



Appeal Decisions

Site Visit made on 27 September 2021

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2021

Appeal A: APP/J1915/Y/20/3262436

Water Tower, Devey Way, Goldings Estate, Waterford SG14 2WH

- 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 Eugene Flannery of Goldings Estate Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1320/LBC, dated 13 July 2020, was refused by notice dated 25 September 2020.
 - The works proposed are the restoration and conversion of water tower for ancillary residential use for Goldings Estate involving external western red cedar cladding and windows on all 4 elevations, restoring of the steel drum to be painted light grey, and new internal floors and staircase.
-

Appeal B: APP/J1915/W/20/3262433

Water Tower, Devey Way, Goldings Estate, Waterford SG14 2WH

- 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 Eugene Flannery Goldings Estate Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1314/FUL, dated 13 July 2020, was refused by notice dated 25 September 2020.
 - The development proposed is the restoration and conversion of water tower for ancillary residential use for Goldings Estate, with the insertion of cladding and windows to the lower structure.
-

Decisions

Appeal A: APP/J1915/Y/20/3262436

1. The appeal is dismissed.

Appeal B: APP/J1915/W/20/3262433

2. The appeal is dismissed.

Main Issues

3. The first main issue is whether the proposal would fail to preserve the special architectural and historic interest of the listed building, fail to protect the Registered Park and Garden (Appeal B only), and cause harm to the significance of either of these designated heritage assets, and if harm would be caused, whether it would be outweighed by any public benefits.
4. A second main issue that relates just to Appeal B is whether it would be inappropriate development in the Green Belt and, if it would, whether the harm arising from this is clearly outweighed by other considerations so as to amount to very special circumstances.

Reasons

Heritage impact

5. These appeals concern a water tower that takes the form of a water tank, 13m or so above the ground, that is supported on 4 metal pillars with interlinking slats. It was built sometime around the turn of the last century to serve the Grade II* listed Goldings Manor, in whose grounds it stands. These grounds have now been designated as a Grade II listed Registered Park and Garden.
6. The appellant describes the tower as being 'unlisted' on the application form. However, Section 1(5) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* states that

any object or structure within the curtilage of the building [included on a list compiled or approved by the Secretary of State] which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948 shall be treated as part of the building.

In the light of this I shall treat it as part of the listed building.

7. The Manor is a large Elizabethan-style country house that dates substantially from the 19th Century and is some 70m away from the tower. Externally, the special architectural and historic interest of the Manor lies partly in the quality of its detailing and its scale show it to be a dwelling of high status from that era, and these very much add to its significance.
8. The Registered Park and Garden can be broadly summarised as comprising the formal gardens immediately around the Manor, the surrounding farmland and water features, and, in between, areas of trees and grassland. Its significance arises partly from the formal planning of its layout and vistas, and partly from the way in which it provides the Manor with a context befitting its status. Although the nature of the grounds has changed over the last 20 years or so with the introduction of more houses and associated activity, to my mind the significance of the Registered Park and Garden is still apparent. The water tower stands away from the more formal area of garden in the trees and grassland.
9. I consider that, as a sizeable piece of functional apparatus built to serve the estate, the water tower contributes to an understanding of the history and evolution of this site. As a result it adds positively to the historic interest and the significance of the Manor and to the significance of the Registered Park and Garden. Overall, I consider the water tower at present is very open in appearance and is not particularly intrusive, as views are generally through the supporting pillars. Although the pillars are plain metal they are slender, whilst the solid 5m tall water drum on top is up amongst the tree canopies and so not readily apparent.
10. There is not a strong visual relationship between the water tower and the Manor because of the intervening trees, and so the works before me would have no adverse effect in that regard.
11. However, putting cladding in the open part of the structure beneath the tank would mask the tower's original nature to a great extent, and would result in it being a far more dominant feature in the parkland with a greater presence. Furthermore, whilst the appearance of the cladding may soften appropriately, I

also consider that the tall, slender, enclosed resultant structure would be discordant in this setting, and would display little connection with its historic context. For these reasons the works would impede an understanding of the structure, would erode its significance as part of the listed building, and would detract from the open informal nature of this area of the Registered Park and Garden.

12. In coming to these findings I agree that views of the tower would be limited because of the trees around, but it could still be readily appreciated from the surrounding parkland. I also accept that the water tower is, in some respects, a rather incongruous feature in the grounds of a Victorian country house as it has a functional and industrial appearance. To my mind though that functional character is associated with its significance, and so I am not surprised that the extensive redevelopment of the estate did not seek its removal. Given this, and noting my concerns above, the significance of both the Manor and the Registered Park and Garden would be harmed if this feature was clad as proposed.
13. I accept that free-standing towers are found at various other historic locations across the country, but they are no doubt informed to some extent by their context, and do not offer justification for the modifications now proposed. Whilst it was said the resulting building would be whimsical to some degree and of greater architectural merit, I consider this does not allay the harm to the significance of the water tower that I have identified.
14. Finally, a previous decision from 2020 (the 2020 decision) dismissed appeals for similar works on the water tower. In that decision the Inspector found that the insertion of '*a new tall dwelling ... along with*' its associated staircase extension and curtilage would not preserve the parkland. Although the curtilage and staircase are no longer proposed, from my reasoning it is clear I consider the cladding of the tower alone would cause harm in this regard.
15. In that decision though I recognise that the Inspector said the water tower was not a significant or important element of the listed building and did not conclude that the listed building was harmed by the works before him. However, above I have reasoned why I consider the water tower does in fact contribute positively to the asset's significance and explained the harmful impact that, in my opinion, enclosing the open supports would have on the contribution of the tower to that significance.
16. I therefore find that the works would cause less than substantial harm to the significance of both of these designated heritage assets.
17. Paragraph 202 of the current version of the *National Planning Policy Framework* (the Framework) states that where a development would lead to less than substantial harm to a designated heritage asset that harm should be weighed against public benefits of the proposal including, where appropriate, securing its optimum viable use.
18. The resultant development would be used as residential accommodation that would be ancillary to a dwelling in whose curtilage or planning unit it does not stand. I have concerns about the lawfulness of this intention, and had my findings otherwise been different on the main issues that would have been a matter I would have needed to explore further. Putting that aside though and assuming the appellant's intentions to be valid in planning terms, the works

would be securing a use for what is otherwise a redundant structure, and so, potentially, could be extending its life. However, securing the optimum viable use should only be sought '*where appropriate*', and paragraph 202 of the Framework has to be read in the context of the Framework paragraph 199 that states '*great weight should be given to the asset's conservation*'. In this instance given the adverse impact that facilitating the proposed use would cause to the significance of the assets I consider amending the structure in this incongruous way is not a public benefit that would outweigh this harm.

19. Whilst various houses, garages and infrastructure were allowed across the estate some 20 years ago, that does not necessarily mean development can continue to be accepted. Indeed, such elements may well have been 'enabling development' to allow the reuse of the Manor or justify the removal of features that detracted from the site's significance, which are not considerations that apply in this instance.
20. I therefore conclude that the proposal would fail to preserve the special architectural or historic interest of the Grade II* listed Goldings Manor, would fail to protect the Grade II listed Registered Park and Garden, and would cause less than substantial harm to the significance of both of these designated heritage assets. In the absence of any public benefits to outweigh this harm, the proposal would conflict with Policies HA1, HA7, HA8, DES2, DES3, DES4 in the *East Herts District Plan 2018*, which seek to safeguard listed buildings, Historic Parks and Gardens and landscape features, as well as also securing a high standard of design. The proposal would also therefore conflict with the relevant paragraphs in the Framework.

Green Belt impact

21. Policy GBR1 in the District Plan states that applications within the Green Belt will be considered in line with national policy. The current version of the Framework says that keeping land permanently open is a fundamental aim of the Green Belt. It confirms that the construction of new buildings in the Green Belt should be regarded as inappropriate and, by definition, harmful. Paragraph 149 gives the exceptions to this, one of which, Criterion (c), concerns the alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
22. Framework paragraph 150 accepts that certain other forms of development apart from the construction of new buildings are also not inappropriate, provided they preserve openness and do not conflict with the purposes of including land in the Green Belt. In particular, Criterion (d) refers to the re-use of buildings provided that the buildings are of permanent and substantial construction.
23. The cladding of the frame on which the water tank stands would not increase the volume contained within the supporting pillars. However, I have no reason to consider that such works are needed for any purpose other than to facilitate the change of use before me. To my mind, the development should therefore be assessed under paragraph 150(d) of the Framework and not under paragraph 149(c).
24. The water tower stands amongst trees in the parkland around the housing on the Goldings Estate. When in the surrounding parkland there is an awareness

of the structure, but its open nature means its impact is reduced as views through it are readily apparent.

25. By infilling the sides of the structure beneath the water tank, the tower would have the appearance of a tall, 4-sided building as views through the supporting legs would no longer be possible. This means it would erode rather than preserve the openness of the Green Belt that is currently enjoyed in the vicinity of the structure. Therefore, it would not fall under the exception in paragraph 150(d) of the Framework.
26. In coming to this view, I am aware that in the 2020 decision the Inspector found the staircase extension to be in conflict with paragraph 145(c) of the version of the Framework then in place (paragraph 149(c) of the current version of the Framework). As a matter of fact though he also found that the complete enclosure of the steel frame was contrary to paragraph 146(d) of that same version of the Framework (now paragraph 150(d)). I also appreciate that the trees around limit the wider views of the Green Belt that are possible through this structure. Openness though has a spatial aspect as well as a visual one, and so whilst views through the structure at present are limited I still find that the works before me fail to preserve openness.
27. Accordingly, I conclude this would be inappropriate development within the Green Belt.
28. The Framework states

'Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. ...'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'.
29. Again, I note the functional and industrial nature of the water tower at present, its redundant nature, the changes to its appearance and the contentions that it would be a visual focus for this part of the estate. Mindful of my reasoning above, I consider that visually the water tower in its current state is preferable to that of the proposal. Moreover, any benefits to the landscape character through the cladding or the associated planting would not be so great as to be afforded significant weight.
30. Moreover, there may well have been specific reasons behind the permissions of 20 years ago that meant those works constituted other considerations that outweighed the Green Belt harm. I consider no such reasons exist in this case.
31. As a result, these factors, even if taken together, would not clearly outweigh the harm to the Green Belt by reason of inappropriateness and I am aware of no other considerations that clearly outweigh the Green Belt harm.
32. Accordingly, I conclude this would be inappropriate development in the Green Belt, and, in the absence of any other considerations that clearly outweigh the harm arising from inappropriateness, it would be contrary to Policy GBR1 in the District Plan and the Framework.

Other matters

33. On the evidence before me I have no basis to consider the legal issues raised affect the planning merits of these appeals, or to find there would be an unacceptable harm to ecology. I also consider the proposal, as submitted, would not have an adverse effect on the living conditions of neighbouring residents.

Conclusion

34. For the reasons given above I conclude the appeals should be dismissed.

JP Sargent

INSPECTOR