
Appeal Decisions

Site visit made on 9 September 2021

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 02 November 2021.

Appeal A Ref: APP/L5810/W/20/3258686

Land adjacent 2 Mount Ararat Road, Richmond TW10 6PA

- 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 Colin Deeham, Richmond Green Developments Limited against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/3871/FUL, dated 20 December 2019, was refused by notice dated 11 March 2020.
 - The development proposed is the erection of single storey dwelling with basement, associated landscaping and parking, including partial demolition of and alteration to listed garden walls.
-

Appeal B Ref: APP/L5810/W/20/3258694

Land adjacent 2 Mount Ararat Road, Richmond TW10 6PA

- 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 Mr Colin Deeham, Richmond Green Developments Limited against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/3872/LBC, dated 20 December 2020, was refused by notice dated 11 March 2020.
 - The works proposed are the erection of single storey dwelling with basement, associated landscaping and parking, including partial demolition of and alteration to listed garden walls.
-

Decision

1. Appeals A and B are dismissed.

Preliminary Matters

2. The appellant has provided a completed Planning Obligation which undertakes to pay an affordable housing contribution to the Council amongst other matters. The contribution proposed matches the amount sought by the Council and consequently this would effectively address the Council's fifth reason for refusal. I have therefore not considered this issue as an area of contention between the main parties in my reasoning.
3. The Council advise that they no longer wish to defend their third reason for refusal concerning highway safety in light of the appellant's appeal submissions which they consider would address their objection in that respect. I have therefore not considered this matter any further in my reasoning.
4. Since the application was made, and the Council took its decision, the National Planning Policy Framework (the Framework) has been revised. I have

considered the proposal in light of this revised document, having first given the parties an opportunity to comment on its content, and taken any views received into account in reaching my decision.

Main Issues

5. A main issue raised by both appeals is the effect the development and works would have on the special architectural and historic interest of the grade II listed building at 1 and 2 Spring Terrace, and the Sheen Road and St Mathias Conservation Areas, and consequently the character and appearance of the area.
6. In addition, a main issue raised by Appeal A is whether or not the development would be likely to result in an increased risk of flooding, with particular reference to the basement and drainage arrangements.

Reasons

7. The appeal site lies within the curtilage of the listed building. It is situated in the Sheen Road Conservation Area with the boundary of the St Matthias Conservation Area running immediately along one side of the site. The proposed dwelling would occupy two plots of land which were formerly the end parts of gardens to the rear of 1 and 2 Spring Terrace, but have been separated from the remaining gardens for some time. Although the application site boundary also extended to include much of the existing garden of No 1, the proposed house would be limited to the aforementioned two plots but with some tree planting and landscaping proposed within the garden of No 1.
8. The larger of the plots is to the rear of No 1 and adjoins Mount Ararat Road. It is bounded along this side by a largely old brick wall which runs continuously alongside the site and the garden of No 1 with the exception of a gateway which would serve the proposed house. That part of the site is currently largely surfaced with gravel but with hardstanding in places and overgrown margins. The landlocked plot to the rear of No 2 has the appearance of an overgrown garden.

Listed building - significance

9. The appellants Heritage Statements¹ date the listed building to the 1820's rather than the late C18 mentioned in the listing description. The building comprises a substantial and handsome pair of late Georgian villas which are at the end of a row of similar buildings in Spring Terrace. The listed building has considerable significance as a designated heritage asset of national importance, and in the main this comes from its attractive and interesting domestic architecture, materials, workmanship and history.
10. This historic significance includes the part buildings such as Nos 1 and 2 played in the development of housing along Sheen Road in the late C18 and early C19 with large, desirable residences, designed in a style reflecting the formal classical taste of the time. Its significance also includes the substantial rear gardens which the 1867-72 map shows as separate landscaped grounds laid out with trees, paths and promenades to the rear of houses on Spring Terrace. Although those layouts appear to have largely since disappeared, an element of

¹ Heritage statement – Heritage Significance and Impact Assessment, 2019 and Statement Relating to Heritage and Design Matters, 2020.

the special historic interest of the building lies in the extent of those gardens and the contribution they made to the dwellings they served.

11. The divorce and enclosure of the two plots from the rear of Nos 1 and 2 has eroded this relationship to a degree, as has the surfacing of the plot to the rear of No 1. However, the presence of trees around the plots means that from outside the site an appearance and sense of gardens beyond is maintained over the tall boundary wall and enclosures at the end of gardens. This is reinforced by the absence of buildings on the plots which lends the site an open character.
12. Similarly, the substantial gable and rear extension of 2 Mount Ararat Road, which extends along the side of the site, remains as an enclosure and visual end to the space relating to the former gardens' extent as much, if not more so, than the existing intervening boundary treatments.
13. The Heritage Statements rather underplay the importance that the gardens play in the significance of the listed building. Whilst their findings that the appeal site considered in isolation has relatively little merit would appear satisfactory, it is the appeal site's role as part of larger gardens which makes a more meaningful contribution to the overall significance of the listed building. So even though the plots have been divorced from the remaining gardens of Nos 1 and 2, they remain clearly understandable as former elements of larger gardens. The undeveloped character of the site makes an important, positive contribution to the significance, and hence special interest, of the listed building.
14. Whilst the wall dividing the plots would appear to have been rebuilt, from the information available it follows the original line of the division between Nos 1 and 2's gardens. It therefore makes some contribution to the significance that the listed building obtains from the layout of the historic landscape of the gardens. However, as a feature of special architectural and historic interest, its value in that respect comes from its situation and extent rather than any inherent merit of the structure itself.
15. The Heritage Statements indicate that nearly all aspects of interest of the site itself are low in its current condition. However, the significance that the listed building derives from the space to the rear includes that site and to consider just part of the space alone does not enable a meaningful assessment of the listed building's special interest and hence significance.

Listed building - effect of development

16. The proposed house would occupy most of the width of the plot to the rear of No 1 underground and much of it above. Those areas of basement not covered by the ground floor would be beneath hard surfaces or exposed as light wells. The creation of a substantial building surrounded by extensive hard surfacing would encroach on the spacious arrangement at the rear of the listed building. This would detract from that part of its special interest that relies on openness and lack of structures in what was once its garden.
17. The development would have the effect of permanently joining the two currently separate plots. At the same time it would more emphatically foreshorten the space formerly occupied by gardens and more markedly sever the resultant space.

18. The development would also re-orientate that space and the two formerly separate gardens would no longer be perceptible even with the rear elevation of the ground floor part of the house more or less following the line of the former boundary. The removal of the wall between the two plots would be unlikely to result in the loss of any historic fabric. However, the loss of the demarcation and the spread of the proposed dwelling over both former garden areas would lose an element of the special historic interest provided by the current arrangement which allows the historic layout of gardens to be understood.
19. Although intended to help effectively hide or disguise the proposed dwelling, the enhancement and strengthening of planting in a linear fashion across the current end of No 1's garden along with a brick wall, would exacerbate the division. As this planting matures over time so would the sense of separation further reducing the ability to understand and experience the original garden arrangement.
20. The appellant contends that No 1's garden was landscaped to include a 'wilderness' landscape feature on that part of the garden in part of the appeal site, based on the 1867-72 map. However, even if it were much more densely planted there is little evidence to suggest that such a treatment would have rendered the end part of No 1's garden as appearing independent as it would as a result of the proposal. Consequently, although when mature the landscaping may well emphasise the site's independence and help hide the development, this would not necessarily preserve or enhance the historic interest of the listed building.
21. The existing location of mature trees means that from the garden and ground floor of No 1 a key feature of the plot to the rear that is experienced is its relative openness. This includes a view of the flank of the adjoining property on Mount Ararat Road which is framed by mature trees on either side, and partly obscured by them when in leaf. From upper floor windows this openness is all the more apparent. The presence of the single storey building proposed could in time be broken up or indeed obscured by intervening vegetation planted within the existing garden of No 1. However, the proposed loss of existing trees and openness would be obvious. From upper windows of the listed building the development would be conspicuous even with the wildflower green roof proposed.
22. That wildflower roof would soften the appearance of the building and have a much swifter impact than replacement tree planting. It would introduce more greenery on the site and have bio-diversity benefits. However, its elevated situation would mean it would still be perceived as part of a building when viewed from upper floors of the listed building.
23. The existing arrangement on the plot behind No 1 stands out currently with an obvious absence of maintained soft landscaping. Nevertheless, the addition of a substantial permanent structure would render the foreshortening of the former garden more obvious and conspicuous than the present car park configuration and this would harm the significance of the listed building.
24. I note that the Council have not raised concerns directly about trees on the site and are satisfied that replacement planting would make their removal acceptable. However, based on the evidence and my observations I cannot

agree with this position and I note that interested parties do not share this view either.

25. Whilst it is clear that the historic fabric itself of Nos 1 and 2 would not be affected, the special historic interest and hence significance that the listed building gains from its curtilage and in particular the undeveloped nature of the extent of former gardens would nevertheless be harmed as a result.

Conservation Areas - significance

26. The attributes that the listed building derives some of its significance from also positively contribute to the relatively broad area of largely green and verdant undeveloped space to the rear of Spring Terrace. This in turn forms part of a much larger area of gardens with mature trees set behind the block consisting of houses along Sheen/Paradise, Church, Dynevor and Mount Ararat Roads. This makes an important and positive contribution to the character and appearance of the area.
27. This is largely perceived from public areas through the gaps between houses, particularly in corner locations where these streets meet. These are a characteristic element in the area's townscape and include the gap that is partly occupied by the appeal site. The appellant's aerial photographs show that the gardens of other properties on Spring Terrace have not been truncated like those at Nos 1 and 2 and that only small structures are present in those gardens. These undeveloped green areas made up by rear gardens are also an important component of the character of the area and this is not only dependent on visibility from public spaces.
28. This combination of verdant gardens with limited buildings to the side and rear of streets of historic houses is an important feature of both the Sheen Road and St Matthias Conservation Areas with broadly similar patterns of streets with substantial landscaping behind extending over much of both Areas. As well as the architecture, townscape, street layouts and history, this prevalence of substantial areas of gardens providing cumulative impact are a key component of the significance of both Conservation Areas. The existing mature trees on the site, some of which are sizeable and many of which are visible from the street, contributes to the significance of both Conservation Areas.
29. Where the two Conservation Areas join they each derive significance from their settings which includes the townscape in their neighbouring Conservation Area. So, the large garden areas with mature trees to the rear of properties on Paradise and Sheen Roads contributes to the significance of the St. Matthias Conservation Area. The orderly, largely C19 developments set to the fore of generous gardens, particularly in Mount Ararat, Church and Kings Roads, adds to the significance that the Sheen Road Conservation Area derives from its setting.
30. It is of note that a Study² of the two Conservation Areas identifies the significant role that private gardens have to play in the character of the Areas given the absence of public open space, and consequently presumes against 'backland' development unless it avoids harm to the quality of the local environment.

² St. Matthias & Sheen Road Study; Conservation Areas nos. 30 & 31, London Borough of Richmond-upon-Thames, 1994.

Conservation Areas, character and appearance - effect of development

31. The pattern and form of development that would result would be at odds with the historic layout and relationship of buildings and spaces. In so doing it would harm the significance that the Sheen Road Conservation Area derives from that arrangement and the significance that the St Matthias Conservation Area derives from its setting of that configuration being in close proximity to its historic townscape and layout.
32. By largely infilling a component of the spaces which make an important contribution to the character of the Sheen Road Conservation Area this would not preserve the positive aspects of the Area's character nor enhance them. As well as the effect of the above ground part of the house, as Local Plan³ paragraph 4.11.6 notes, even if not affecting openness, basements can introduce a degree of artificiality into the garden area. Given the extent of hard surfacing surrounding the ground floor part of the house, the treatment of the basement footprint would do so in this case.
33. The removal of existing trees along the boundaries would significantly reduce the tree cover on site. As the appellant's Townscape Visual Impact Assessment (TVIA) illustrates, this would be clearly perceptible from the listed building and Mount Ararat Road where even trees some distance from the boundary wall are currently visible above it. This would erode the significance that both Conservation Areas obtain from the mature trees in gardens.
34. Although many trees are classed as being of 'lower quality' some of these nonetheless make an impressive contribution in terms of visual amenity and the Arborical Impact Assessment gives many a reasonable life expectancy. It is of note that the justification for removal of some is simply that they would be within, or too close to, the development footprint of the new house.
35. In the short to medium term at least, the effect of the removal of existing trees and replanting new ones would not be an enhancement in terms of visual impact, contrary to what the TVIA suggests. Although the visual effect on views of the listed building across the site from Mount Ararat Road would be neutral given the low profile of the proposed building when viewed from the street, this does not mean that the effect on significance considered in the round would also be neutral for the reasons set out above.
36. However, in the longer terms the replacement trees would have the potential to grow to a significant size and go a long way to compensating for the loss of existing trees. However, the appellant's Landscape Strategy's predictions for canopy growth shows that, even planting large specimens, the scheme would be likely take decades to mature to similar sizes.
37. Even if the building itself would not be visible from Mount Ararat Road, this would only go some way to addressing any adverse visual effects of the proposal, as opposed to the harmful effect on the character of the area and significance of designated heritage assets. This relative obscurity would not be immediate, depending to an extent on proposed hedges adjacent to 2 Mount Ararat Road maturing and being dense enough. When the gates were open, glimpses of the dwelling would be afforded from the street. These particular harmful effects would be limited, but more considerable harm lies in the

³ London Borough of Richmond-upon-Thames Local Plan, 2018.

adverse effect on character, the change in tree cover and the character and appearance when experienced from the listed building.

38. Putting aside those harmful effects, looking purely at the form and external appearance of the building, the use of bricks similar to that prevailing nearby in a simple, functional and plain elevational treatment would not in itself harm the area or the setting of the non-designated heritage asset at 2 Mount Ararat Road. Although not typical features of the area the deep lightwells to front and back would not necessarily be harmful elements in terms of their design or treatment with green walls. A contrast with the prevailing elevational design of properties might not be harmful in principle.
39. Nevertheless, the architecture proposed cannot effectively be considered in isolation of other effects of the development. Avoidance of harm in this one respect would not alter the harmful effects that would be caused by the situation, size, scale and extent of the proposal that would harm the special qualities of the area, and this is not dependent on the style, form or architecture proposed.
40. Therefore, I cannot concur with the Heritage Statements' conclusion that the development would have a negligible and neutral impact on the significance of designated heritage assets. The development would materially harm the significance of those designated heritage assets.

Designated heritage assets, character and appearance – conclusions

41. I have had special regard to the desirability of preserving the listed building or its setting. In doing so I have found that the development and works would fail to preserve the special architectural and historic interest of the building. I have also paid special attention to the desirability of preserving or enhancing the character and appearance of the Sheen Road Conservation Area. The development and works would harm, rather than preserve or enhance, its special architectural and historic character and appearance. The proposal would also harm the significance that the St Matthias Conservation Area derives from its setting.
42. Contrary to the Council's view, I concur with the Heritage Statements' assessment of there not being substantial harm in the Framework's terminology. Rather, this harm would be less than substantial in the Framework's terms in the case of each designated heritage asset. This is because the harm would not affect the fabric of the principal building itself, would affect a discrete part of the Conservation Area and again a part of the setting of its neighbour. Nevertheless, this harm would not be minor nor limited, and it carries considerable importance and weight. The Framework requires that great weight should be given to designated heritage assets' conservation.
43. The Framework requires this harm to be weighed against the public benefits of the proposal. In this case these would be the provision of a new home and a contribution to affordable housing in the Borough. The proposed green roof and other landscape treatment would have the potential to improve the biodiversity of at least part of the site compared to its existing condition. However, given that this relates to a single dwelling on a modest site, those public benefits would be very limited.

44. Even if I were to consider that, in time, the replacement tree planting could become a public benefit as the appellant suggests, and not merely mitigation to replace existing trees and help to hide the proposed house, the public benefits would remain very limited and would not outweigh the harm to designated heritage assets and the considerable weight that carries.
45. As the development would fail to reflect the character of the surrounding area nor retain similar spacing between new buildings to any established spacing, it would not accord with Local Plan Policy LP 39. The development would not accord with local Plan Policy LP 1. Amongst other criteria, this seeks to ensure that development respects and improves the quality and character of buildings, spaces and the local area including giving consideration to the spaces between buildings, compatibility with local character, relationship to existing townscape, development patterns, local grain and landscaping. The development would also conflict with Local Plan Policy LP 3's requirements to conserve designated heritage assets.

Flood risk

46. Whilst there would appear to be an area of hard stand much of the plot behind No 1 is covered with gravel. There does not appear to be any impermeable surface within the plot to the rear of No 2 and I note that the appellant's Flood Risk assessment (FRA) considered the land to be developed as comprising grass and soft landscaping. The proposed dwelling would occupy a considerable area of those plots and be surrounded by areas of hard surfacing. In particular that part of the basement level not open in the form of lightwells would support hard surfaces to provide a patio to the rear, a walkway to the side and part of the vehicle turning area to the front.
47. Even with the proposed extensive green roof there would be a marked increase in the extent of impermeable surfaces, particularly on the plot to the rear of No 2, compared with the current situation. The FRA anticipates that a further surface water and Sustainable Urban Drainage System (SUDS) strategy would be developed. However, the FRA does little more than outline the opportunity for investigating SUDS as a solution and caveats that with a need to recognise the constraints on the site.
48. The impermeable hard surfaces associated with the new house would have the potential to alter the rate, route and character in which rain would reach the ground on and adjacent to the site, or existing drainage systems in the area. Given the levels on the site and its surroundings where the land slopes down towards Nos 1 and 2, any surface water not intercepted and accommodated within the immediate vicinity of the dwelling might well affect those properties or be directed in a fashion that would increase the rate or amount of surface water entering existing drains.
49. There would be a small undeveloped soft landscaped area to the rear of the dwelling. This might be a location suitable to help a SUDS approach function to deal with water within the site. However, there is no detail that this would be the case, that it would be of appropriate size nor that ground conditions are suitable. In the absence of any substantive information that drainage can be adequately dealt with within the site it cannot be concluded that the risk of flooding elsewhere would be avoided.

50. As a way of trying to ensure that subterranean development avoids increasing the speed and amount of surface water runoff, one criterion of Local Plan Policy LP 11 requires a minimum depth of naturally draining soil and a drainage layer above a basement or underground building. The drawings indicate that a modest linear part of the basement adjacent to the boundary with Nos 1 and 2 would achieve the required depth under what is proposed to be soft landscaping but elsewhere the basement would be without any intervening soil and drainage layer.
51. Therefore, even with the extensive green roof's potential for slowing runoff and other measures, there would be hard surfaces on top of the basement from where run off would need to be dealt with. Consequently, the development would not accord with that part of Local Plan Policy LP 11.
52. The appellant argues that as the basement would not project under what they consider a 'garden' as such, that conflict with that policy would be avoided. Whilst the word garden is not defined further by the policy or supporting text, it is reasonable to consider that gardens usually consist of a range of treatments including lawns, patios, planting and areas of hard and soft landscaping. I do not consider that such a description can relate solely to cultivated or soft landscaped parts of a garden. There is nothing in the Policy or supporting text to indicate that the reference to garden relates solely to soft landscaped areas. In any event, the plot behind No 2, although overgrown, would still effectively appear to be an area of garden.
53. Policy LP 21 does not place any restrictions on basements in Flood Zone 1 in terms of occupants' safety, however it does require SUDS in all developments and requires a demonstration that either surface water discharge is reduced to greenfield run-off rates, or if not demonstrated to be feasible, to accord with specific minimum requirements. It is not possible to ascertain whether the development would accord with that approach on the information provided and the development would not comply with Local Plan Policy LP 21. Consequently, this would conflict with another criterion of Local Plan Policy LP 11 requiring that flood risk should not be increased elsewhere in line with Policy LP 21.
54. Given the limited information and level of uncertainty I do not consider that this could be remedied by a planning condition. This is particularly in light of the Council identifying that the site falls within a Throughflow Catchment Area where the Strategic Flood Risk Assessment (2021) recommends a site-specific demonstration that basements and other subsurface structures can be safely developed without increasing throughflow and groundwater related flood risk.

Overall Balance

55. The development would have the benefit of providing a new home and the potential for improvement in biodiversity. By way of the planning obligation, which based on the information before me would meet the CIL Regulations and Framework tests⁴, funding would be provided to contribute towards affordable housing provision in the Borough. In broad principles this is supported by the Local Plan and the Framework, but given the small scale of the proposed development this can only carry limited weight in support of the appeal. The other provision of the planning obligation in respect of preventing future occupiers from obtaining parking permits would mitigate the effects of the

⁴ Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework.

development rather than being benefit. Avoidance of harm in other respects weighs neutrally.

56. However, the harm to designated heritage assets, the character and appearance of the area and in terms of a failure to demonstrate that the development would avoid an increase in flood risk, and the consequent conflict with the development plan and the Framework overall in those respects, carries considerable weight that would outweigh the limited benefits of the scheme.

Conclusions

57. For the above reasons, the proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, Appeal A is dismissed.
58. The works would harm the significance, and fail to preserve the special architectural and historic interest, of the listed building and Sheen Road Conservation Area. Consequently, Appeal B is dismissed.

Geoff Underwood

INSPECTOR