheme would not entail an unacceptable loss of protected trees and the Council have not identified any unacceptable effects on trees, stating that their Trees and landscaping Officer raised no objections.
25. Furthermore, there is no convincing evidence to suggest that the appellant's Aborocultural Implications Report does not provide an appropriate assessment of,

and approach to, developing alongside those trees proposed to be retained. The retained trees would help to maintain their contribution to the character and appearance of the area and their contribution as part of wider tree cover with its attendant benefits within the Borough.

26. Considering the representations from the Fire Brigade and acknowledging that ambulances may have to stay on Foyle Road if responding to an emergency at the site, there is no persuasive evidence to suggest that any occupiers of the proposed dwellings would be at any unacceptable risk to their health and safety as a result of the constrained access.
27. Concerns have been raised about drainage, utilities and other practical elements in servicing the dwellings and both the feasibility of, and the effect such works may have on neighbours. However, there is no convincing evidence to suggest that in overcoming any challenges of developing the site that this would have any unacceptable effects. Nor is there any firm evidence that the proposal would significantly compromise any wildlife value the site may have.
28. With regard to interested parties' concerns over the effect on their living conditions, the harm identified by the Inspector in respect of the previous appeals has been addressed by the effect of the siting proposed and there is no evidence which would lead me to doubt the Council's conclusions that there would not be a significant impact on the living conditions of neighbouring occupiers. Similarly, I see no reason to disagree with his conclusion regarding interested parties' concerns over the demand for, and management of, existing garages on the site.
29. I have not been directed towards any policy or other evidence to suggest that the loss of the use of the site for informal amenity purposes, including for children, would be an unacceptable consequence of the proposal.
30. There is no substantive evidence to suggest that the development would materially change on street parking on Foyle Road to an extent which would harm the living conditions of residents. Similarly, whilst the refuse collection and bin arrangements have the potential to cause inconvenience along the lines which interested parties point out already exists, there is no evidence to suggest that this would cause harm which would be unacceptable.
31. There would not appear to be any reason why, even considering the constrained access to the site, an appropriate construction management plan could not be agreed that would limit and mitigate any adverse effects on neighbour's living conditions during the construction of any development. This, and the other matters above, does not, however, lead me to a different conclusion on the main conservation area issue.

Conclusion

32. For the reasons above, and having had regard to all other matters raised, the proposal would harm, albeit less than substantially, Westcombe Park Conservation Area, in conflict with the development plan the Framework. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR