

Appeal Decisions

Site visit made on 2 February 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

Appeal A Ref: APP/R5510/W/21/3284183

Highgrove House, Lidgould Grove, Ruislip HA4 8BP

- 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 Kamal Pankhania (Westcombe Estates Ltd) against the Council of the London Borough of Hillingdon.
 - The application Ref 10622/APP/2021/1490, is dated 13 April 2021.
 - The development proposed is described as 'proposed erection of a three bedroom house'.
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Appeal B Ref: APP/R5510/Y/21/3284186

Highgrove House, Lidgould Grove, Ruislip HA4 8BP

- 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 Kamal Pankhania (Westcombe Estates Ltd) against the Council of the London Borough of Hillingdon.
 - The application Ref 10622/APP/2021/1491, is dated 13 April 2021.
 - The works proposed are described as 'proposed erection of a three bedroom house'.
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Decisions

1. Appeal A is dismissed, and planning permission for 'proposed erection of a three bedroom house' is refused.
2. Appeal B is dismissed, and listed building consent for 'proposed erection of a three bedroom house' is refused.

Preliminary Matters

3. The appeal scheme affects a listed building, and I have therefore had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Both appeals relate to the same site and raise similar issues, and I shall therefore consider them in a single document, in the interests of brevity.
4. During the course of the applications, the Council queried the need for Listed Building Consent, particularly as the appeal scheme does not include any works to Highgrove House. As stated in the Council's submissions, the appellant has confirmed that the fixtures of the structures in the curtilage of Highgrove House are also listed, and the proposal therefore also requires Listed Building

Consent. The Council has proceeded on this basis and, having regard to the available information, there are no reasons for me to take a different approach.

5. Concerns were also raised by interested parties regarding the extent of the site. A revised location plan was subsequently provided by the appellant, showing the extent of the land within his ownership. I am satisfied that no one would be prejudiced by the changes to the site's red outline, and I have had regard to this amended plan (Drawing No.FLU.1324.01 Rev J) for the determination of the appeals.
6. The appeals are against the Council's failure to give notice, within the prescribed timescales, of decisions on applications for planning permission and listed building consent. However, the Council have confirmed within their submissions that, had the Local Planning Authority been in a position to determine the applications, planning permission and listed building consent would have been refused.

Main Issues

7. The main issues are:

- Whether the proposal would preserve the significance of the Grade II listed building known as Highgrove House, as derived from its setting;
- The effect of the proposal on the living conditions of neighbouring residents, with particular regard to outlook, sunlight/daylight, privacy and outdoor amenity space;
- Whether the proposal would provide satisfactory living conditions for future occupiers of the development, with particular regard to privacy and outdoor amenity space; and
- The effect of the proposal on protected species.

Reasons

Listed Building

8. The appeal site lies within the grounds of Highgrove House, a Grade II listed building constructed in 1881 by Edward Prior in replacement of an earlier house which was destroyed by fire. The Council's submissions indicate that internally, Highgrove House has lost much of its interest, following extensive fire damage in 1978 and the property's subsequent division into bedsits for hostel accommodation and then flats.
9. Externally however, the property retains much of its intricate and rich detailing, which includes gauged brick window arches, high pitched hipped swept tiled roofs with tall gabled dormers, modillion eaves cornices, two-storey bays and striking chimney stacks. Insofar as is relevant to these appeals, the significance of this Grade II listed building derives primarily from its architectural and historic interest, as a grand house set within spacious grounds.
10. The setting of Highgrove House has somewhat been compromised by more modern suburban development in recent times. Notwithstanding this, the Grade II listed property remains one of the largest and most prominent buildings in the area, which it is still possible to appreciate within the context of generous and verdant surroundings.

11. The design of the proposed dwelling would reflect the style of the existing mews houses. However, it would harmfully encroach into the setting of Highgrove House and sits directly opposite one of its principal façades, thus affecting the ability to appreciate the special interest of the Grade II listed building. The intensification of development on the site would lead to a further erosion of the spacious grounds surrounding Highgrove House, which make an important contribution to its significance. In reducing the spacious and open character which defines Highgrove House's surroundings, the appeal scheme would unacceptably diminish the setting of this listed building, to the detriment of its significance.
12. The appeal scheme would have a detrimental effect on the significance of this listed building, as derived from its setting, and thus on its understanding and appreciation as a heritage asset of national interest. The appeal scheme would cause less than substantial harm to the significance of the Grade II listed building, to which I ascribe considerable importance and weight. In accordance with paragraph 202 of the National Planning Policy Framework (the Framework), the harm should be weighed against the public benefits of the proposal. The construction of an additional dwelling may be regarded as a public benefit. However, the presented benefits would not, overall, outweigh the harm which would be caused by the proposal.
13. For the foregoing reasons, the appeal scheme would fail to preserve the special interest of Highgrove House, as derived from its setting. It would therefore conflict with Policy HE1 of the Hillingdon Local Plan Part 1: Strategic Policies¹ (LPP1), Policies DMHB 1 and DMHB 2 of the London Borough of Hillingdon Local Plan Part 2: Development Management Policies² (LPP2), Policy HC1 of the London Plan 2021, and paragraphs 189-208 of the Framework. Amongst other things, these expect new development to preserve the special interest of heritage assets and make it clear that planning permission will not be granted for proposals which are considered detrimental to the setting of a Listed Building.

Living conditions – Neighbouring occupiers

14. The proposed dwelling would be constructed within proximity to the front (western) elevation of no 17 Lidgould Grove (no 17), which constitutes the main outlook of this semi-detached property, as it does not benefit from a rear aspect. The occupiers of no 17 would be presented with a substantial flank wall at close quarters, which would extend across most of this neighbouring property's front elevation, and encroach onto its front garden.
15. By reason of its siting, scale and footprint, the proposal would restrict the outlook currently enjoyed by the residents of no 17 to a substantial degree, but also harmfully diminish levels of natural daylight and sunlight within this neighbouring dwelling. Furthermore, due to its proximity to the front elevation of no 17, the appeal scheme would leave this property with no defensible space.
16. Whilst there are additional openings to the side (north) elevation of no 17, these are clearly secondary in nature, and the outlook from these windows is already restricted by reason of their proximity to Highgrove House. For these

¹ Adopted November 2012.

² Adopted January 2020.

reasons, the proposed arrangement would create a gloomy, oppressive and unpleasant sense of enclosure for the occupiers of no 17, and thereby have a serious detrimental effect on the living conditions of these neighbouring residents.

17. The proposed dwelling would also be too close to the southern elevation of Highgrove House, which includes a number of windows serving habitable rooms. In that regard, the appeal scheme would fail to meet the guidance provided in the supporting text to Policy DMHB 11 of the LPP2, which states that a minimum of 21 metres separation distance between windows of habitable rooms will be required to maintain levels of privacy and to prevent the possibility of overlooking. By virtue of the limited distance which would separate the new dwelling from Highgrove House, the proposed development would enable views onto this neighbouring property, which would cause a harmful loss of privacy for its occupiers.
18. The proposed house would be constructed within an area currently used as outdoor space by existing residents. Whilst I appreciate that this is a largely hard surfaced area, this does not prevent it from being used for outdoor amenity purposes, to support the day to day needs of the residents. The proposal would significantly reduce the level of usable outdoor space for existing and future occupiers of the mews houses. This adds to my concerns in respect of the harm which the development would cause to the living conditions of neighbouring residents.
19. Given the above, the proposed development would cause unacceptable harm to the living conditions of the neighbouring occupiers of no 17 and Highgrove House, with particular regard to outlook, daylight, privacy and outdoor amenity space. The appeal scheme would therefore be contrary to Policy BE1 of the LPP1 and Policy DMHB 11 of the LPP2, which notably seek to ensure that development proposals have no adverse impact on the amenity, daylight and sunlight of adjacent properties and open space.

Living conditions – Future occupiers

20. The front elevation of the proposed dwelling includes several windows serving habitable rooms, which would be located less than 21 metres from the southern elevation of Highgrove House. This would result in a harmful loss of privacy for future occupiers of the development, but also increase the perception of harmful overlooking, which would negatively impact on the enjoyment of their property. Whilst some existing dwellings are sited closer to Highgrove House than the proposal, this does not provide justification for a development which would fail to provide a satisfactory living environment for future occupiers.
21. As the new dwelling would be constructed in an area which was originally designed for recreation and soft landscaping, it is unclear, having regard to the available information, whether future occupiers would benefit from an external amenity space. The absence of usable outdoor space would be wholly inadequate for a development which could legitimately provide accommodation for a family.
22. For these reasons, the appeal scheme would fail to provide satisfactory living conditions for future occupiers of the development, with particular regard to privacy and outdoor amenity space. It would therefore fail to accord with the

design aims of Policies DMHB 11 and DMHB 18 of the LPP2 and Policy D6 of the London Plan, which require that development proposals provide good quality and usable private outdoor amenity space.

Protected species

23. The appeal site lies partly within Highgrove Woods Site of Importance to Nature Conservation (SINC) and is adjacent to Highgrove Nature Reserve (Nature Conservation Site of Borough Grade II or Local Importance). The appellant's submissions are supported by a badger survey³ on the land within and surrounding Highgrove House, which confirms the presence of an established badger sett and includes a number of mitigation and enhancement measures to ensure that no harm is caused to badgers.
24. As the site is located in and near areas of nature conservation significance, there is a reasonable likelihood that other protected species could be present on the site or its immediate surroundings. However, no detailed information has been presented to ascertain their presence and if so, whether mitigation measures may be required to ensure that no harm is caused by the development to protected species.
25. Circular 06/2005 advises that it is 'essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'. Surveys should only be required by condition in exceptional circumstances. There is no suggestion here that the circumstances of the case provide justification for addressing this issue by way of a condition.
26. In the absence of substantive evidence to the contrary, the reasonable likelihood of a number of protected species being present on site or adjacent land cannot be excluded and the effect that the development could have on them or their habitats, cannot be appropriately assessed. Consequently, the appeal scheme would not accord with Policies EM4 and EM7 of the LPP1, Policies DMHB 11 and DMHB 14 of the LPP2 and Policy G6 of the London Plan. Amongst other things, these seek to ensure that development proposals protect and enhance populations of protected species as well as priority species and habitats identified within the UK, London and the Hillingdon Biodiversity Action Plan.

Conclusion

27. The proposal would make a contribution towards housing supply and choice, and support the local economy to some degree, but these benefits would be outweighed by the harm caused by the development. There are no material considerations, which indicate that the appeals should be determined, other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, I conclude that both appeals should be dismissed.

S Edwards

INSPECTOR

³ Ecology Solutions