



## Appeal Decision

Site visit made on 5 August 2019

**by Hilary Orr MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 November 2019**

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### **Appeal Ref: APP/R3515/W/18/3217718 15 Warrington Road, Ipswich IP1 3QU**

- 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 Mrs Jane Noordhuis against the decision of Ipswich Borough Council.
  - The application Ref IP/18/00833/FUL, dated 8 August 2018, was refused by notice dated 16 November 2018.
  - The development proposed is the construction of a dwelling.
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### **Decision**

1. The appeal is dismissed.

### **Procedural matters**

2. Since this appeal was submitted the Council have confirmed Tree Preservation Order (TPO) No 1 of 2019 on 3 April 2019. This TPO relates to a mixed group of trees, shown as G1 on the associated plan, along the southern boundary of the appeal site. Notwithstanding this, the remainder of the trees on the site are protected by virtue of their location within the designated Park Conservation Area (PCA).

### **Main Issues**

3. I consider that the main issues in determining this appeal are:
  - The effect of the proposed development on the character and appearance of the Park Conservation Area;
  - The effect of the proposed development on protected trees; and
  - The effect of the development on the living conditions of No's 28 and 30 Broughton Road with regard to outlook, and No's 26 to 32 Broughton Road with respect of noise and disturbance.

### **Reasons**

#### *Character and appearance*

4. The appeal site is located to the rear of 15 Warrington Road and currently forms part of the rear garden of that property. The host dwelling and appeal site are located within the PCA. The immediate area is predominantly

- residential with large detached dwellings set in generous plots. The properties generally front Broughton Road within landscaped front gardens.
5. The significance of the Park Conservation Area in Warrington Road lies in the houses in this road, which are characterised by large substantial late 19th and early 20th century detached and semi-detached family homes with fine detailing. Nearly all the properties retain their boundary walls which gives the road a feeling of enclosure enhanced by the number of mature trees in front gardens.
  6. No 15 is a large detached two storey house built during the 1900's. It follows the generally linear pattern of development, being set back from the road within a generous plot. The front garden has one tree with some limited planting behind the boundary wall but is currently hard surfaced and is mainly used for the parking of vehicles. It is bounded by a low wall. Access to the rear garden is to the south of the site where there is a large gap to No 13.
  7. The proposed development is for a contemporary two bedroom single storey dwelling sited towards the rear boundary. Vehicular access to the new dwelling would be through the existing access, with parking for the host and proposed dwelling to the front of the existing dwelling. A further pedestrian access is proposed to run adjacent to the southern boundary to serve the proposed dwelling. The existing substantial hedge, close to the dwellings in Broughton Road, would be removed together with one tree. The plot would be sub-divided to provide amenity space for the host and new dwelling.
  8. The strong linear form and structure of the dwellings in Warrington Road, is a recognised feature of the PCA. Accordingly, the siting of the proposed dwelling to the rear of the donor dwelling, would erode this important characteristic. The existing access and frontage would serve and provide parking, for two dwellings. This intensified parking and activity, would further draw attention to the proposed dwelling in this back garden location.
  9. I recognise that the proposed dwelling would be fairly well screened by the donor property and proposed front wall. Nonetheless it would be visible from neighbouring properties and their gardens and some views from the PCA.
  10. Overall, I find that the siting of the proposed dwelling behind No 15, would result in development that appears incongruous in the context of other dwellings in this part of the PCA. Accordingly, the proposed development would fail to preserve or enhance the character and quality of the PCA and would cause unacceptable harm to the PCA.
  11. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
  12. The National Planning Policy Framework (the Framework) states that harm to a heritage asset might be defined as 'substantial' or 'less than substantial.' However, Planning Practice Guidance (PPG) advises that in general terms, substantial harm is a high test and that works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. In finding harm to the Conservation Area, due to the small-scale nature of the

proposal, when taken in the context of the Conservation Area as a whole, I would quantify its extent to be less than substantial.

13. Nonetheless, I attach considerable importance and weight to that harm, and in applying the test set out in paragraph 196 of the Framework, I note that, other than the financial investment of providing one additional dwelling, few additional public benefits for the scheme have been identified. Accordingly, I find that there would be little public benefit to offset the identified harm.
14. I conclude that the proposed new dwelling due to its inappropriate siting would result in an incongruous form of rear garden development that would fail to preserve or enhance the character or appearance of the PCA. Consequently, it would result in significant and demonstrable harm to the character and appearance of the area. The proposed development would therefore be contrary to policies CS4, DM5 DM8 and DM13 of the Ipswich Borough Council Local Plan Core Strategy and Policies Development Plan Document Review (LP). These policies in combination seek to conserve protect and enhance heritage assets and the special character and appearance of Conservation Areas

#### *Trees*

15. The proposed development envisages the removal of an established conifer hedge towards the rear of the appeal site and the tree referenced as T11 on the submitted tree survey. Whilst the removal of these may be acceptable, there are a number of remaining trees in close proximity to the proposed dwelling.
16. I saw from my site visit that the trees varied in terms of their species, size and quality. They have not all been included in the recently confirmed TPO, but nonetheless, cumulatively they are attractive and make a positive contribution to the visual amenity of the PCA when viewed from Warrington Road.
17. The remaining trees are mainly sited along the southern boundary and to the rear of the existing garden. I appreciate that the living area of the proposed dwelling has been designed to maximise the available daylight. Nonetheless the proposed dwelling would be located very close to the tree canopies and large parts of the proposed garden area would be under their spreads. I accept that their removal would need permission. However, given the continued significance of the trees and their position relative to the proposed dwelling, I find that the potential for overshadowing, safety and maintenance in this relatively constrained plot, would be likely to lead to pressure to cut back or remove the tree in the longer term.
18. The loss of, or work detrimental to the appearance of the trees, would further harm the PCA. I therefore find that the appeal should be dismissed on this point and the proposed development would be in conflict with policies DM5, DM8, DM10 and DM13 of the LP. These policies seek to ensure that new development protects and enhances the character and appearance of conservation areas through adopted Conservation Area Appraisals and Management Plans and retaining existing trees of amenity value.

#### *Living conditions*

19. From the site inspection I saw that Nos 28 and 30 Broughton Road have small rear gardens. Moreover, the elevation facing the appeal site has windows

serving habitable rooms to the ground and first floors. The gardens are some 1 metre lower than the appeal site.

20. I saw that the existing substantial hedge would be likely to have some effect on the outlook from these gardens. The hedge however provides a backdrop to the garden and is not an unattractive feature in this context. By contrast the proposed dwelling does not have any windows to the west elevation and therefore the outlook from these gardens would be towards a blank wall.
21. I find that the extensive side elevation and sloping roof of the proposed dwelling, within such close proximity to the rear gardens and first floor windows, would appear uncompromising and overbearing. Accordingly, this would lead to a greater loss of outlook than currently exists, and an unacceptable sense of enclosure to the dwellings at 28 and 30 Broughton Road.
22. The proposal would result in an additional dwelling in the existing rear garden of No 15. The remaining garden would still be available for the occupiers of the large host dwelling. Although, smaller in scale, the location of the proposed dwelling would undoubtedly introduce additional residential activity, which would be concentrated much closer to No's 26 to 32 Broughton Road. However, any noise or disturbance associated with a single dwelling would not be so significant, so as to be harmful given the predominantly residential surroundings to the site.
23. Taking the above points together I therefore find no harm to the living conditions of occupiers of No 26 to 32 Broughton Road, in terms of noise and disturbance. I do however find unacceptable harm to the living conditions of the existing occupiers of No's 28 and 30 Broughton Road, with regard to outlook. Consequently, the development would be contrary to Policy DM13 of the LP. In summary this policy states that small scale residential development will not be permitted, unless it protects the amenity of neighbouring residents including any overbearing impact.

### **Other matters**

24. My attention has been drawn to the development at 36 Warrington Road that was allowed at appeal in 2009. Whilst I acknowledge that this may be a broadly similar scheme, this decision pre-dates the Framework and the 2017 adopted Local Plan and is thus not a direct comparison. Moreover, I do not have the full details and planning history for this site and have therefore determined this appeal on its merits.
25. The appellant has referred to their permitted development rights as a potential fall-back position. However, I have seen nothing to suggest they would pursue this option if the appeal failed, or that such a scheme would be similar to, or materially worse than, what is currently proposed. As such, it is a matter of little weight.
26. I have had regard to the Appellants suggestion for a condition to require enhanced landscaping to the frontage of No 15. However, as I have already found harm as outlined above, this does not alter my decision.

## **Conclusion**

27. It is acknowledged by the parties that the Council are unable to demonstrate a five year supply of housing. However, in the context of my finding that the proposed development would cause, less than substantial harm, to the PCA, footnote 6 of paragraph 11 of the Framework, means that the tilted balance is not engaged. Therefore, based on my findings, and the application of policies in the Framework relating to the setting of designated heritage assets, together with the other harm I have identified, provide clear reasons for dismissing this appeal.
28. For the above reasons and having regard to all of the other matters raised I conclude that the appeal should be dismissed.

*Hilary Orr*

INSPECTOR