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## Appeal Decisions

Site visit made on 4 May 2021

**by Tim Wood BA(Hons) BTP MRTPI**

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

**Decision date: 10 June 2021**

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### **Appeal A: APP/L5810/W/20/3254893**

#### **Fitzherbert House, 29A Montpelier Row, Twickenham TW1 2NQ**

- 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 J Williams against the decision of the Council of the London Borough of Richmond-upon-Thames.
  - The application Ref 19/3348/FUL, dated 4 November 2019, was refused by notice dated 8 January 2020.
  - The development proposed is the erection of a two and a half storey 3 bedroomed dwellinghouse including accommodation in the roof plus a basement and associated hard and soft landscaping, cycle and refuse stores; alterations to boundary wall along Orleans Road.
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### **Appeal B: APP/L5810/Y/20/3254897**

#### **Fitzherbert House, 29A Montpelier Row, Twickenham TW1 2NQ**

- 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 Mrs J Williams against the decision of the Council of the London Borough of Richmond-upon-Thames.
  - The application Ref 19/3349/LBC, dated 4 November 2019, was refused by notice dated 8 January 2020.
  - The works proposed are the erection of a two and a half storey 3 bedroomed dwellinghouse including accommodation in the roof plus a basement and associated hard and soft landscaping, cycle and refuse stores; alterations to boundary wall along Orleans Road.
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## **Decisions**

1. The appeals are both dismissed.

## **Preliminary Matters**

2. In relation to Appeal A, the Council's decision included 7 reasons for refusal. As a result of new information submitted with the appeal by the appellant, the Council is satisfied that their concerns in relation to car parking, tree loss/landscaping and the internal layout/standard of accommodation have been met or can be addressed by suitable conditions; as a result they have withdrawn those reasons relating to these matters and offer no further comments. With regard to affordable housing, the appeal submissions include a suitable Planning Obligation which meets the Council's normal requirement and the Council have withdrawn this reason for refusal.
3. As a result of the adoption of The London Plan 2021 and the Council's publication of its Strategic Flood Risk Assessment, the Council has raised

additional matters in relation to flood risk and fire safety. The appellant has been made aware of these concerns and has commented on them.

4. The appellant has submitted revised drawings with the appeal which indicate very minor alterations. The Council has not objected to the consideration of these within the context of the appeal and I consider that no-one's interests would be prejudiced by my consideration of them.

### **Main Issues**

5. Taking account of the above, the main issues in these appeals are;

- The effects of the proposal on the heritage assets
- The effects of the siting and design of the proposal
- The effects of the proposed basement
- Flood risk
- Fire safety

### **Reasons**

#### ***Heritage***

6. The appeal relates to the rear section of the garden area of Fitzherbert House. The main house has a frontage onto Montpelier Row and its rear garden has a frontage onto Orleans Road. The site and the surrounding area are within the Twickenham Riverside Conservation Area. Neighbouring properties on Montpelier Row are listed, Montpelier House and its attached neighbour, South End House, are Grade II\* and Nos 26-28 Montpelier Row are Grade II. On Orleans Road, No 36, which sits adjacent to the appeal site is said to be listed by virtue of being within the curtilage of Montpelier House, as are brick boundary walls within the appeal site. Fitzherbert House itself is not listed. The grand and handsome houses on Montpelier Row contrast with the smaller forms of development along Orleans Road.
7. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. I have given considerable importance and weight to this in determining the appeal. Further, in Section 72(1), in relation to land or buildings in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
8. The appellant considers that the appeal site makes no contribution to the setting of Montpelier House/South End House due to the physical separation and more recent developments. In my view, whilst I have taken account of the developments of Fitzherbert House and the separation of the appeal site by the garden boundary wall, the presence of the very old garden walls at the north of the appeal site and to its western boundary indicates a historic association with a building older than Fitzherbert House and in my judgement indicates an association with Montpelier House. As well as this, I do not accept that there is

no meaningful visual relationship between the site and Montpelier House but I consider that the openness of the existing garden contributes positively to the setting of the Grade II\* listed Montpelier House and when in the appeal site, the presence of Montpelier House is strong and obvious, and such that the garden feels associated with this grand building, which has a greater presence than the other buildings fronting onto Montpelier Row. In this way I consider that the appeal site contributes to the significance of the listed building and is a reminder of its largely open grounds.

9. The Council acknowledges that the setting of Montpelier House has been eroded over time and some features have not preserved its setting. I agree that changes have occurred which have had an effect in this respect. The proposal would significantly erode the openness of the site and would contribute to some loss of visual association of the site with Montpelier House. I see the proposal as having a negative effect on the setting of the listed building and the presence of other eroding features is no reason to see the appeal scheme as positive or neutral, in this respect.
10. In relation to the Conservation Area, in the same way that the appeal site makes a positive contribution to the setting of Montpelier House, it contributes to the character and appearance of the conservation area. Therefore, the negative effect that I have identified in relation to the setting of Montpelier House, means that the contribution that the site makes to the conservation area would be reduced.
11. In relation to the effects of the proposal filling the gap in the street frontage between Nos 34A and 36 Orleans Road, the matter was considered by the Council within the relevant officer report and it was concluded that any effects would not support a reason for refusal and this is acknowledged in the Statement of Common Ground. However, the Council's appeal statement disagrees with the appellant's view that infilling the gap would be a benefit and adds that it is considered that, as there has been no previous historic development on this site and that the development would block the remaining views of Montpelier House from Orleans Road, it would adversely harm the experience of the conservation area. I note also that a number of local residents have objected to the filling of the gap in the street-scene and the appellant has offered views on this aspect of the proposal.
12. The buildings within Orleans Road are mainly 2 storey in height and many rise from the back edge of the pavement. Many have the appearance of mews-style buildings or buildings ancillary to the more grand properties on Montpelier Row. However, as one progresses south, the incidence of gaps in the street-scene and the presence of greenery become greater. This feature is identified within the submitted 'Twickenham Riverside and Queen's Road Conservation Area Study' which states that the character of the road makes a transition from urban to rural, becoming a leafy tree-lined lane. I agree with this assessment and in my judgement the transition includes the appeal site which, along with other gaps in the street-scene nearby, offers a changing character from the enclosed nature of the road, to one where the buildings are not dominant or are less so. Whilst none of the character appraisals identify the appeal site as making a positive contribution to the conservation area in this respect, in my judgement the fact that it offers a space between buildings, within this area of transition leads me to conclude that it makes a positive contribution to the character and appearance of the conservation area, in this respect. Taking its

context into account, this is consistent with the level of space that currently exists and would have existed around Montpelier House and South End House which were set within much larger plots than neighbouring properties; rather than ancillary buildings completely filling the frontages of Orleans Road (as may have been the case with other properties) the pattern here was that there were gaps between these ancillary buildings which are still present within this section of Orleans Road. In addition, it allows views of Montpelier House and South End House to be gained from Orleans Road and so maintains a degree of visual relationship between these properties on Orleans Road and Montpelier House/South End House. The proposal would fill the gap, remove the space and replace it with a building which would mean a longer continuous run of built form, contrary to the character and appearance that has been identified. In addition, and seen within this context, I consider that the proposal would fail to preserve the setting of No 36 Orleans Road by reducing the spaciousness of its surroundings. The appellant refers to other developments within Orleans Road which have taken place at the rear of plots of houses on Montpelier Row. However, the submissions indicate that these have taken place where built form already existed and so the situation would have been different to the appeal proposal.

13. With regards to the boundary walls to the north and west, within the site, the proposal would involve alterations to the west wall which fronts Orleans Road. The existing doorway would be bricked-up, a new one would be formed to its side and an additional doorway would be formed to the right-hand side (when seen from outside the site). The northern wall is proposed to be repaired and partly rebuilt if necessary. Part of the northern wall would also be completely obscured from view due to the construction of the proposed house; the drawings appear to indicate that the first floor of the proposal would be built over the wall. The value of the west wall in heritage terms is that it defines the edge of the properties within the conservation area and, in my view, offers some historic association with the important listed building of Montpelier House. The northern wall defines the historic curtilage of Montpelier House and I consider that some association remains.
14. The west wall has undergone some alterations over time and newer bricks have been inserted; however, and in the absence of any detailed analysis, it appears that a significant amount of original brickwork survives within it. The formation of the new doorway on the left (seen from the road) would involve removal of some brickwork, some of which would appear to be original. Similarly, the other door-way would involve some removal of historic and original fabric. I consider that these aspects of the proposal would cause some small degree of harm to the significance of this wall. The construction of the proposed house would mean that both sections of wall would have a new, 2 storey structure built immediately adjacent to them and in the case of the northern wall, would surround and obscure a section of it. In my judgement this would place a relatively imposing structure so close to the section of walls that it would dominate the walls, obscuring their form and function, at least in part, and would result in a reduction in the significance of the walls. In addition, I do not consider that the proposal to face the right-hand door in brick slips would be a successful addition to the wall and would appear contrived.
15. As a result of my consideration of the heritage-related matters, I conclude that the proposal would give rise to harm to the conservation area, setting of listed buildings and the walls. I consider that the harm would amount to 'less than

substantial' harm, as set out within the National Planning Policy Framework. I shall balance the harm that I have identified, and any other matters, with any benefits that would arise from the proposal, later within my decision.

### ***Siting and Design***

16. This aspect of the proposal and the disagreement between the Council and appellant relates to the effects of the basement, the lower ground courtyard, the hard-surfacing and associated features. Notwithstanding any conclusions on the more technical elements relating to the size of the basement, the Council considers that the size of the basement, lower-ground courtyard and associated development is excessive and uncharacteristic.
17. The basement would be provided below the proposed house and would extend rearwards, under the proposed terrace and would extend to the side of the house. At the lower level, the proposed rear room would look out onto a courtyard at the lower level. The courtyard would have access to the upper level (ground level) garden via open steps and there would also be some storage accommodation over which there would be hard-surfacing. Beyond this, at the rear of the site would be garden at ground level. The basement would be served, in part, by roof-lights which would be placed within the hard-surfaced areas to the side and rear of the house.
18. The combination of the basement and courtyard plus associated structures would project a significant distance to the rear of the proposed house. The appellant makes reference to the existing basement at the neighbouring property, No 34a Orleans Road. Whilst this is shown to extend to the same distance rearwards as the one in the appeal scheme, it differs in that it has no lower courtyard and its existence is only apparent due to the unobtrusive steps to one side. I do not consider that the proposal is comparable as the appeal scheme would have a full height rear elevation at the basement level and the proposed courtyard and storage structures. None of the surrounding gardens that I was able to see had any similar forms of development on Orleans Road.
19. I consider that, when considered in the context of the domestic gardens that surround the appeal site, the proposed basement and courtyard would represent a significantly uncharacteristic feature, at odds with the character and appearance that I observed. In relation to where this aspect of the proposal would be viewed from, I accept that views would be limited and not gained from any public land. However, I consider that it would be readily seen from both neighbouring properties at Nos 34a and 36 Orleans Road. Again, I accept that these would be private views but the residents of these properties are currently able to enjoy the qualities of the conservation area in these views and they would perceive the harmful effects of the proposal on the character and appearance of the conservation area in the same way. Therefore, in this limited context, I consider that this matter adds to the 'less than substantial' harm that I have identified above.

### ***Basement***

20. The Council's reason for refusal alleges conflict with Policy LP 11 of the Council's Local Plan (July 2018) (LP). However, and in part due to additional and revised information submitted with the appeal, the Council have accepted within the submitted documents that the proposed basement would not extend to more than 50% of the existing garden area, that a Structural Impact

Assessment was submitted by the appellant, that no habitable room would be subjected to inadequate ventilation (subject to condition(s)) and I note that the submission of a Construction Management Plan is contained within the agreed schedule of condition.

21. In relation to the requirement within Policy LP 11 for 1m depth of soil above a basement, plus 200mm for drainage, there remains disagreement between the main parties. The appellant has now shown a total depth of soil/drainage layer above the courtyard store and area to the rear, of 1.2m. The disagreement appears to relate to the proposed patio area. In my view, it is notable that the requirement in Policy LP 11 relates to 'garden' and the patio area could be construed as not forming part of the garden. It is important to consider the intentions of the policy as well and the supporting text of the policy states that the depth of soil is required to reduce surface water run-off and support vegetation. The Council has indicated that landscaping/planting could satisfactorily be dealt with by means of an agreed condition. In relation to surface water run-off the appellant's original Flood Risk Assessment indicates that a reduction in run-off can be achieved by installing green roofs and/or rainwater harvesting, as well as other possible measures. I consider that these are matters which could be suitably addressed by conditions if the appeals were to be acceptable. In relation to the additional points raised by the Council in relation to flood risk, I shall consider these within a separate section below. In addition, the appellant also indicates that it would not be feasible or technically possible to provide 1.2m of soil depth below the patio area and any water arising in such a situation would need to be pumped elsewhere as it could not naturally drain. This adds weight to my conclusion on this issue.

### ***Flood Risk***

22. The Council's recent Strategic Flood Risk Assessment (2020) (SFRA) defined areas with the Borough which could potentially be affected by groundwater flooding. The appeal site sits within an area identified as a Throughflow Catchment Area. The Council has also produced its Basement Assessment User Guide (BAUG) which sets out that a Screening Assessment (SA) must be undertaken for such development as is now proposed and, if indicated by the Screening Assessment, a Basement Impact Assessment (BIA) should be undertaken.
23. The appellant has now submitted a Screening Assessment. In accordance with the BAUG, the responses to the questions posed in the SA indicates that a BIA is necessary. In these circumstances the appellant suggests that the BIA could appropriately be the subject of a condition, if the appeal were successful. I note that the Council's new reason for refusal in this respect refers to the absence of a SA although the BAUG refers to all of the submissions normally being available with the planning application. I have taken account of the Council's comments in this respect. Whilst it may normally be desirable to have the full suite of investigations to hand prior to determination of a proposal, I am mindful that this issue has arisen at a late stage within the determination process and was not raised by the Council before the appellant submitted the appeal. In these circumstances, had the appeal been successful, I consider that a suitable pre-commencement condition could satisfactorily assess/resolve any issues covered by a BIA.

### **Fire Safety**

24. The new London Plan (2021) Policy D12 addresses fire safety. Part A of the policy requires that new developments should address a number of issues and Part B requires a Fire Statement for major developments. The Council appears to require a Fire Statement; however, it is clear that this is not required as the proposal is not for major development. Taking account of the more recent submissions made by the appellant, including plans to indicate fire safety measures, the nature of the development and the fact that fire safety is also covered by the Building Regulations, I am satisfied that suitable measures would be in place to address this issue and could be required by condition, if necessary.

### **Balance and Conclusions**

25. I have taken careful account of the alleged direct effects on neighbouring residents which are set out in correspondence from local residents. Having assessed the various factors at my site visit, I am satisfied that any effects would not be sufficient to add to my overall conclusions on these appeals.
26. I have identified that the proposal would give rise to harm to the listed buildings, their setting and to the conservation area. In relation to the loss of the gap in the street frontage and the effects of the proposed placement of the new house so close to the listed walls, I have identified harm that has been suggested by interested parties but not specifically so by the Council. In this respect I am satisfied that the appellant has had the opportunity to address these matters and I have noted her comments in this respect. I have also taken account of the proposed repairs to the listed walls as set out by the appellant but these are outweighed by the harmful effects of the loss of the fabric, the complete enclosure of part of the wall and the effects of siting the proposed house so close to the wall. In addition, I have disagreed with the appellant in relation to her suggestion that the proposed building would enhance the character and appearance of the conservation area, for reasons that I have set out above. I have given considerable importance and weight to the harm to the heritage assets in the determination of these appeals.
27. I acknowledge that the proposal would provide an additional family home and would ensure a contribution to affordable housing and I judge these as benefits, albeit modest ones due to the size of the proposal. The appellant also suggests that the proposed planting and provision of bird and bat nesting/roosting opportunities are benefits of the proposal. Whilst I accept that this would be the case, I attach only modest weight due to the limited size of the site and the resultant provision. Similarly, I consider that the support to construction jobs that would arise from the proposal would be a modest and limited benefit. Taken as a whole, I consider that the benefits that would arise would be insufficient to outweigh the harm that I have identified and the conflict with Policies LP1, LP3 and LP39 of the Richmond Local Plan (2018). Therefore, the appeals are dismissed.

*ST Wood*

INSPECTOR