



Appeal Decisions

Site visit made on 13 July 2020

by Kenneth Stone BSC Hons DipTP MRTPI

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

Decision date: 25 September 2020

Appeal A: APP/L5810/W/20/3246786

St Michaels Convent, Ham Common, Ham TW10 7JH

- 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 Beechcroft Developments Ltd against the decision of the Council of the London Borough of Richmond-upon-Thames.
- The application Ref 19/2120/VRC, dated 8 July 2019, was refused by notice dated 23 December 2019.
- The application sought planning permission for Conversion and extension of the existing convent buildings (following demolition of some mid-20th century extensions), together with new build apartments and houses, to provide a total of 23 residential retirement units, an estate managers office and meeting rooms, parking and associated works within a landscaped site, with access via Ham Common without complying with a condition attached to planning permission Ref 16/3552/FUL, dated 24 April 2018.
- The condition in dispute is No U41852 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans and documents, where applicable:
 - Existing Plans; - Site Location Plan (drawing reference AA6250-2001) - Site Plan Existing (drawing reference AA6250-2002) - Existing Basement Plan (drawing reference PBF) - Existing Ground Floor Plan (drawing reference PBG12F) - Existing First Floor Plan (drawing reference P1F) - Existing Second Floor Plan (drawing reference PBG12F) - Existing East and West Elevations (drawing reference AA6250-2030) - Existing Elevations 1 and 2 (drawing reference E1F) - Existing Elevations 3-6 (drawing reference E2F) - Existing Elevations 7-11 (drawing reference E3F) - Existing Elevations 12-15 (drawing reference E4F) - Existing Walled Garden Building Elevations (drawing reference AA6250-2032); all received on 07.09.2017
 - Proposed Plans: - Site Plan Proposed (drawing reference AA6250 R2-2003 Rev B) - Main Building & Coach House Proposed Basement Floor (drawing reference AA6250 R1-2004) - 21.02.2017 - Main Building & Coach House Proposed Ground Floor (drawing reference AA6250 R2-2005 Rev C) - Main Building and Coach House Proposed First Floor (drawing reference AA6250 R2-2006 Rev B) - Main Building & Coach House Proposed Second Floor (drawing reference AA6250 R2-2007 Rev B) - Main Building Proposed Roof Plan (drawing reference AA6250 R2-2008 Rev B) - Mews Houses, Out Buildings & Links Ground Floor Plan (drawing reference AA6250 R2-2009 Rev A) - Mews Houses, Out Buildings & Links Proposed First Floor Plan (drawing reference AA6250 R2-2010 Rev A) - Mews Houses, Out Buildings & Links Proposed Roof Plan/Second Floor (drawing reference AA6250 R2-2011 Rev A) - Proposed East & West Elevations (drawing reference AA6250 R2-2040 Rev A) - Proposed North & South Elevations (drawing reference AA6250 R2-2041) - Proposed Sections AA & BB (drawing reference AA6250 R2-2043 Rev A) - 12.04.2017 - Proposed Sections CC & DD (drawing reference AA6250 R2-2044) - 12.04.2017
 - Proposed Section EE, FF & GG (drawing reference AA6250 R2-2045) -

12.04.2017 - Proposed Sections OO, PP, QQ, RR, SS, TT & UU (drawing reference AA6250 R2-2047) - 12.04.2017 - House Type 1 (drawing reference AA6250 R1-2050) - 21.02.2017 - House Type 2 (drawing reference AA6250 R1-2051) - 21.02.2017 - Ground Floor & Basement Demolition Plan (drawing reference AA6250 R12121) - 21.02.2017 - First Floor Demolition Plan (drawing reference AA6250 R1-2122) - 21.02.2017 - Second Floor Demolition Plan (drawing reference AA6250 R1-2123) - 21.02.2017 - Demolition - Elevation 1 - 2 (drawing reference AA6250 R1-2124) - 21.02.2017 - Demolition - Elevation 3 - 6 (drawing reference AA6250 R1-2125) - 21.02.2017 - Demolition - Elevation 7 - 11 (drawing reference AA6250 R1-2126) - 21.02.2017 - Demolition - Elevation 12 - 15 (drawing reference AA6250 R1-2127) - 21.02.2017

- All received on 09.08.2017 unless otherwise stated.

- The reason given for the condition is: To accord with the terms of the application, for the avoidance of doubt and in the interests of proper planning
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Appeal B: APP/L5810/Y/20/3246787

St Michaels Convent, Ham Common, Ham TW10 7JH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Beechcroft Developments Ltd against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/3043/LBC, dated 9 October 2019, was refused by notice dated 23 December 2019.
 - The works proposed are the addition of a first floor recessed steel balcony with a glass balustrade to plot 10 and the addition of a second floor recessed steel balcony with glass balustrade to plot 8. Both balconies will be located on the eastern facade and will have two edges supported by a new building a third edge will be supported at the location of a scar from previous development on an existing building.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural matter

3. The appeals are in respect of proposals which seek to provide two balconies on the eastern façade of the building and will be provided for units referred to as plot 10, which is at first floor level, and plot 8, at second floor level. The two units are in different parts of the building, plot 8 being located on the second floor in the new build apartment block and plot 10 located in the first floor of the existing building subject to conversion into apartments. The balconies would be located such that one would sit directly above the other. The planning permission is sought through an application to vary the approved plans condition on the original planning permission for the redevelopment of the site and I am only therefore considering the disputed condition the subject of this appeal, it is not a complete reconsideration of the original development¹.

¹ Planning Practice Guidance ID 21a-031-20180615

4. The application form confirms the changes proposed to the approved plans condition as 'We wish to remove drawings 2006B, 2007B from the decision notice and replace them with drawings 2201B, 2202B. Drawings 2200B and 2203B should also be added as approved drawings to the decision notice'. I have considered appeal A on that basis.

Main Issues

5. The main issues in these appeals are:
 - (a) In relation to both appeals A and B: whether the proposal would preserve the grade II listed building known as Orford Hall, St Michael's Convent or its setting or any features of special architectural or historic interest which it possesses, and
 - (b) In relation to appeal A only: the effect of the proposed development on the character and appearance of the area, including the Ham Common Conservation Area (HCCA); and the effect of the proposed development on the living conditions of the occupants of surrounding properties with particular reference to privacy.

Reasons

6. The building the subject of these appeals is a grade II listed building. When considering an appeal for listed building consent or for development affecting a listed building or its setting I am required by sections 16 and 66 of the Planning Listed Building and Conservation Areas Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses. The Convent site is also located within the Ham Common Conservation Area and under section 72 of the Act I also have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
7. I have had regard to these statutory duties in my consideration of these appeals.
8. The development plan for the area includes the London Borough of Richmond Local Plan in which policies LP1, LP3 and LP8 seek to protect areas of high quality, give great weight to the conservation of heritage assets including the retention and preservation of Listed Buildings and conserve and enhance conservation areas, as well as seeking to protect the amenity and living conditions of new and adjoining occupiers. Site SA 17 is a specific designation related to St Michaels Convent site that supports the redevelopment for residential use if it allows the protection and restoration of the listed buildings. The Ham and Petersham Neighbourhood Plan, also part of the development plan, includes policy 06 which again deals specifically with St Michaels Convent including a requirement to enhance the integrity of the listed buildings and preserve their setting.

Listed Building

9. The listed buildings which form part of the St Michaels Convent site derive their significance from their age, architectural quality and representation of the development and social history of the area. They have evidential value related to the architectural, artistic and historic record for design quality, construction

and past uses. The Cottage was a former stable block for Orford Hall, originally a large early C18 private residence which was subsequently extended.

10. The redevelopment of the site under planning permission 16/3552/FUL was substantially under way at the time of my site visit. The demolition of the rear northern wing close to Martingales Close had been undertaken and the replacement 'block c' constructed. The proposed balconies sit in a recessed part of the eastern façade at the junction of the newly constructed block and the main building. Whilst the remaining part of the building is also of a later addition to the main listed core it still forms part of the listed building and still contributes to the significance of the listed building demonstrating part of its evolution and historical development.
11. The proposed balconies are proposed to be black steel platforms, bolted to the adjoining walls, with frameless toughened glass balustrades. Door openings are created to provide access to the balconies.
12. Although the balconies are to be created in a recessed element of the façade they are located at high level and on an external outward facing façade. They are therefore visible, at high level from surrounding vantage points. To some extent the recessed location reduces the degree of intrusion into the street scene however they are still highly visible and evident elements on the façade. The well mannered and relatively plain façade of the new build wing sits comfortably alongside the main listed building and does not compete with it. The fenestration, rhythm and limited adornment on the elevations assists in integrating the new addition. The proposed overtly modern balconies at the junction between the listed building and new build will add to and emphasise the new element. The additional adornment, fenestration and modern materials would not reflect the listed building or features on it. The addition of balconies and particularly given the proposed materials and form would contrast with the simple detailing of the main building and would appear as incongruous and excessively modern additions.
13. This would in my view result in harm to the setting of the listed Orford Hall, albeit that this harm would be less than substantial.
14. I note that the appellant has suggested that if the principle of a balcony was acceptable that the detail of its design and materials could be the subject of a condition requiring the submission of such details. However, the proposals before me are for a specific balcony design and materials and seek to amend an existing approved plans condition with reference to new plans which specify the design and materials of the balconies. Furthermore, I have no visibility on the detail of what the nature of another design or materials might be and therefore cannot assess the acceptability of such a scheme. In any case this is not the scheme that the Local Authority considered or the scheme before me.

Conservation Area

15. The HCCA, as its name suggests, centres on Ham Common which dates from at least the 17th century. It plays an important strategic role as part of the wider formal landscape of Ham House and Richmond Park. Ham common green is a large triangular village green with buildings informally arranged around the perimeter. Orford Hall makes a strong positive contribution to the character and appearance of the conservation area as a focal building within a key view.

16. Whilst Martingales Close is not within the Conservation area, other than a small element at the entrance, and is not a historic route views of Orford house, the Convent site, Hardwicke House and The Common can all be viewed and appreciated from standing within the Close. I have concluded that the proposals would result in harm, albeit less than substantial harm, to Orford Hall and as this is viewed from within Martingales Close and is within the Conservation Area it follows that there would also be harm to the appearance of the conservation area, again albeit that this harm would be less than substantial.
17. I appreciate that much of the Conservation Area is situated well to the south and south east of Orford Hall and that this impact may not be visible from many parts of the Conservation Area. But small incremental alterations and harms to the conservation can degrade its quality and appearance over time. The significance of the conservation area is an accumulation of all of its parts and Orford Hall is an important contributor to that overall significance given its position and historical association. Harm to Orford Hall which is also visible when viewing the Conservation Area harms the conservation area as a whole.

Living conditions

18. The proposed balconies would be located in the eastern elevation of Orford Hall and face towards Hardwicke House, on the opposite side of Martingales Close. Hardwicke House is a large detached House; a Grade II listed building set in substantial grounds. The location of the balconies would be at a shallow angle looking towards the rear corner of the property. Whilst there are windows in the east elevation of Orford House these would serve bedrooms and bathrooms. The outlook from these windows would not afford the same degree of view as that for users of the balconies. The use of the balconies to sit and relax as opposed to passing views from within rooms and from smaller windows would not provide the same opportunities and the same angle or extent of views.
19. There is a degree of screening on the boundary of Hardwicke house with mature tree planting of both evergreen and deciduous trees providing for screening both in summer and winter with the density of coverage and evergreen foliage. Obviously during winter months this would reduce but given the density of canopy views would still be filtered. The appellant claims that given Hardwicke House is located within the Conservation Area this also provides a degree of protection for the trees. However, I have been provided with no information on the age, condition, health or state of those trees and they could potentially be lost over time. Whilst I accept that conservation area status provides some protection this would enable consideration of matters related to the amenity value contribution of the trees and does not easily ensure retention of features to fulfil a screening function. If the trees were to be lost the views from the balconies, given their elevated position and distance, would be into a sensitive part of the rear garden area and would materially reduce the privacy presently enjoyed by the occupants of that property. The prevention of the introduction of a source of harm is more appropriate than relying on the retention of a screen to mitigate that harm, particularly when I do not have the information before me regarding the nature of that screen and its likely longevity and that the screen is outside the control of the applicant.

20. On the basis of the above I conclude on this matter that the proposed development would result in material harm to the living conditions of the occupants of Hardwicke House, with particular reference to privacy. As such the proposal would conflict with policy LP8 of the Local Plan which seeks to protect the amenity and living conditions of new and adjoining occupiers, which is consistent with the National Planning Policy Framework (the Framework).

Other matters

21. The appellant has suggested that the provision of the balconies would be a positive benefit for the future residents of the development. Affording them direct access to an external space. Whilst this may be a benefit, it is primarily a private benefit for the future occupiers of the units which the balconies would serve. It would not be a direct public benefit and the scheme would go ahead without the provision of the balconies. The lack of a balcony would not frustrate the development or prevent the scheme from coming forward. I therefore afford this benefit limited weight.
22. Concerns have been raised that the use of the proposed balconies would lead to noise and disturbance. However, given the limited size of the balconies their recessed location and the future occupation of the units with which they are associated by residents over 55 the use would be unlikely to result in significant noise or disturbance for surrounding residents. When associated with the separation distances I am satisfied that there would be no material harm resultant from the use of the balconies in respect of noise and disturbance.

Overall conclusions

23. I have concluded that the proposal would not preserve the grade II listed building known as Orford Hall, St Michael's Convent or its setting or any features of special architectural or historic interest which it possesses and that it would not preserve the appearance of the Hams Common Conservation Area, albeit that this harm would be less than substantial. Paragraph 196 of the Framework requires in such circumstances that I weigh this harm against the public benefits of the scheme including its optimum viable use. The courts have held that I should give great weight and importance to any harm to heritage assets and I am satisfied that the harm I have identified is not outweighed by the limited benefit from the use of the balconies by future residents. There would be no change to the viability of the scheme as the lack of balconies would not prevent the implementation of the wider permission which is ongoing.
24. The change to the approved development by substituting plans that would provide for the proposed balconies would result in material harm and should not be permitted. The proposals would also harm the listed building and listed building consent should not be granted. Conditions would not address the material harm I have identified for the reasons I have set out above.
25. For the reasons given above I conclude that both the appeals should be dismissed.

Kenneth Stone

INSPECTOR