
Appeal Decisions

Site visit made on 15 January 2020

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal A: APP/J1535/Y/19/3233920

Hainault Hall, 173 Lambourne Road, Chigwell IG7 6JU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to vary or discharge conditions of a listed building consent.
 - The appeal is made by Mr A Singh against the decision of Epping Forest District Council.
 - The application Ref EPF/1263/19 LB, dated 16 May 2019, sought to vary Condition 5 of a listed building consent Ref EPF/0349/18 LB granted on 10 April 2018.
 - The works proposed are a pool and gym building.
 - The condition in dispute is Condition 5 which states:
The development hereby permitted will be completed strictly in accordance with the approved plans numbered DS-01 to DS-11.
 - The reason for the condition is:
To ensure the proposal is built in accordance with the approved drawings
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Appeal B: APP/J1535/W/19/3233921

Hainault Hall, 173 Lambourne Road, Chigwell IG7 6JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr A Singh against the decision of Epping Forest District Council.
 - The application Ref EPF/1263/19, dated 16 May 2019, was refused by notice dated 11 July 2019.
 - The application sought planning permission for a pool and gym building without complying with a condition attached to planning permission Ref EPF/0348/18, dated 10 April 2018.
 - The condition in dispute is Condition 3 which states:
The development hereby permitted will be completed strictly in accordance with the 11 plans hereby approved numbered DS-01 to DS-11.
 - The reason given for the condition is:
To ensure the proposal is built in accordance with the approved drawings
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Decision

Appeal A

1. No further action to be taken

Appeal B

The appeal is allowed, and planning permission is granted for the erection of a pool and gym building at Hainault Hall, 173 Lambourne Road, Chigwell IG7 6JU

in accordance with the terms of the application, EPF/1263/19, dated 16 May 2019, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be undertaken only in accordance with a Construction Method Statement that has first been submitted to and approved in writing by the local planning authority
- 3) Unless modified under the conditions below, the development shall be carried out in accordance with the following approved plans: DS-01B, DS-02B, DS-03B, DS-04, DS-05, DS-06, DS-07B, DS-09A, DS-10A & DS-11B.
- 4) The proposed roof light windows on the north facing roof slope of the rear swimming pool outbuilding shall be fixed shut and retained as such on a permanent basis.
- 5) Prior to the commencement of any further development the following shall be submitted to and approved in writing by the local planning authority:
 - a) Details of all external materials;
 - b) Drawings of all external door, window and rooflight detailing at scales of 1:20 to 1:1 as appropriate
 - c) Details, colours and locations of all external pipes, extracts, grilles, flues, lights, alarm boxes or satellite dishes to be fixed to the outside of the building.The development shall then be carried out in accordance with the approved details and drawings only.

Procedural matters

2. An application for costs was made by the appellant against the Council, and that is the subject of a separate decision.
3. The parties agreed the development should be described in the manner given above.
4. The pool/gym building is partly erected, and I have no reason to consider it is not in line with the scheme permitted under permission EPF/0348/18 and consent EPF/0349/18 LB (the permitted scheme).
5. Contrary to what was shown on the drawings that accompanied the applications subject of the appeals before me, as built the western elevation of the building does not project beyond the rear elevation of the adjacent house, 7 Maypole Drive. It was clear from the submissions that the proposal sought to retain the elevations that had already been constructed. Therefore, amended drawings to reflect the current situation have been submitted, clarifying that the westward extent of the building was not to be as far as originally indicated. I have considered the scheme on the basis of these, and I am of the view that reducing the proposal in this way does not prejudice any party.

Appeal A

6. The Act states that

'no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or

historic interest, unless the works are authorised... Works for the alteration or extension of a listed building are authorised if written consent for their execution has been granted by the local planning authority or the Secretary of State'. [sections 7(1) & 8(1)]

The requirement for consent therefore concerns works to extend, alter or demolish a listed building only, and the Act defines a listed building as

'a building which is for the time being included on the list...and for the purposes of this Act any object or structure fixed to the building [or] any object or structure within the curtilage of the building which, although not fixed to the building forms part of the land and has done so since before 1st July 1948 shall be treated as part of the building'. [section 1(5)]

7. The Council stated that the only reason these works required listed building consent was because they were within the curtilage of a listed building. However, from the above it can be seen that is not the determinative factor in whether or not such consent is needed. The partially constructed building subject of this appeal post-dates 1948 and the listing of Hainault Hall. Moreover, it is not and, as a result of this scheme, would not be fixed to the house but rather would be detached. Consequently, under the definition in section 1(5) of the Act it would not form part of the listed building and so, whilst it would be in the curtilage, mindful of sections 7(1) and 8(1) of the Act, the works proposed are not to alter or extend a listed building. Therefore, they do not require listed building consent and so I will take no further action in relation to Appeal A.

Appeal B

Main Issues

8. The main issues in this case are
- a) whether the proposal would preserve this Grade II listed building and its setting;
 - b) the effect of the development on the street scene of Maypole Drive and
 - c) its impact on the living conditions of neighbouring residents.

Policy

9. The emerging local plan is at a relatively advanced stage. However, the policies cited from that document broadly reflect those identified in the currently adopted *Epping Forest District Local Plan* (the Local Plan). As such, there has been no need for me to refer to them in my reasoning.

Reasons

Effect on the listed building

10. Section 66 of the Act states that when considering a grant of planning permission that affects a listed building or its setting special regard shall be given to the desirability of preserving its setting.
11. Hainault Hall is a large and impressive detached house that dates from the late 18th Century. The significance of its setting, and the way in which the setting contributes to its special architectural and historic interest, lies partly in the

way the dwelling, when seen from the front, sits in spacious surrounds, and dominates its curtilage in an unchallenged manner. This not only allows its balanced formal frontage to be appreciated, but also emphasises the status of the Hall. Although I anticipate that the surrounding suburban development has encroached into this setting over time, in my opinion this has not been sufficient to mean this dominance is not still noticeable.

12. At the back, the enclosing effect of the neighbouring houses, the simpler, more functional rear elevation and the impact that would result from the permitted scheme all mean that the setting makes little contribution to the significance of the building when seen from the north between the houses on Maypole Drive. However, when looking from the north-west the status of the dwelling can be perceived as it still seems to stand in extensive grounds.
13. The permitted scheme comprised an 'L'-shaped block that would stand behind the Hall on its north-eastern side. It was to have a more dominant front portion containing the gym, with a lower rear wing running behind the main house accommodating the pool. The appellant is now proposing to raise the height of the rear wing by 750mm, and insert a number of rooflights.
14. The part of the development before me containing the gym would be the same as in the permitted scheme and would remain by far the most noticeable element when seen from the front. Given this, and mindful of the limited gap between the pool/gym building and the Hall, the changes to the roof would not be readily apparent when looking from that direction. Moreover, from where they could be seen, the set back would mean they would not appear to compete visually with the main house. Consequently, I find those changes would not result in the prominence and dominance of the Hall being compromised or challenged from the front.
15. From the north on Maypole Drive, the permitted scheme already encroaches into the setting of the Hall. Moreover, the part of the roof that would be increased in height would still be seen in the context of the taller roof over the gym element of the building. As such, the development would have no appreciable impact on its setting when compared to the permitted scheme. When looking from the north-west, the proposal would not encroach into the Hall's setting as it would be tucked behind the property's existing rear wing and 7 Maypole Drive next door.
16. In relation to this issue Policy HC10 in the Local Plan has been cited. However, as the scheme does not involve works to the interior or exterior of a listed building it is not of relevance.
17. Accordingly, conclude that any increase in bulk that would result from the development would not harm the setting of the Grade II listed building or adversely affect its special architectural or historic interest. As such, the scheme would not conflict with Local Plan Policy HC12 or the *National Planning Policy Framework*.

The effect on Maypole Drive

18. The residential cul-de-sac of Maypole Drive lies to the north, and it turns sharply as it passes the northern corner of the site. As a result, dwellings abut the north-eastern and north-western boundaries, and the proposed building would be seen in between.

19. Whilst the scheme would increase the height of the part of this building that would be most apparent from that road, its hipped roof treatment would remain. In my judgement, when compared to the impact of the permitted scheme, what is now before me would not be incongruous, unsightly or unduly dominant, as it would respect the materials, scale and form of the adjacent modern housing along this road.
20. Accordingly, I conclude the development would not detract unacceptably from the street scene of Maypole Drive and so would not conflict with guidance in the *National Planning Policy Framework* relating to good design.

The effect on living conditions

21. The building before me would not project beyond the rear elevation of No 7 to the north-west. In these circumstances, and when compared to the permitted scheme, I consider the additional height of the proposal would not cause significant harm to the light and outlook enjoyed in either the rooms or back garden of No 7. No changes are proposed to the roof lights on the north-facing elevation and so no further issues of privacy would arise in that regard, and whilst there would be a mezzanine floor any additional overlooking from the upper windows on the west elevation would not be unreasonable in this suburban context.
22. The separation distances involved mean that any impact resulting from increased roof height on the outlook from the front windows of 4 Maypole Drive would not be unacceptable.
23. Accordingly, I conclude that the development would not cause unreasonable harm to the living conditions of neighbouring residents, and so would not conflict with Policy DBE9 in the Local Plan, which seeks to protect the living conditions of neighbours.

Conditions

24. In order to safeguard the historic significance of the listed building details of materials, windows, doors, external services and external equipment should be first approved in writing by the local planning authority, whilst a condition confirming the approved plans should be imposed. Conditions were also on permission EPF/0348/18 concerning the permanent closure of some of the rooflights and the compliance with an agreed Construction Method Statement, and I have no reason to consider that these are not still necessary so as to protect neighbours' living conditions.

Conclusions

25. Accordingly, for the reasons given I conclude Appeal B should be allowed.

JP Sargent

INSPECTOR