
Appeal Decision

Site visit made on 3 May 2016

by **Stephen Hawkins MA MRTPI**

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

Decision date: 2 June 2016

Appeal Ref: APP/Y1945/W/15/3141155

South Lodge, Hempstead Road, Watford, Hertfordshire WD17 4JX

- 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 K Frimley and Ms S Hunt against the decision of Watford Borough Council.
 - The application Ref 15/01208/FUL, dated 25 August 2015, was refused by notice dated 29 October 2015.
 - The development proposed is construction of new single storey dwelling with shared access from Old Hempstead Road.
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Decision

1. The appeal is allowed and planning permission is granted for construction of new single storey dwelling and creation of a shared vehicular access from the eastern residential section of Hempstead Road to replace the existing vehicular access from the A411 Hempstead Road at South Lodge, Hempstead Road, Watford, Hertfordshire WD17 4JX in accordance with the terms of the application, Ref 15/01208/FUL, dated 25 August 2015, subject to the conditions in the schedule at the end of this decision.

Procedural matter

2. During the processing of the planning application the description of development was changed with the appellants' agreement to remove the inaccurate reference to 'Old Hempstead Road.' I have therefore used the revised description in my decision.

Main Issues

3. These are firstly, the effect of the proposal on the character and appearance of the area and secondly its effect on the setting of South Lodge, a Grade II listed building.

Reasons

Character and appearance

4. The appeal site forms part of the garden of South Lodge, a modest sized, single storey dwelling dating from the 19th Century, which is Grade II listed. The dwelling is in a long, rectangular plot between Hempstead Road, which serves local housing, and the busy A411. The strip of land between the two roads is largely undeveloped, being occupied by an extensive belt of trees and bushes, forming a densely wooded natural screen. This visually segregates the
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detached modern housing on the eastern side of Hempstead Road from the A411 and forms part of a wooded corridor, giving the area a pleasant and verdant, semi-rural character. Due to the surrounding mature planting, there are limited close-up views of the existing dwelling, which in consequence has a rather secluded, woodland feel in its immediate surroundings. This contrasts with the more built-up and suburban characteristics of residential development on the eastern side of the road.

5. The proposed dwelling would be sited well away from the existing building, towards the end of the long garden. Due to its flat roof form, the overall height of the new dwelling would be similar to the eaves level of the existing structure and it would therefore have a low profile. The new dwelling would have a modest size and bulk and due to its contemporary design, would have clean, unfussy lines. As a result, the proposed dwelling would have a simple and unassuming appearance in comparison with the height and scale of the existing dwelling and the more substantial building forms on the eastern side of Hempstead Road.
6. Due to its relatively modest scale, the dwelling would have a minimal visual impact on its wider surroundings. Its appearance would be further softened by the existing mature planting adjacent to the site boundaries. As a result, the dwelling would sit comfortably amongst the trees and bushes of the adjacent woodland when viewed from Hempstead Road. From the A411, the dwelling would be open to limited glimpses through the dense tree cover. Consequently, the new dwelling would not have a significant visual presence in either street scene and it would not substantially 'urbanise' its woodland setting.
7. The use of the sedum to 'green' the flat roof would assist in further integrating the proposed dwelling with its natural surroundings and it would complement the existing woodland planting beyond the site boundaries. Whilst a third party has expressed concerns over the maintenance and efficacy of the use of sedum in proximity to trees, I have seen no firm evidence to suggest that it would not cover the roof successfully.
8. Overall therefore, I find that the design of the proposed dwelling, in particular its flat, sedum covered roof and its simple elevational appearance, would not result in an unduly alien or incongruous feature in the surroundings. It follows that the proposal would not cause unacceptable harm to the character and appearance of the area.
9. The proposal would therefore accord with Policy UD1 of the adopted Watford Local Plan Core Strategy (CS), as it would respect and enhance the local character of the area. The proposal would also be consistent with the Council's adopted Residential Design Guide Supplementary Planning Document (SPD); in particular, the proposal demonstrates an understanding of both the site and its wider context and it would respect the height and scale of the existing dwelling.
10. Moreover, the proposal would be consistent with the National Planning Policy Framework (the Framework) at paragraph 17 and Section 7, which underpin the Government's commitment to high quality design. In particular, the proposal would take the opportunity to improve the character and quality of the area and it would therefore not amount to poor design as described at paragraph 64 of the Framework.

Setting of the listed building

11. The listed building has been extensively altered and extended since it was built. Planning permission and listed building consent was recently granted by the Council for further alterations and extensions. The setting of the building has also evolved and changed, since its separation from the Russell Estate. Nevertheless, I am required by legislation to have special regard to the desirability of preserving the setting of the listed building.
12. The proposal would have a simple form and functional appearance in contrast with the more complex form and detailed elevations of the listed structure. The modest scale, minimal height and siting away from the existing building towards the end of the garden would all have the effect that the new dwelling would be subservient and unassertive in relation to the listed structure. Its relationship to the listed building would be not dissimilar to that of a residential outbuilding. The proposed dwelling would not intrude significantly into important views of the listed structure, which would retain a substantial proportion of its existing garden.
13. Consequently, the design and location of the proposal would not cause any harmful erosion of the setting of the listed building. Therefore, the proposal would be in accordance with CS Policy UD1 as it would recognise and respond to features of historic value and it would safeguard, understand and promote the historic environment. The proposal would also accord with CS Policy UD2, as it would conserve the setting of the listed building and would be consistent with Section 12 of the Framework concerning conserving and enhancing the historic environment.

Other matters

14. I have had regard to the comments made by third parties in response to the application and the appeal. These include concerns over a danger to highway safety on Hempstead Road from the proposed access. However, the access and turning arrangements and visibility available would not detract from highway safety conditions. Concern has also been expressed over increased parking, maintenance of the new access, a loss of green space, the effect of boundary fencing, potential damage to trees and bushes and loss of screening, increased noise from the A411, loss of a back garden and a precedent for further development. The Council did not refuse permission for any of these reasons. I have considered these and other matters raised, however none outweigh my findings on the main issues. Whilst the land may have a covenant which prevents it being built upon, that is not a planning matter.

Conditions

15. In addition to the standard commencement condition, I have imposed a condition specifying the approved plans in the interests of certainty. I have imposed a condition to ensure that the trees adjacent to the site boundary, which form part of the setting of the proposed dwelling, are properly protected during construction works. This is a pre-commencement condition, to ensure that the trees are protected as soon as development begins.
16. I have imposed a condition requiring prior approval of the samples of the external materials and their implementation in accordance with the approved details, because such details will be important to ensure that the dwelling

safeguards the character and appearance of the area and the setting of the listed building. I have imposed a condition requiring the prior approval and implementation of a properly designed scheme to stop up the existing access to the A411, in the interests of highway safety and to preserve the setting of South Lodge. A condition has also been imposed to secure removal of existing outbuildings and additional hedge planting, to provide a visually satisfactory setting for both dwellings.

17. I have also imposed a condition removing 'permitted development' rights. I am mindful of the advice in the Planning Practice Guidance (PPG) at paragraph 017¹ that such conditions should only be used in exceptional circumstances. However, due to sensitive location of the appeal site in relation to the character and appearance of the area, adjacent trees and the setting of a listed building, I am persuaded that the unfettered exercise of permitted development rights could cause significant and unacceptable harm. Consequently, the condition meets the test of necessity.
18. Where relevant, I have modified the conditions suggested by the Council in order to ensure that they meet the tests in paragraph 206 of the Framework and the PPG guidance. I have also amended the order of the conditions, so that they comply with the guidance in paragraph 024² of the PPG.
19. However, I have not imposed a condition restricting the hours of construction. The Council has not explained why such a condition is required. There are controls available under other legislation to deal with allegations of noise nuisance. Therefore, I am not persuaded that such a condition meets the test of necessity in this case.

Conclusions

20. The design of the proposed dwelling does not harm the character and appearance of the area or the setting of the listed building and it accords with the Development Plan.
21. There would be an economic benefit arising from the proposal in particular by generating employment in the construction sector during the build period. There would be social benefits arising from the proposal as a result of the securing of an additional dwelling of high quality design in a sustainable location. The proposal would also have environmental benefits as it would contribute to protecting and enhancing the built and historic environment. These benefits are small scale and I have attached a moderate amount of weight to them. Nevertheless, there are no adverse effects that would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. Consequently, the proposal would therefore achieve the objectives of sustainable development at paragraphs 7 and 8 of the Framework.
22. For the reasons given above I conclude that the appeal should be allowed.

Stephen Hawkins

INSPECTOR

¹ Reference ID: 21a-017-20140306

² Reference ID: 21a-024-20140306

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 110 Revision A, 120, 220 Revision E, 230 Revision A.
- 3) No development shall take place on site until a tree protection plan has been submitted to and approved by the Local Planning Authority, showing temporary fencing to be erected to protect the trees that are adjacent to the boundary of the site and showing the location of all subterranean services, including soakaways and any temporary connections. Once approved the protective fencing shall be erected prior to any other work commencing on site and retained for the duration of the development. No materials, vehicles, fuel or any other ancillary items shall be stored or buildings erected inside this fencing. No changes in ground level are to be made and no hardstanding formed within the spread of the protected trees without the prior written permission of the Local Planning Authority. The sheds and the refuse bin storage areas shall stand on surfaces that are laid without any excavation and which are permeable to gases and water.
- 4) No development shall take place above the level of the foundations of the dwelling hereby permitted until samples of the external materials, to include the zinc corning, brick plinth, rendering including colour, the sedum roof, external doors and window frames, rainwater goods and the parking area paving, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) The dwelling hereby permitted shall not be occupied until the details of the design of the boundary treatment and the pedestrian gate to stop up the existing vehicular access from the A411 have been submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details. The approved boundary and pedestrian gate shall be permanently retained thereafter and there shall be no access, other than pedestrian access, to South Lodge from the A411.
- 6) The dwelling hereby permitted shall not be occupied until the existing sheds shown as being removed on drawing 220 Revision E have been removed. The proposed hedges that are shown on that drawing shall be planted in the first planting season following completion of the development and they shall be retained thereafter.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within the following Classes-Schedule 2, Part 1 (Development within the Curtilage of Dwellinghouse) Classes A-F inclusive and; Schedule 2 Part 14 (Renewable Energy) A-I inclusive shall be carried out within the site without the prior approval in writing from the Local Planning Authority following the submission of a planning application.

