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The Planning Inspectorate

# Appeal Decisions

Site visit made on 15 February 2011

**by Christopher Bowden MA (Oxon)**

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

**Decision date: 24 March 2011**

## Appeal A: Ref. APP/E5330/E/10/2132574
## Green Roof Cottage, Heathway, London SE3 7AN

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by Mr S Frost against the decision of the Council of the London Borough of Greenwich.
- The application Ref. 09/2743/C, dated 4 December 2009, was refused by notice dated 6 July 2010.
- The demolition proposed is the existing dwelling.

## Appeal Ref: APP/E5330/A/10/2132561
## Green Roof Cottage, Heathway, London SE3 7AN

- 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 S Frost against the decision of the Council of the London Borough of Greenwich.
- The application Ref. 09/2674/F, dated 4 December 2009, was refused by notice dated 6 July 2010.
- The development proposed is demolition of the existing dwelling and erection of two part-2/part-2½ storey 3-bed dwellings with basements, one parking space per dwelling and associated new landscaping works.

## Application for costs

1. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

## Decisions

*Appeal A*

2. The appeal is allowed and conservation area consent granted for *demolition of the existing dwelling* at Green Roof Cottage, Heathway, London SE3 7AN in accordance with the terms of the application Ref. 09/2743/C, dated 4 December 2009, subject to the conditions set out in the attached schedule.

*Appeal B*

3. The appeal is allowed and planning permission granted for *demolition of the existing dwelling and erection of two part-2/part-2½ storey 3-bed dwellings with basements, one parking space per dwelling and associated new landscaping works* at Green Roof Cottage, Heathway, London SE3 7AN in

accordance with the terms of the application Ref. 09/2674/F, dated 4 December 2009, subject to the conditions set out in the attached schedule.

**Procedural matters**

4. The descriptions of the demolition and development proposed are taken from the decision notices. I consider that they describe the proposals more accurately than those given in the application forms.

5. At the site visit, it was agreed that the front (red line) boundary of the site was shown correctly on drawing Nos. 08-Ox_Lp_00S and 00S1 rather than on No. 08-Ox_Lp_001S. It was also agreed that the scheme drawings included LXe_002 (existing elevations), submitted with the appeal. I have determined the appeal accordingly.

6. My attention has been drawn to a number of other appeal decisions relating to development in the vicinity of the site. While I have taken them into account I have determined this appeal on its own merits.

**Main Issue**

7. This is the effect of the proposals on the character and appearance of the Blackheath Conservation Area.

**Reasons**

8. Green Roof Cottage is a two-storey detached house on the south side of Heathway, a narrow unadopted road running behind properties in Vanburgh Park and St John's Park. The road is characterised by mainly two-storey detached and semi-detached houses in a variety of sizes, styles and materials. The majority appear to be of relatively recent construction. The surrounding area also includes a variety of built form. The site lies in the Blackheath Conservation Area (CA). The appeal proposals entail the demolition of the existing house and the construction of two new ones.

*Appeal A*

9. The present house was built in the 1950s. It is of traditional design, made of brick with a gable-ended pitched and tiled roof and metal windows. Although set well back behind a high brick wall it is visible from the road with glimpses of its front garden through openings in the wall. The house has a certain low-key, understated charm that is consistent with the informal, secluded, sylvan feel of this part of Heathway. Nevertheless, it is relatively bland in appearance and of no great architectural merit. Moreover, planning permission granted (but since lapsed) for substantial additions (including two-storey front and side extensions) would have had a significant effect on the appearance of the house and on views of it from the road.

10. While the house is clearly part of the mix that makes up Heathway that mix is an eclectic one and the house does not make a special or distinctive contribution to it. Neither does its position on the bend closest to the western entrance to the road mark it out in any particularly significant way. In any event, the house does not appear to have noteworthy historical or other local associations, whether or not there was once another building on the site and notwithstanding information submitted about a former occupant of the property. It does not feature in the draft CA appraisal as a building of local historic or architectural interest and I have seen no evidence that

representations were made during consultation to include it as such. Demolition would lead to loss of the metal (Crittal) windows but I do not consider that this would justify retention of the building and I note that English Heritage offered no comments on the proposals.

11. Overall, therefore, I consider that the existing house makes no more than a neutral contribution to the character and appearance of Heathway and the wider CA. The property's ivy-clad front wall does add to the semi-rural and leafy feel of this end of the road but the wall would be largely retained; I consider this further below.

12. I conclude that, as Green Roof Cottage does not contribute positively to the character or appearance of the CA, there is no objection to its demolition, provided that the proposed new development is acceptable. This approach is consistent with the objectives of Policy D17 of the Greenwich Unitary Development Plan, adopted in 2006 (UDP). I also consider it consistent with the advice on protection of heritage assets in Planning Policy Statement 5 *Planning for the Historic Environment*.

13. The outcome of Appeal A thus turns on that of Appeal B.

*Appeal B*

14. As noted above, the proposal is to erect two houses where there is currently one. There are concerns that it would involve the loss of garden land, which no longer falls within the definition of previously developed land following the changes made to Planning Policy Statement 3 *Housing* in June 2010. These changes were made before the Council issued its decision and I note that it raised no objection to the proposal on this basis. In any event, while the scheme would make more efficient use of the site for residential purposes in a sustainable urban location, it clearly needs to have regard to the development plan and other material considerations.

15. Taken together, the houses would span most of the width of the site but the existing house does much the same. They would respect the differing building lines of the dwellings on either side while the staggered layout and marked setback of the top floor of the houses (with flat roofs below the ridge heights of the adjacent properties) would ensure that the development did not appear unduly cramped. This setback would also ensure that the use of flat rather than pitched roofs was not over-dominant or intrusive in the street scene. The proposals would result in an increase in site coverage but the built footprint would occupy a lower proportion of plot area than its immediate neighbours. Although the layout would mean that the eastern house in particular was well forward of the existing dwelling it would still be behind the front of No 6, which would provide a backdrop when viewed from the west. Overall, I consider that the domestic scale and bulk of the houses would fit comfortably into this irregularly shaped site on a bend in the road and relate well to other houses in the vicinity.

16. The design of the dwellings is contemporary. It is thus not traditional or "architecturally conservative" and would present a clear contrast to Green Roof Cottage. I see no objection in principle to this. There are other buildings of contemporary design in Heathway (with flat roofs), even if pitched roofs of varying styles are in the majority, and I note that further houses of "unashamedly modern" design are in prospect in the road on land to the rear

of Nos 72 and 73 Vanburgh Park.[1] Similarly, the proposed materials would not imitate the London stocks of the existing house but would be "modern materials" appropriate to the design of the new ones. There is some concern that use of white brick would make the houses appear stark and conspicuous but there are other white houses in the road, including Nos 1a and 10 nearby, and the materials proposed would not look out of place. While I noted the use of white brick at No 22, to which my attention was drawn by a number of representations, I do not consider the building directly comparable to the appeal proposal in design or position or effect on the street scene.

17. Overall, I consider the proposal an interesting and imaginative one that would respect its context without seeking to replicate the design or materials of Green Roof Cottage. The new houses would make more intensive use of the site and would be more prominent than the existing one but they would not be unduly dominant or intrusive or otherwise appear incongruous in this setting. They would integrate successfully without detriment to the green and secluded feel of this part of Heathway, bearing in mind that the existing wall would be largely retained, at its present height, and that it is proposed to plant additional trees at the front of the site; these aspects could be secured by condition. Of the two accesses proposed, one is in the position of the current access. The other would involve removal of a section of wall and boundary fence in the north-east corner of the site, adjacent to the parking space of No 6. It would thus be more open at this point but, with sensitive hard and soft landscaping, would not harm the street scene unacceptably.

18. I conclude that the proposed development would not have a materially harmful effect on the character and appearance of the Blackheath Conservation Area. It would preserve the character and appearance of the CA as a whole. I therefore find no conflict with the objectives of UDP Policies SD1, D1 or D16.

**Other matters**

19. There are concerns that the proposal would have an adverse effect on traffic and parking and would thus be harmful to highway and pedestrian safety. I note that the Council did not object on this basis. A net addition of one house is proposed, the site is in a sustainable location, in walking distance of public transport and local shops, and the level of parking appears to meet UDP requirements. I therefore consider that the development would not have a materially harmful effect on safety.

20. There are also concerns about loss of neighbours' privacy and daylight and sunlight. Again, the Council raised no objection on these grounds. Taking account of the relative position and orientation of the houses and neighbouring properties, the location of proposed windows, and the proposed retention of the conifers on the rear boundary, I do not consider that any significant loss of privacy or light would arise. Potential disturbance arising from the demolition and construction processes can be addressed through other legislation.

**Conditions**

21. The Council suggested a number of conditions in relation to both appeals. I have considered them in the light of Circular 11/95 and the model conditions published by the Planning Inspectorate.

[1] Appeal decision APP/E5330/A/10/2124766 (July 2010)

22. I agree that, in order to safeguard the appearance of the site and the wider area, a condition is needed to ensure that demolition does not take place before a contract is made for permitted redevelopment. Conditions on external materials and finishes and on landscaping and boundary treatments are needed to ensure that the development has a satisfactory appearance. A condition on refuse storage is necessary to ensure suitable provision and one on Lifetime Homes to ensure that the development is accessible. The conditions relating to aspects of the demolition and construction process are not necessary as they are covered by other legislation. I do not consider that the suggested limitation of permitted development rights is required given the restrictions to such rights in conservation areas made by the 2008 amendment to the General Permitted Development Order.

23. Conditions are also needed on commencement (to comply with section 91 of the Town and Country Planning Act 1990) and to ensure (for the avoidance of doubt and in the interests of proper planning) that development is carried out in accordance with the approved plans, other than as set out in the related decision and conditions.

**Conclusion**

24. For the reasons given above and having regard to all other matters raised, including third party representations, I conclude that both appeals should be allowed.

*Christopher Bowden*

INSPECTOR

## SCHEDULE OF CONDITIONS: Appeal A

1) The works of demolition hereby authorised shall begin not later than three years from the date of this decision.

2) The works of demolition hereby authorised shall not be carried out before a contract for the carrying out of the works of redevelopment of the site has been made and planning permission has been granted for the redevelopment for which the contract provides.

[end of Appeal A schedule]

## SCHEDULE OF CONDITIONS: Appeal B

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: 08-Ox_Lp_001S, LXe_002, Lp-00L, LL_001, Le_002, Le_003, Le_004, Le_005, Le_006, Ls_001, Lp_0BG, Lp_012, 08-Ox_LP_00S, 08-Ox_Lp_00S1.

3) Notwithstanding condition 2, no development shall take place until details of the materials and finishes to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) Notwithstanding condition 2, no development shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme, which shall include retained trees and new planting and a programme for implementation of the scheme, shall be carried out as approved. If, within a period of 5 years from the date of planting, any tree or plant is removed, uprooted, destroyed or dies, another of the same species and size shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

5) Notwithstanding condition 2, no development shall take place until details (including height, position and materials) of walls, fencing or other means of enclosure around and within the site have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the dwellings hereby approved are occupied.

6) No development shall take place until details of how the dwellings hereby permitted will be built to Lifetime Homes standards have been submitted to and approved in writing by the local planning authority. The work shall be completed in accordance with the approved details before the dwellings are occupied.

7) The dwellings hereby permitted shall not be occupied until facilities for the storage of refuse have been provided in accordance with details submitted to and approved in writing by the local planning authority. The approved facilities shall thereafter be retained.

[end of Appeal B schedule]

The Planning Inspectorate

# Costs Decision

Site visit made on 15 February 2011

**by Christopher Bowden MA (Oxon)**

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

**Decision date: 24 March 2011**

**Costs application in relation to Appeals Ref: APP/E5330/E/10/2132574 and APP/E5330/A/10/2132561**
**Green Roof Cottage, Heathway, London SE3 7AN**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Mr S Frost for an award of costs against the Council of the London Borough of Greenwich.
- The appeals were against the refusal of the Council to grant conservation area consent for demolition of the existing dwelling and planning permission for demolition of the existing dwelling and erection of two part-2/part-2½ storey 3-bed dwellings with basements, one parking space per dwelling and associated new landscaping works.

## Decision

1. The application for an award of costs is refused.

## Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeals, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. Conservation area consent and planning permission for the schemes subject to the appeals was refused by the Council's Greenwich Area Planning and Environment Committee. Although officers recommended granting approval Members took a different view.

4. Members are quite entitled to go against officers' advice, provided that there are valid planning grounds for doing so. The refusal reasons were set out in the decision notices by reference to development plan policies.

5. I have no reason to suppose that Members did not take full account of the planning officer's report in reaching their decisions and it appears that the Committee had the benefit of the input of the appellant's architect at the meeting at which the proposals were considered. While Members were clearly aware of local residents' opposition to the proposals this does not mean that they were unduly influenced by it.

6. The decisions do not accord with the views of the Council's conservation officer or local amenity groups. However, the contribution of the existing house to the character and appearance of the conservation area and the effect of the proposed replacements are ultimately matters of judgement, having regard to

the context of the current and proposed buildings as well as their intrinsic merits. It seems to me quite legitimate to take contrary positions on these matters, even though I do not agree with them. The elaboration of the refusal reasons in the Council's statement is relatively succinct and I have not found it persuasive in my consideration of the two appeals. Nevertheless, it amplifies the Council's stance on the building's contribution and pinpoints the difference of view on whether, given its shape and setting, this particular site could reasonably accommodate additional built form by way of two dwellings of the layout, scale and design proposed. I consider that it deals adequately with the main points. And while it may be that the current proposals represent an improvement upon those previously refused by the Council this does not, of itself, make the present scheme acceptable. It must still be assessed on its own merits.

7. On the above basis, I consider that the Council did not act unreasonably in taking a decision contrary to the recommendation of its officers or otherwise fall foul of the guidance in the Circular 03/2009, including the paragraphs cited by the appellant.

8. I have considered whether a partial award of costs would be justified but I do not consider that it would be in the light of the considerations set out above and having regard to paragraphs A19 and A20 of Part A of the annex to the circular.

9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated. I thus conclude that the award of costs sought is not justified.

*Christopher Bowden*

INSPECTOR