



Appeal Decisions

Site visit made on 7 February 2022

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2022

Appeal A Ref: APP/W1905/W/21/3270910

43 Turners Hill, Cheshunt EN8 8NJ

- 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 B Hoffman, Fastgrand Ltd, against the decision of Broxbourne Borough Council.
 - The application Ref 07/20/0257/F, dated 19 March 2020, was refused by notice dated 16 November 2020.
 - The development proposed is the change of use of existing listed building (No 43 Turner's Hill) from an accountant's office (Class A2) to residential (Class C3) in the form of 2 x 2 bed flats. External alterations to No 43 Turner's Hill including removal of existing rear extension and creation of additional floorspace to rear. Development of new two storey detached building adjacent to No 43 Turner's Hill which will provide 2 x 1 bed flats and 4 x 2 bed terraced dwellings to the rear of No 43 Turner's Hill, together with associated works including new vehicle parking provision, hard/soft landscaping, resident amenity space, secure refuse and cycling storage.
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Appeal B Ref: APP/W1905/Y/21/3270906

43 Turners Hill, Cheshunt EN8 8NJ

- 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 B Hoffman, Fastgrand Ltd, against the decision of Broxbourne Borough Council.
 - The application Ref 07/20/0258/LB, dated 19 March 2020, was refused by notice dated 16 November 2020.
 - The works proposed are the change of use of existing listed building (No 43 Turner's Hill) from an accountant's office (Class A2) to residential (Class C3) in the form of 2 x 2 bed flats. External alterations to No 43 Turner's Hill including removal of existing rear extension and creation of additional floorspace to rear. Development of new two storey detached building adjacent to No 43 Turner's Hill which will provide 2 x 1 bed flats and 4 x 2 bed terraced dwellings to the rear of No 43 Turner's Hill, together with associated works including new vehicle parking provision, hard/soft landscaping, resident amenity space, secure refuse and cycling storage.
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Decisions

Appeal A Ref: APP/W1905/W/21/3270910

1. The appeal is dismissed.

Appeal B Ref: APP/W1905/Y/21/3270906

2. The appeal is dismissed.
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Preliminary Matter

3. As the proposal relates to a listed building, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are:
- whether the proposal would preserve the grade II listed building 43 Turners Hill, and any of the features of special architectural or historic interest that it possesses;
 - whether it would preserve the setting of the listed building;
 - its effect on the character and appearance of the area; and,
 - whether it would provide suitable living conditions for future occupiers, with particular regard to shared garden size, privacy, waste and recycling storage.

Reasons

The significance of the listed building and its setting

5. This former house has historic significance in its surviving layout, suggesting its C18 origins, notably its broad arrangement with a central hall entered through a smart doorcase leading to two rooms set each side of a large, central chimney, with the very low-ceiling rooms in the loft through which it rises, suggesting servants' quarters.
6. The building fabric has special historic interest in its materials and detailing, particularly what appears to be its primary timber frame spanning from the chimney to the flank walls, the joinery and glazing of its older windows, the entrance doorcase, the central chimney, its openings and its fireplaces, as well as many of the surviving doors and some of the joinery, particularly the timber panelling, of different ages, in the ground floor room, north.
7. The structure, form, and layout of the building, and its traditional detailing and contemporary materials also hold special architectural interest demonstrating how the architectural ambition at the time of its construction met the social aspirations of the age, conspicuous here by the smart, formal frontage of the house, and its polite set-back from the street, possibly at one time a principal road connecting to London. Though some of the later alterations and workmanship are less valued today, they nonetheless reveal the technology and preoccupations of the society that undertook them, and the significance of the building's development through the centuries.
8. The street setting provides sufficient clear space in front of the building and to its flanks that it is able to maintain the legibility of its status as a smart C18 house against the busy thoroughfare and neighbouring buildings. The back of the building has been altered and relates less formally to the back garden. The significant aspect of this more private setting is the breathing space it affords

the building, in particular the impression of the status of the building of when it was a house, in terms of its footprint and height in relation to the depth and width of the garden.

Whether the proposal would preserve the listed building

9. The previous Inspector's decision concluded that the removal of the rear additions would not represent a loss of important or significant historic fabric. I also note the planning permission¹ and listed building consent² for the conversion of the building, including some demolition. In this light, the scope of works described in this appeal identifies the historic fabric with high significance. The design approach in the conversion of the listed building, save for the exceptions below, is generally a sensitive one.
10. I noticed at my site visit that the timber panelling in the main room, ground floor, north, conceals, above the fireplace, what appears to be an older, timber-framed opening, infilled by brickwork, which above and around it, has an older decorative timber panelling scheme. The proposed finishes and any services alterations, in this room in particular, would need a details condition to ensure this feature of the building's special historic interest is conserved.
11. I understand the desire for the new windows in the back wall of the house to be distinguishable from the existing timber sash windows to be retained. However, the aluminium material of the new windows, their proportions and horizontal emphasis would not be sensitive to the surviving windows in the same wall. However, alternative details could secure details more sensitive to the materials and patterns of the historic windows to make these elements acceptable.
12. Indeed, to any listed building consent, conditions for detailed room-by-room finishes, door and window finishes, joinery, services, fit-out and ironmongery schedules, as well as details of the proposals for the chimney flues and fireplaces and full details of new building work to the fabric of the building would be necessary to secure the historic interest of the building. In light of the details in the scope of works, and with conditions to secure details of how retained elements would be treated, how any overhaul works would be carried out, as well as to ensure the sensitivity of new works, save for below I can identify no fabric alterations to the building which could harm its significance or special interest.
13. The Council, and the previous appeal decision, raised no objection in principle to the subdivision of the building, or the secondary, flank access at first floor, in terms of the historic plan form and the special architectural interest of the building. I note the Council's objection to the loss of the chimney in the flank of the outrigger. However, without substantive evidence on the significance of this fabric I see no reason to disagree with the conclusions regarding the removal of the rear additions in the previous appeal decisions.

¹ LPA Ref 07/16/1363/F

² LPA Ref 07/16/1364/LB

14. Notwithstanding this, the proposed access into the first floor would require the removal of a door-opening's width of historic wall material. There is no evidence of what the wall is made from here, whether it contains plain masonry, or whether the opening would require the removal of some of the building's timber framing, whether primary or secondary.
15. I have no doubt that the stair enclosure could touch only lightly the wall of the listed building. However, in the absence of detailed evidence of the surviving wall in this section, and how it contributes to the significance of the building, in particular its structure and materials, and what the impact of its removal on that historic significance may be, I am not assured that the insertion of an opening here would not disturb the timber frame and result in the loss of historic fabric of particular significance which may harm the special historic interest of the grade II listed building.
16. The proposal would not therefore preserve the special historic interest of the listed building, and there is no clear and convincing justification for the harm from this alteration to the significance of the building, as required by the Framework, in paragraph 200. It would conflict with policy HE2 of the Broxbourne Local Plan 2018-2033 (LP) which requires development affecting heritage assets or their settings to conserve or enhance the historic environment, and LP policy HE1 which seeks to ensure that development not only avoids harm, but better reveals the significance of heritage assets.

The effect of the proposal on the setting of the listed building

17. Noting the previous Inspector's conclusions and the Council's representations, I can identify no harm from the detailing and materials of the main section of the new building of flats to the setting of the listed building, which at the front would follow sensitively its materials and detailing. The proportions and materials of the openings in the back of the main section of the new building would break from the pattern of those in the listed building, but they would be sufficiently confined in scale and position within the new-build for their differentiation to avoid any architectural tension between the two buildings.
18. Similarly, the detailing of the new terrace, which would be concentrated in its form, scale and overall appearance, and at the distance proposed behind the listed building, would neither compete, dominate, nor distract from the architectural significance of the listed building. The siting of the new terrace would retain sufficient space behind the building to preserve the spatial significance of its rear setting. The new terrace would be sufficiently distant from the listed building that its present command of the space behind it would continue. The use of the rear space for gardens and parking would not undermine the setting of the listed building.
19. Notwithstanding this, the enclosure of the stair up to the first floor of the listed building and to the new building beside it, together with the proximity of the new building of flats, would cramp the space around the listed building and the breathing space which is part of its street and rear settings. I find no harm

from the height of the new building, but the combined effect of the distance between the listed building and the new building, and the partial infilling of the space between them would tend to make the listed building read more as part of a terrace than a detached building, undermining its legibility today as a free-standing building and its status as a smart C18 house which is part of its historic and architectural significance. This echoes the finding of the Inspector in the previous appeal.

20. I appreciate that historical maps indicate that there may have been a building adjoining on this side. Indeed, what appears as a capped party wall of an adjoining, single storey structure is visible on the south flank of the listed building today. However, there is no evidence of the height or form of what may once have stood there. This speculation does not justify the harm I have identified to the setting of the listed building from the proximity and connection of a building of similar height, as here.
21. The proposal would therefore conflict with LP policy HE2, as well as LP policy HE1 which says that the Council will seek to ensure that development not only avoids harm, but also improves the setting of Broxbourne's historic environment. It would also conflict with paragraph 200 of the Framework which recognises the potential for harm to the significance of a designated heritage asset from development within its setting, and for which clear and convincing justification is required.

The effect of the proposal on the character and appearance of the area

22. The Inspector in the previous appeal did not share the Council's concerns about the scale and form of the new terrace of houses proposed behind the listed building. I have no evidence to depart from that conclusion. The drawings of the terrace promise a sensitive scale and arrangement of openings, and materials that would reflect some of the character of the listed building while differentiating it as a building of its own time.
23. Given the siting of other development in this section, behind the front buildings, the development would not depart from the pattern of development in the area. Noting the position of other buildings along this section of Turners Hill, and the enclosing effect they have on the street, the addition of a new building of comparable height, form and detail to the listed building, and to be sited to the south of it, would not, in principle, harm the architectural character of this part, or the appearance of the street scene in this section.
24. However, because of the siting of the new building so close to the flank of the listed building and because of the amalgamating effect of the connection between them, the proposed development would undermine the architectural contribution of the listed building to the street scene and result in a section of streetscape with an awkward, cramped appearance.
25. The proposal would therefore conflict with LP policies DSC1 and DSC2 which expect a high standard of design which enhances local character and distinctiveness taking into account building typology, and which require

extensions and alterations to respect the character and design of the building, and not to unduly impact on the parent building and wider setting. It would also be at odds with paragraph 130 of the Framework which indicates that decisions should ensure that developments are sympathetic to local character and history while not preventing appropriate innovation or change.

Whether the proposal would provide suitable living conditions for future occupiers

26. Whether it is the Council's calculation of the area of the shared gardens to the flats at 75m², or the appellant's calculation of 84m², that is correct, against the borough-wide guideline for communal gardens for development this size to be 80m², the relative difference is not determinative in the particular circumstances here of a development involving a listed building.
27. The gardens would be set away from the noise of the road, with good access to sunlight, and some privacy behind a hedge. There may be a small degree of overlooking of the shared garden behind the flats, from the houses and from the flats. However, these are shared gardens rather than private gardens. In the context of development in the built-up area, where a degree of mutual overlooking is commonly accepted, and noting that the gardens are shared by the occupiers of the flats, I see no material harm to the privacy of future occupiers of the flats from this arrangement, and no conflict with LP policy DSC1 which seeks a high standard of design.
28. As regards waste and recycling, the Council objects first to the volume of space which would be provided for the storage of waste, and second, to the distance from the storage points to the kerbside for collection. Whilst I have not been given a copy of the Council's Waste Supplementary Planning Guidance, my understanding is that it is agreed that the collection point for the development would be the highway kerbside.
29. The planning application drawings show that sufficient storage space for the waste could be provided in two communal stores. While this layout may not comply with the Council's guidance for each house to have their own store, it would nonetheless be accessible and convenient to future occupiers, as well as being reasonably unobtrusive.
30. In any event, the appellant has submitted with the appeal an alternative arrangement³. The arrangement in this would provide individual storage for each house, as sought in the Council's guidance, as well as the requisite communal storage for the flats. Providing the storage for houses within their own curtilages would be more convenient for those occupiers, and would provide more certainty that those bins would be properly placed at the collection point, and removed promptly after waste collection. Also, the alternative layout would provide two, smaller, 240-litre bins for the flats instead of a single, 1,100-litre bin, which would be easier for future occupiers to manoeuvre, and therefore less likely to obstruct the footway.

³ Drawing 18 10K al 1

31. In terms of storage therefore, either layout would provide sufficient and accessible storage without compromising the living conditions of future occupiers or the appearance of the rear area.
32. I appreciate that the distance from the waste and recycling storage to the kerbside collection point would exceed the Council's guideline distance of 10m. However, the overrun is not so great that future occupiers would be unlikely to take their waste to the collection point or to retrieve empty bins. Given the heritage, access and space constraints of this site, and in the context of redevelopment for additional housing with the reuse of the listed building, a degree of flexibility with the bin-wheeling distances, as demonstrated by the Council in its approval of the bin arrangement for a scheme⁴ on this site with one house rather than four houses at the back, is justified.
33. I conclude on this issue that the proposal would provide suitable living conditions for future occupiers, with particular regard to shared garden size, privacy, waste and recycling storage. There would be no conflict with LP policy EQ1 which protects the amenities enjoyed by the occupiers of neighbouring properties. While the proposed development would not meet the guideline bin-wheeling distance in the Council's guidance, the proposed and alternative refuse storage arrangements would not conflict with the objective of LP policy EQ1 which is for development to provide sufficient storage for refuse and recycling and access to them for waste vehicles.

Planning Balance

34. I have found that the proposal would provide suitable living conditions for future occupiers, with particular regard to shared garden size, privacy, waste and recycling storage. However, it would fail to preserve the historic interest of the grade II listed building, and it would harm its setting. The same harm would also undermine the architectural contribution of the listed building to the street scene and result in a section of streetscape with an awkward, cramped appearance placing the development in conflict with the Local Plan and the Framework.
35. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. I have found the harm to be less than substantial, but nevertheless of considerable importance and weight, especially so where the statutory test has not been met.
36. Paragraph 202 of the Framework anticipates that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this should be weighed against the public benefits of the proposal, which includes the securing of its optimal viable use.

⁴ LPA Ref: 07/16/1363/F

37. I have taken into account the approved scheme, against which the appellant claims this proposal would be a significant enhancement in terms of its impact on the listed building. However, the harm I have found in this proposal would be greater than any impact that could be considered in the approved scheme. I therefore attribute little weight to the fallback position.
38. The principal heritage benefit would be the conservation of the listed building following the return of its residential use, albeit sub-divided, which would secure its long-term conservation. As well as securing its optimal viable use, the proposal would provide the social benefit of eight new homes in a sustainable location, with the future occupiers bolstering the local demand for services and facilities. Occupation of the development would bring economic benefits too from the spending of future occupiers in the local area as well as from its construction which would stimulate employment, the commissioning of services, and the retention of building craft skills.
39. The heritage benefits to the listed building, including securing the optimal viable use, would be significant. However, the heritage benefits and the other public benefits in the proposals would not outweigh the less than substantial harm to the significance of the listed building and its setting, to which I attribute considerable importance and weight, and to the conservation of which the Framework indicates that great weight should be given.

Conclusion

40. I have found that though the proposal would provide suitable living conditions for future occupiers, with particular regard to shared garden size, privacy, waste and recycling storage, it would diminish the historic significance of the grade II listed building, and its setting, and fail to preserve its special historic interest. The same harm would also undermine the architectural contribution of the listed building to the street scene and result in a section of streetscape with an awkward, cramped appearance, placing the development in conflict with the Local Plan and the Framework.
41. I conclude, therefore, that the proposal would fail to satisfy the requirements of the Act, paragraph 197 of the Framework, and it would not be in accordance with the development plan, when read as a whole. There are no other considerations to outweigh that finding. For the reasons given above, the appeals are dismissed.

Patrick Whelan
INSPECTOR