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## Appeal Decision

Site visit made on 2 February 2016

**by Daniel Hartley BA (Hons) MTP MBA MRTPI**

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

**Decision date: 11 February 2016**

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**Appeal Ref: APP/J1535/W/15/3136657**  
**Woodberrie, Woodbury Hill, Loughton, Essex IG10 1JB**

- 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 Patricia Colley against the decision of Epping Forest District Council.
  - The application Ref EPF/0498/15, dated 2 March 2015, was refused by notice dated 3 June 2015.
  - The development proposed is a dwelling adjacent to Woodberrie.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling adjacent to Woodberrie at Woodberrie, Woodbury Hill, Loughton, Essex IG10 1JB, in accordance with the terms of the application Ref EPF/0498/15, dated 2 March 2015, subject to the conditions set out in the attached schedule.

### Main Issues

2. The main issues are the effect of the proposal upon (i) the character or appearance of the York Hill Conservation Area; and (ii) the living conditions of the occupiers of 13 and 15 Woodbury Hill in respect of outlook.

### Reasons

#### *Conservation Area*

3. The appeal site comprises part of the garden area of Woodberrie and falls within the York Hill Conservation Area (CA). Woodberrie is a locally listed building dating from the turn of the 20<sup>th</sup> Century. It is an Arts and Crafts style property with a distinctive cat slide roof. This part of the CA is characterised by large residential properties, set within large plots and positioned well back from hedgerow lined narrow lanes. The more traditional properties are timber framed and include timber weatherboard cladding. Collectively these characteristics give the CA its distinctive character.
4. The proposal is to demolish an existing linked attached garage to Woodberrie and a detached outbuilding in the part of the garden adjacent to the rear garden boundary of 13 Woodbury Hill, and to erect a two storey (three bedrooms) dwelling, with space to park two vehicles. The proposed dwelling would share the existing drive (leading from Woodbury Hill) with Woodberrie

and would include white painted timber weatherboarding to the walls with a red brick plinth, and a slate tiled roof.

5. The dwelling would be set well back from Woodbury Hill and would follow a similar building line to Woodberrie. The removal of the garage and the outbuilding would ensure that the dwelling was positioned within a large plot. The retention of the existing mature hedgerow (particularly along the boundaries with the lane and 13 and 15 Woodbury Hill) would ensure that the property was well assimilated into the wider landscape.
6. I am satisfied that the proposed dwelling would suitably reflect the elevation treatment and material palette of the properties immediately surrounding the site. The scale and bulk of the property would be similar to other properties in the area. Woodberrie would continue to occupy a large plot, and I am satisfied that the proposed dwelling would not cause harm to this designated heritage asset.
7. For the above reasons, and taking into account Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I consider that the proposal would have a neutral impact on the character and appearance of the CA. The proposal would maintain the defining characteristics of the CA, namely that of dwellings in spacious plots positioned well back from narrow lanes; and given the overall design and use of materials, it would not jar with the existing pattern of development surrounding the site. Therefore, I conclude that the proposal would preserve the character and appearance of the CA. Accordingly, there would be no conflict with the conservation and design aims of the National Planning Policy Framework and saved Policy HC6 of the Epping Forest District Council Local Plan 1998 (Local Plan).

#### *Living Conditions*

8. The side elevation of the proposed dwelling would be approximately 17 metres from the rear elevations of numbers 13 and 15 Woodbury Hill. These properties are positioned at a higher level to the appeal site. The ground floor of the proposed dwelling would not be conspicuous when viewed from these properties, given the height and position of existing boundary treatment and mature vegetation.
9. Whilst the proposed first floor would be seen from these properties, taking into account separation distances, the height of the building, and the differences in levels, I am satisfied that the proposal would not have an overbearing impact nor lead to a material loss of outlook for the occupiers of 13 and 15 Woodbury Hill. The proposed dwelling would be at an angle to the rear of 15 Woodbury Hill thereby lessening its impact, and to some extent the outlook from parts of the rear of 13 Woodbury Hill would be improved, given the demolition of the outbuilding.
10. Therefore, I conclude that there would be no conflict with the amenity aims of saved Policy DBE2 of the Local Plan. Furthermore, the proposal would accord with one of the 12 principles of the National Planning Policy Framework which is to *"always seek to secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings."*

### **Other Matters**

11. I have taken into account representations made by interested parties. Taking into account the separation distances from surrounding residential properties, I do not consider that the dwelling would lead to a material loss of light, outlook or privacy for their respective occupiers. Whilst there are windows proposed to the side elevation facing 13 and 15 Woodbury Hill, these would be non-habitable room windows. A planning condition is imposed to ensure that obscure glazing is used. I acknowledge that the proposal would have some effect on long distance views from these properties, but the right to a view is not a material planning consideration.
12. Reference has been made to "garden grabbing", but I have not been provided with any policy that specifically precludes housing development in gardens. Therefore, I attach limited weight to this issue. I have been provided with no evidence to suggest that the proposal would cause harm to wildlife and the existing hedgerow would be retained. Planning conditions are imposed relating to construction hours and construction management. Proposed on-site car parking provision would be adequate.
13. Comments have been made that approval of planning permission will set an unacceptable precedent in the area. Given that I have concluded that the proposal would be acceptable, I can see no reason why it would lead to harmful developments on other sites in the area. Furthermore, each planning application and appeal should be determined on its merits.
14. None of the other matters, nor representations made by interested parties, outweigh my conclusions on the main issues.

### **Conditions**

15. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of the suggested conditions in the interests of precision and clarity and in order to comply with advice in the Planning Practice Guidance. I have amended a number of the conditions where I do not consider that they need to be pre-commencement conditions.
16. Planning permission is granted subject to the standard three year time limit condition.
17. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. I have therefore imposed a condition to this effect.
18. In the interests of the character and appearance of the area it is necessary to impose conditions relating to materials, window details, boundary treatments, landscaping, tree protection and the final finish to the flank wall of Woodberrie.
19. In order to retain a large garden area/plot associated with the appeal dwelling, and in the interests of the character and appearance of the CA, it is necessary to remove permitted development rights and that the outbuilding / garage are demolished before construction of the dwelling. However, I have amended the wording of the Council's suggested permitted development rights condition so that it removes reference to Woodberrie. A condition removing permitted

development rights from Woodberrie would not be enforceable as such rights could be exercised in advance of the implementation of the planning permission. Furthermore, I do not consider that it is necessary to remove permitted development rights from Woodberrie as the resultant garden area associated with this property would still be spacious.

20. In the interests of highway safety, it is necessary to impose planning conditions relating to the discharge of water onto Woodbury Hill and the surface treatment of the access drive.
21. In the interests of the living conditions of the occupiers of surrounding properties, conditions are necessary relating to construction hours, the method of construction and demolition, the management of flood risk, the provision of obscure glazing to the first floor windows facing 13 and 15 Woodbury Hill, controls over potential land contamination and the submission of details relating to foul and surface water drainage.

### **Conclusion**

22. The proposed development would not have an adverse effect upon the character and appearance of the York Hill Conservation Area, nor upon the living conditions of the occupiers of surrounding properties. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

*Daniel Hartley*

INSPECTOR

### **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: Drawings 239-PL 05 A, 239-PL-06 A, 239-PL-07 A, 239-PL-08 A and 239-PL-09.
3. No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such approved details. For the purposes of this condition, the samples shall only be made available for inspection by the Local Planning Authority at the planning application site itself.
4. No construction works above ground level shall take place until additional drawings (section and elevation at scales between 1:20 and 1:1) that show details of proposed new windows and external doors have been submitted to and approved in writing by the Local Planning Authority. The windows and doors shall thereafter accord with approved details.
5. No construction works above ground level shall take place until details of the proposed boundary treatments and finishes have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be in place prior to first occupation of the dwelling and shall be retained as approved thereafter.
6. No demolition works shall take place until additional drawings that show details of the proposed method of demolition and finish to the flank wall of the donor property (Woodberrie) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other Order revoking, further amending or re-enacting that Order) no development permitted by virtue of Class A, C or E of Part 1 of Schedule 2 to the Order shall be undertaken within the curtilage of the dwelling hereby approved, without the prior written permission of the Local Planning Authority.
8. All construction/demolition works and ancillary operations, including vehicle movement on site, shall only take place between the hours of 07.30 to 18.30 hours Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays.
9. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - The parking of vehicles of site operatives and visitors.

- Loading and unloading of plant and materials.
  - Storage of plant and materials used in constructing the development.
  - Measures to control the emission of dust and dirt during construction, including wheel washing.
  - A scheme for recycling/disposing of waste resulting from demolition and construction works.
  - Details of delivery schedules or restrictions in place to ensure no construction deliveries take place during school term time between the hours of 8.30-9.30 and 14.45-15.45.
10. Prior to the commencement of the development, a flood risk assessment and management and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall demonstrate that adjacent properties shall not be subject to increased flood risk and, dependant upon the capacity of the receiving drainage shall include calculations of any increased storm run-off and the necessary on-site detention. The approved measures shall be carried out prior to the substantial completion of the development hereby approved and shall be adequately maintained in accordance with the approved management and maintenance plan.
11. Prior to first occupation of the development hereby approved, the proposed window openings at the first floor facing 13 and 15 Woodbury Hill, shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed, and shall thereafter be permanently retained in that condition.
12. Prior to the commencement of development details of the means of discharge of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter.
13. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
14. There shall be no discharge of surface water onto the Highway.
15. The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site. Should any discoloured or odorous soils be encountered during the development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to and approved in writing by the Local Planning Authority, prior to the recommencement of development works. Following the completion of development works, and prior to the first occupation of the site, information must be submitted to the Local Planning Authority to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

16. No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and an implementation programme (linked to the development schedule) have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted, destroyed, dies, or becomes seriously damaged or defective, another tree, shrub or plant of the same species and size as that originally planted shall be planted at the same place.
17. No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - recommendations) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with approved details.
18. The dwelling hereby approved shall not be constructed until the detached outbuilding (to the north west of the site) and the attached garage (to the property known as Woodberrie) have been demolished.