

Appeal Decision

Site visit made on 22 March 2021

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Reference: APP/J1535/W/20/3250512

Land at 'RHS House', Cutlers Forge, Tawney Lane, Stapleford Tawney, Romford RM4 1EE

- 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 A Marway against the decision of Epping Forest District Council.
 - The application (reference EPF/1985/19, dated 12 August 2019) was refused by notice dated 17 January 2020.
 - The development proposed is described in the application form as "new vehicular access, driveway and subdivision of plot including associated boundary treatments following grant of CLEUD EPF/0260/18".
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Decision

1. The appeal is allowed and planning permission is granted for "new vehicular access, driveway and subdivision of plot including associated boundary treatments following grant of CLEUD EPF/0260/18", on land at 'RHS House', Cutlers Forge, Tawney Lane, Stapleford Tawney, Romford RM4 1EE, in accordance with the terms of the application (reference EPF/1985/19, dated 12 August 2019), subject to the conditions set out in the attached Schedule of Conditions.

Preliminary points

2. The application to the local planning authority sought both planning permission and listed building consent for the development and works that were the subject of the application. This appeal is against the refusal of planning permission.

Main issues

3. The first main issue to be determined in this appeal is whether the proposal is "inappropriate development" in terms of Green Belt policies. If so, it is necessary to consider whether the harm by reason of inappropriateness, together with any other harm that might be caused (including the effect of the development on the openness of the Green Belt and the purposes of including land within it), would be clearly outweighed by other considerations.

4. If the proposed development is to be categorised as “not inappropriate”, it is nonetheless necessary, in this case, to consider the impact of the proposed development on the listed building and its setting in the countryside.

Reasons

5. The appeal site is located in the small hamlet of Stapleford Tawney, close to the junction of Tawney Lane and London Road (the A113). London Road is a busy through route and the hamlet lies very close to the M25, London Orbital Motorway, which runs at a higher level than the adjoining land, across a bridge over London Road. The Motorway is very intrusive, both visually and as a result of the traffic noise that it generates.
6. Apart from the Motorway, the surrounding countryside is agricultural in character and the hamlet is surrounded by fields and small areas of woodland. Tawney Lane itself has the character of a narrow country lane, with trees growing in wide verges, and it crosses a stream to the west of the appeal site. There are a number of buildings in the hamlet, including various listed buildings associated with ‘Cutlers Forge’ and other buildings to the east, where a substantial redevelopment project was in progress at the time of the site visit. The location is within the Green Belt.
7. The appeal site, ‘RHS House’, has been created relatively recently, as a result of a “Certificate of Existing Lawful Development” that has confirmed its lawful use as a self-contained dwellinghouse, separate from ‘Forge House’. ‘Forge House’ (also referred to as ‘Cutlers Forge’) is a substantial house, dating from the sixteenth or seventeenth centuries and both the building and its setting have evidently evolved over a period of time. It is listed (Grade II) as a building of special architectural or historic interest.
8. ‘RHS House’, by contrast, is a modern structure that was previously intended for use as a garage or gymnasium, ancillary to the main house. It is a simple single-storey building, faced with timber boarding under a hipped, tiled roof, which has been converted to form a dwelling. It lies on lower ground than the main house and is visually subservient to it.
9. Access to the new dwelling was previously obtained across the front drive of the listed building but a new hedge has been planted across this line of access. There is a small side gate that communicates between the two gardens and a wide gate has been put in place in the front hedge, to enable access from Tawney Lane once a crossover has been constructed.
10. Planning permission is now sought for the construction of the new access and crossover, together with the associated drive and boundary treatment. Work on the development has been commenced but has not been completed.
11. The ‘National Planning Policy Framework’ makes it plain, at paragraph 143, that “inappropriate development” in the Green Belt should not be approved except in “very special circumstances”. New buildings are classified as “inappropriate development, in most cases, but engineering operations are not so classified provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

12. The most relevant elements of the Development Plan for this appeal are the 'Epping Forest District Local Plan', which was adopted in 1998, and the 'Alterations' to the Local Plan, adopted in 2006. Various Green Belt Policies are contained in the 'Alterations'. Of particular relevance in this case are Policies GB2A and GB7A, which set out some general principles.
13. In addition, both the 'National Planning Policy Framework' and the Development Plan are aimed at protecting the countryside more generally. Section 15 of the 'National Planning Policy Framework', is aimed at "conserving and enhancing the natural environment" in broad terms and it includes a recognition of "the intrinsic character and beauty of the countryside". Similarly, Policies LL1 and LL2 of the Local Plan are aimed at conserving and enhancing the character and appearance of the countryside.
14. Specifically in relation to listed buildings, primary legislation in the Planning (Listed Buildings and Conservation Areas) Act 1990 impose obligations on those considering whether to grant planning permission for development that would affect a listed building. In such cases, it is necessary to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
15. Those formal requirements are reinforced by the 'National Planning Policy Framework', especially at Section 16, which emphasises the importance of conserving and enhancing the historic environment, though it also points out the desirability of putting a heritage asset to its "optimum viable use" as does the 'Planning Practice Guidance'.
16. Again, Policies in the Development Plan also reinforce the underlying principles that are established in the primary legislation, notably at Policy HC12 which makes plain the aim of protecting the setting of listed buildings.
17. The proposed crossover and associated works can be classified as an engineering operation that would not affect the openness of the Green Belt. Although the proposed timber fence could be considered to be a structure akin to a building, in some ways, it would be no higher than one metre and would be set alongside an existing laurel hedge. In any case, it would amount to only a very minor building operation.
18. In this case, therefore, I have formed the opinion that the proposed development would not amount to "inappropriate development" for the purposes of Green Belt Policies and that the appeal is to be determined on that basis. Nevertheless, it is necessary to consider the impact of the proposals on the setting of the listed building and the wider countryside.
19. The area of land associated with 'Cutlers Forge' has been modified over the centuries. Previously, a larger area of garden land was associated with the house but the creation of a new dwellinghouse at 'RHS House' has clearly resulted in the subdivision of the site, even though the listed building would continue to occupy a large plot. A hedge effectively separates the two dwellings and the retention of an access point between them would have only a very limited effect on the character or appearance of the site, in practice.

20. Moreover, the erection of a low fence, up to one metre in height, would have a minimal additional visual impact on the setting of the listed building as it would be behind the growing laurel hedge.
21. The new crossover would be laid across the wide verge in Tawney Lane, between mature trees. The ground is uneven and some groundworks would be needed, which could have a potential to interfere with tree roots. Although the front boundary of the site is marked by an existing hedge that provides some screening, the natural character of the land would be changed by the introduction of a more managed appearance.
22. Even so, the effect on the landscape more generally and the setting of the listed building could be limited. The new access would enable clearer views of the listed building but the vegetation in the verge would be likely to change over time in any case, as would views of the listed building and the appearance of the lane itself, in consequence. The drive itself (including construction within the boundaries of the plot) could be kept to a minimum, even if "grasscrete" or the like proves to be impracticable.
23. On the other hand, the wide wooden gate that has been installed has the appearance of a "farm gate" that is appropriate in a rural setting, in my view and relates well to the new timber clad building that is unassuming in appearance.
24. Nevertheless, the treatment of external elements, including surfacing materials, boundary treatments and verge reinstatement, has not been worked out in sufficient detail to ensure that the work would be assimilated into the setting in as sensitive a way as possible.
25. Hence, I am convinced that this this aspect of the development, the landscaping of the site (including any restoration work or other work in the highway verge), ought to be made the subject of conditions, as proposed by the local planning authority and as recognised by the appellant, in principle. The landscaping scheme would need to be worked out before the commencement of works in the highway verge, to ensure that the scheme would accommodate existing trees.
26. The proposal would improve the access to the new dwelling at 'RHS House', in practical terms. The setting of the listed building would be changed but would not be harmed in terms of its historic and architectural qualities. The impact on the wider countryside would be minimal. Hence, I have concluded that the project would not be in conflict with the national legislation or the Development Plan, in principle, and that it is acceptable in planning terms. In short, I am persuaded that the scheme before me can properly be permitted, subject to conditions, and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.
27. I have, however, also considered the need for conditions and, in imposing conditions, I have taken account of the conditions suggested by the Council in the usual way (without prejudice to their main arguments in the appeal), subject to modifications necessary, in my opinion, in the interests of clarity and simplicity. I have also taken account of the comments on conditions that were

made by the appellant's agent, as a later addition to their "final comments" on the Council's appeal statement.

28. I have concluded that conditions are necessary, to define the planning permission and to ensure that quality is maintained (but bearing in mind that the works have already been commenced). As explained above, I have also imposed conditions to deal with hard and soft landscaping which will also cover such matters as boundary treatment.
29. On the other hand, there is no convincing justification for the removal of permitted development rights, bearing in mind that they are normally of general application.

Roger C Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved drawings:

- drawing number 18.5390/M002 Rev A (Location Plan);
- drawing number 1205-04 Revision C (Existing Block and Location Plan);
- drawing number 2065-02 Revision 1 (Proposed Gate & New Access);
- drawing number MP/RHS/01 (Tree Protection Plan).

2. Prior to any works being carried out in the highway verge, full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. All these works shall be carried out as finally approved in detail. The details to be submitted shall include proposed and existing finished levels, means of enclosure and functional services (if any) above and below ground. The details of the hard landscape works shall include details of provision for car parking, boundary treatment and access design. The details of the soft landscape works shall include details of all existing trees in the vicinity of the proposed development (and details of the method of protecting retained trees during the course of the work), planting plans, and implementation programme.

3. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of the new crossover or in accordance with the implementation programme approved by the local planning authority. Any trees or plants included in the approved details, which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.