
Appeal Decisions

Site visit made on 22 September 2021

by S. Ashworth BA (Hons) BPI MRTPI

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

Decision date: 20th December 2021

Appeal A: APP/Q5300/W/20/3263960

The White Lodge Surgery, 68 Silver Street, Enfield EN1 3EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr A Halil against the Council of the London Borough of Enfield.
 - The application Ref 20/01507/FUL, is dated 12 May 2020.
 - The development proposed is demolition of single storey building at rear and erection of four dwellinghouses in two blocks.
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Appeal B: APP/Q5300/Y/20/3263961

The White Lodge Surgery, 68 Silver Street, Enfield EN1 3EW

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr A Halil against the Council of the London Borough of Enfield.
 - The application Ref 20/01508/LBC is dated 12 May 2020.
 - The works proposed are demolition of single storey building at rear and erection of four dwellinghouses in two blocks.
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Decisions

1. Appeal A: The appeal is dismissed.
2. Appeal B: The appeal is dismissed.

Application for costs

3. An application for costs was made by Mr A Halil against the Council of the London Borough of Enfield. This application is the subject of a separate Decision.

Preliminary Matters

4. The appeals seek both planning permission and listed building consent for the development. Although separate appeals, there are matters common to both. In order to avoid repetition, I have dealt with both appeals in one combined decision letter.
5. The appeals in this case are against the failure of the Council to determine the applications. During the appeal process, the Council has set out reasons on which it would have refused the proposal, had a decision been made. I have had regard to those reasons in my consideration of the appeal.

6. At the final comments stage of the appeal the appellant submitted a Daylight and Sunlight Study and a response to the Council's concerns about highway safety. Given that the appellant was only made aware of the detailed concerns of the Council after the submission of the appeal, this approach is reasonable in this instance. The Council has had an opportunity to comment on the submitted documents and would not therefore be prejudiced by my consideration of them.

Main Issues

7. The main issues for consideration in this case are:
- The effect of the proposal on the listed buildings and their settings and linked to that whether the proposal would preserve or enhance the character or appearance of the conservation area, taking into account its effect on trees
 - Whether the proposal would provide satisfactory living accommodation for future occupiers having particular regard to private amenity space, light and ventilation and privacy
 - The effect of the proposal on highway safety

Reasons

The effect of the proposal on the heritage assets

8. The appeal site, an 'L' shaped site with frontages onto Silver Street and Church Lane, includes a grade II listed building, White Lodge, used as a doctors' surgery, and a separately listed garden wall. It lies within the setting of other listed buildings on Silver Street, notably Nos 58 and 60 which are grade II listed buildings and the Church of St Andrew which is a grade II* listed building. It also lies within the Enfield Town Conservation Area.
9. The proposal includes the demolition of a two-storey building fronting Church Lane, used as an annex in connection with the surgery, and its replacement with a building accommodating two dwellings, plus a block of two dwellings immediately to the rear of White Lodge. Vehicular access to all four properties would be off Church Lane. Four car parking spaces would be provided on land between the two blocks.

Listed Buildings

10. Section 66(1) of the Planning (Listed Building and Conservation) Areas Act 1990 (the Act) requires that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard is had to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest it possesses.
11. White Lodge, the list description advises, is possibly a C17 timber framed house with C18 weather boarding to the front elevation and comprises 2 storeys plus an attic. The property has a brick rear elevation, not referred to in the description, which may have been constructed at a later date. Nos 58 and 60 Silver Street, the gardens of which back onto the appeal site, are a pair of C18 dwellings, three storeys in height with basements, built in London stock brick. The brick boundary wall to the rear of the garden, which runs alongside a public footpath connecting with Church Lane, is said to date from the C17 or C18, although a plaque on the wall indicates it has been rebuilt since then. The

Parish Church of St Andrews, a grade II* listed building, the significance of which is also architectural and historic, lies to the south of the appeal site and is set in an extensive churchyard.

12. The significance of Nos 58, 60 and 68 Silver Street, as set out in the Heritage Impact Assessment (HIA) lies primarily in their evidential, aesthetic, and historic value as surviving examples of houses from the C18 which have retained their domestic appearance, albeit that No 68 has been used as a doctor's surgery for many years. Whilst I note that there has been some alteration to the rear of No 68 this does not detract significantly from its overall value. Although not referred to in the HIA I understand that the house also has a historic interest as the domestic residence of Joseph Whitaker, publisher and founder of *Whitaker's Almanac*.
13. Evidence indicates that the site has formed the garden of No 68 since at least 1871 and thereby has had an historic physical and functional relationship with the house. Although now in a non-residential use, the house and garden have largely retained a domestic appearance which enhances the experience of the heritage asset. The garden is bound by the listed wall, which, along with the mature landscaping, creates a well-defined space and sense of enclosure and seclusion at the rear of the property. Parking within part of the garden detracts to a degree from the space but nevertheless the appeal site makes a positive contribution to the significance of No 68 as a heritage asset and the ability to appreciate it.
14. The site is not historically or functionally associated with the other listed buildings mentioned. Whilst it provides a generally pleasant and open backdrop to these buildings the site makes a neutral contribution to their significance as heritage assets as set out above.
15. The annex building fronting Church Lane has little architectural or historic significance in itself. It is a modest building that makes a neutral contribution to the setting of the heritage assets. Accordingly, the Council does not object in principle to its demolition and I have no reason to disagree. The replacement structure, which would be of a similar size and simple detailing, would occupy a similar position to the existing building. Although it would be of a different use, it would to my mind have no greater effect on the setting of the listed buildings than the existing structure and would thereby preserve their significance.
16. However, the proposal would introduce a substantial building, units 3 and 4, and residential activity unrelated to White Lodge, into its garden. As such the historic and evidential value of this part of the original garden would be diminished. In addition, what would remain of the garden would be overlooked by the new dwelling, harming the sense of seclusion. Furthermore, whilst the building has been sensitively designed, its presence, and the subdivision of the garden, would sever one section of it from the other thereby harming its spatial arrangement. Accordingly, the proposal would erode the contribution the garden makes to the setting and thereby significance of the building, and adversely affect the ability to appreciate it.
17. I acknowledge that these units would not be seen from Silver Street. However, they would be glimpsed from Chapel Lane and the public footpath and would be readily visible from the rear of properties around the site. Moreover, the special interest of a heritage asset does not depend on its ability to be seen.

18. I saw at my site visit that there are overgrown open structures within the site. The HIA notes that they are 'partly submerged small open fronted 19th century red brick cellar vaults of poor condition' and not considered to be of particular heritage value. The Council disagrees and considers that they may have been an icehouse associated with use of the listed building. Objectors to the proposal hold a similar view.
19. There is no dispute between the main parties that the structure lies within the curtilage of the listed building and accordingly, given it appears to have been constructed prior to 1948, it would be included in the listing even if not specifically mentioned.
20. Under the proposed scheme the area in which the structure is situated, outside the entrance to Units 3 and 4 and adjacent to the listed wall, would form part of the parking and manoeuvring area. There are no specific details of how this structure would be treated but, it seems to me, to allow satisfactory vehicular and pedestrian access, the void would need to be filled. The loss of the structure would result in a complete loss of any evidential and historic value it possesses.
21. Without a more detailed analysis of the structure and its significance, this matter adds to my conclusion that the proposal would not preserve the listed building or its setting and would thereby be contrary to the weighty statutory requirements of the Act.
22. I am satisfied, given the scale and design of the dwellings and their distance away from the church, and Nos 58 and 60 Silver Street, that the proposal would not result in harm to the setting of those assets.

Conservation Area

23. In terms of the Conservation Area, Section 72 (1) of the Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the area.
24. Silver Street, in the vicinity of the appeal site, has a busy character with a mix of uses. The number of surviving 18th century buildings add to the quality of the area. The Enfield Town Conservation Area Appraisal notes that White Lodge is the most notable in the 'impressive sequence of 18th century listed buildings', the white-painted weatherboard of which make it a focus of attention. Buildings tend to front directly onto Silver Street in a linear pattern with long gardens although I note some buildings, including the new surgery on the adjacent site, extend further back into their plots than others. The rear gardens and the space they provide contrast with the built-up urban form and provide visual relief from it.
25. Church Lane, a cul-de-sac, has a quieter character with a backdrop of trees and space where the gardens, school and church are located. Built form is more sporadic and the surgery annex and School Lodge stand alone. The trees within the appeal site are visible from the lane and, whilst there are some negative elements to the street scene including areas of car parking, the trees make a positive contribution to the appearance of the area. Indeed, the Character Appraisal notes that for an area so close to the commercial centre and heavily trafficked roads, there is a great variety of green space and trees, including private walled gardens.

26. The proposed Units 1 and 2 would occupy a similar position to the surgery and, like the existing building, would have minimal fenestration facing the highway. External materials, as with Units 3 and 4, would be a mix of clay roof tiles and brickwork with some modern detailing, the specific details of which could be determined by planning condition. The building would have a different form to the existing building with higher eaves and a double pitched roof but I note that no objections to it have been raised by the Council in design terms. Whilst different to other buildings in the area, the proposal would nevertheless be sympathetic in terms of its height, scale and detailing. Accordingly, the replacement of this building with that proposed would have a neutral impact on the character and appearance of the area.
27. Units 3 and 4 would have an unusual footprint reflecting the line of the listed boundary wall but nevertheless the form and massing of the building would be unassuming. I note the Council's objection to the proposed dormers on the rear of the building which would be constructed of zinc. However, whilst these are modern elements, they would be proportionate, in terms of their size and scale, to the building read as a whole and would be positioned at a low height. Accordingly, they would not significantly add to the apparent bulk of the building. As such it seems to me that the design of the building is appropriate to the area.
28. However, that building would have no direct frontage to a highway and would introduce substantial built form into the open space at the rear of buildings fronting Silver Street. It would therefore not reflect and thus would detract from the historic settlement pattern and would harm the openness of this part of the conservation area, a significant component of its character and appearance.
29. Furthermore, the proposal would affect a number of trees on site. As indicated on the Tree Constraints Plan, T1 and T3 located within the garden of No 68 are dead and need to be removed and replaced. This would not, in itself, adversely affect the character of the area. However, the proposal also includes the loss of an attractive purple leaved Plum tree and a Yew tree (T7 and T8) situated at the rear of the surgery annex. These trees are identified in the Arboricultural Impact Assessment (AIA) as category C trees as being of low quality and value. However, they can be seen in the street scene and make a positive contribution to the conservation area. Whilst basal epicormic growth has been identified there is no evidence in the AIA of any disease or decay and therefore no reason why the trees should not continue to make a positive contribution to the area for many more years. The loss of these trees would have a significant effect on the character and appearance of the area.
30. In addition to that, the development would be very close to a Robinia (T6), identified in the AIA as being a category A tree of high quality and value, and to a Yew (T5) identified as category B as being of moderate quality and value located adjacent to the boundary wall. Again, these trees are attractive species and can be seen in views along Church Lane where they make a valuable contribution to the green character and appearance of this part of the conservation area. I acknowledge that any potential damage to the root protection area of these trees can be mitigated against. However, I share the Council's concern that as a result of the proximity of those trees and others in Group 2 to the north side of Unit 1 which would contain the principal habitable rooms of the dwelling, they are likely to appear oppressive and cause a

nuisance in terms of management that would be likely to result in post-development pressure to fell these trees.

31. I note the Council's concern about the impact of Group 1 and T9, a Yew, on the living conditions of occupants of Units 3 and 4. However, given the orientation of the building and position of main habitable room windows I am unconvinced that there would be the same post development pressure in that case.
32. I acknowledge that the appellant has undertaken to replace those trees that would be lost as a result of the development. However, space within the site for replanting is limited given the amount and orientation of the proposed new development including the proposed parking area. It would take several years for replacement planting to become established and have the same effect on the character and appearance of the area as the existing trees. Accordingly, I am unconvinced that successful replanting, that would have the same positive impact on the character and appearance, could be successfully achieved.
33. For these reasons, the proposal considered as a whole would not preserve or enhance the character or appearance of the conservation area and would therefore fail to comply with the statutory requirements of the s72 of the Act.

Heritage balance

34. The approach in the National Planning Policy Framework (the Framework) is that where a proposal will cause less than substantial harm to the significance of a heritage asset, that harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
35. As set out above the proposal would cause less than substantial harm to the listed building and its setting. The appellant considers this harm to be of a very low level. The Framework does not set out the need to identify a degree of harm within the category but nevertheless for the reasons set out it seems to me that the degree of harm would be of a significant level. In addition, there would be less than substantial harm to the conservation area as a designated heritage asset.
36. The provision of four additional units of residential accommodation in the borough, in a location which has good accessibility to services, facilities and the public transport network is a benefit of the scheme. This carries moderate weight in support of the proposal. In addition, there would be some economic benefit from the proposal which carries additional limited weight.
37. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the potential harm to significance. I have found that the public benefits of the proposal considered cumulatively amount to moderate weight and would not therefore outweigh the harm to the setting of the listed building and the conservation area, which in accordance with the Framework is required to be attributed great weight.
38. Accordingly, I conclude that the proposal would not preserve the listed building or its setting and would neither preserve nor enhance the character or appearance of the conservation area. It would therefore conflict with Policies D3, D4 and HC1 of the London Plan, Policies CP 30 and CP 31 of the Enfield Core Strategy and Policies DMD 37 and DMD 44 of the Enfield Development

Management Document which in various ways seek, amongst other things, to maintain and improve the quality of the built environment, have regard to heritage assets including locally distinctive or historic patterns of development and conserve and enhance their settings. In addition, the proposal would be contrary to Policy G7 of the London Plan and Policy DMD 80 of the Enfield Development Management Document which seek to retain trees of value.

Whether the proposal would provide satisfactory living accommodation

39. Policy DMD 8 and Policy DMD 9 of the Development Management Document seek in various ways to ensure that housing provides a good standard of accommodation for future residents. This accords with the requirements of the Framework that development promotes health and well-being with a high standard of amenity for existing and future users.
40. There is a dispute between the parties as to whether all the proposed units meet the national floor space standards set out in Policy DMD 8. Taking the worst-case position, that shortfall relates to one unit and is limited in terms of its extent.
41. However, available private external space for Units 1 and 2, stated by the appellant to be 12 sqm and 19 sqm respectively falls short of the minimum standard of 23 sqm per unit set out in Policy DMD 9. Moreover, the space available for use by unit 1 would be of an awkward configuration such that it would have limited practical use. In addition, that space, and the space for units 2 and 3 would be sited immediately adjacent to the communal car park and as such would need to be enclosed to ensure a degree of privacy. The application indicates that boundaries would be delineated by new native hedge species set in steel planters. It seems to me that it would take a while for the hedges to grow to a height that would provide sufficient privacy and given the limited size of the gardens the hedges could themselves appear oppressive. I recognise that Units 1 and 2 would be provided with first floor terraces which would also serve as external space. However again these terraces would be close to the car park and, like the gardens, would be north facing and likely to be gloomy because of the tree coverage.
42. I acknowledge the appellant's point that the car park would be limited to four vehicles which in any event would be slow moving. Nevertheless, there would be a degree of coming and going and manoeuvring on a tight space within the site in close proximity to the gardens and immediately adjacent to the garden to Unit 1. Accordingly, it seems to me that there would be an, albeit limited, degree of noise and disturbance from the car park.
43. The dwellings have been carefully designed with large areas of glazing to at least one elevation per unit. Whilst there would be constraints to daylight in terms of the orientation of the properties and the amount of tree coverage, I am not persuaded by the Council's argument that they would not receive satisfactory light or ventilation. However, the boundary treatment would be very close to the habitable windows in all four of the properties and as such outlook from ground floor habitable rooms, the combined kitchen/living/dining rooms which is the principal living space in the dwellings, would be restricted.
44. As such, as a result of a combination of factors including the restricted size of the outdoor amenity space, its enclosure and proximity to the communal parking area, and the limited outlook from the main ground floor habitable

room windows, I consider living conditions would fall short of the high standard set by the Framework.

45. Therefore, for the reasons set out above, in terms of the second main issue, the proposal would not provide adequate living conditions for future occupiers and would therefore be contrary to Policy DMD 9 of the Plan as set out above.

The effect of the proposal on highway and pedestrian safety

46. The site is centrally located within Enfield town centre and has good access to services and facilities including the public transport network such that it has a PTAL rating of 5. Accordingly, whilst the provision of 4 spaces is towards the maximum set out in the London Plan, the Council has raised no objection to the level of parking provision proposed.
47. Access to the site, for both vehicles and pedestrians, would be via Church Lane part of which is a public footpath, through the existing access point. Again, no objection has been raised by the Council to the vehicle access in terms of highway safety, particularly given that there would be a reduction in traffic using the lane over the current situation. However, I acknowledge the Council's concern about the standard of the pedestrian access.
48. Units 2, 3 and 4 would all be accessed through the parking area rather than directly off a highway. Nevertheless, vehicle speeds would be low and it seems to me that appropriate surface materials delineating suitable pedestrian access linking the dwellings to the highway and refuse storage area, and external lighting, could be secured by condition. In that way the proposal would meet the requirements of Policy DMD 47 which recognises that all developments should make provision for attractive safe, clearly defined and convenient routes and accesses for pedestrians including those with disabilities.
49. Manoeuvring space within the car parking area is limited as a result of the position of the refuse storage area and a retained tree. As such several movements may be required in order to enter or leave the spaces in a forward gear. On that basis the Council accepts that the spaces could potentially be accessible and from all I have seen, whilst manoeuvring space would not be ideal there is unlikely to be significant manoeuvring on the public highway to the detriment of highway safety.
50. Accordingly, the proposal would provide a safe and suitable access and appropriate level and standard of parking provision and as such in this respect, the proposal would accord with Policy DMD 47.

Other Matters

51. The Council has raised concerns about the lack of any mechanism to secure a Construction Management Plan. It seems to me that because of the sensitive location of the site close to a school and to a public footpath network, and because of its position at the end of a cul-de-sac where there is limited manoeuvring space, construction traffic does need to be appropriately managed. However, from all I have read there is no requirement for a legal obligation for a Construction Management Plan in the policies cited. Moreover, given the size of the site and the limited scale of the development proposed, I am not persuaded that the matter could not be dealt with by a condition and that any specific requirements relating to the public highway could not be secured under other legislation if necessary.

52. The Council has also set out concerns regarding the lack of a sustainable urban drainage scheme. In the interest of sustainability, I agree that such a scheme is necessary to meet the requirements of local plan policy. However, had I been minded to allow the appeal I am not persuaded that this matter could not have been dealt with by a pre-commencement planning condition. Nevertheless, as I am dismissing the matter for other reasons this matter has not been determinative.

Conclusion

53. The proposal would provide an additional 4 units of accommodation, adding to the housing supply in the Borough. In addition, there would be limited economic benefit as a result of the proposal.
54. On the other hand, I have identified a range of harmful impacts that would result from the development, specifically harm to designated heritage assets. In addition, the proposal would not provide satisfactory living conditions for future occupiers. The proposal would not cause a danger to highway or pedestrian safety, but this is a neutral matter in the overall analysis.
55. It follows that the combined harm and policy conflict resulting from the scheme would be substantial and would not be outweighed by the benefits.
56. For the reasons set out above, the proposal would not comply with the development plan when considered as a whole. There are no other considerations that indicate that permission should be granted otherwise than in accordance with the development plan.
57. Therefore, taking all other matters into account including objections by third parties, the appeals are dismissed and planning permission and listed building consent are refused.

S. Ashworth

INSPECTOR