



Appeal Decision

Hearing held on 9 November 2021 and 29 November 2021

Site visit made on 9 November 2021

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2022

Appeal Ref: APP/R5510/W/21/3279600

Harrington House, Milton Road, Uxbridge, UB10 8PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Part 3, Class O of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CES Properties (Ickenham) Limited against the decision of the London Borough of Hillingdon.
 - The application Ref: 50171/APP/2021/595, dated 5 February 2021, was refused by notice dated 20 April 2021.
 - The development proposed is described as: Change of use from Office (Class B1) to create 47 x 1-bed flats including creation of bin and bike storage enclosures.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The hearing originally opened on 9 November 2021. Due to concerns at the time in respect of the coronavirus pandemic, the hearing was initially a hybrid event with interested parties joining the hearing online via video link. Due to unforeseen technical difficulties, there were problems with the video link and in order to ensure that all those who wished to participate in the hearing could do so, the hearing was adjourned without any matters of substance being discussed. I did, however, undertake the site visit in the afternoon of 9 November accompanied by representatives of the main parties and the interested parties. The hearing was re-opened on 29 November 2021 as a wholly in-person event with all the parties present at the venue.
3. In the period between the hearing being adjourned and re-opening, a draft unilateral undertaking was submitted by the appellant that seeks to prevent the proposed residential units from being occupied by persons holding a parking permit issued by the Council.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposal is permitted development having regard to the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and, in particular, whether the building is within the curtilage of a listed building; and

- The effect of the proposed development on the operation of the highway in the vicinity of the appeal site with particular regard to car parking.

Reasons

Whether the proposal is permitted development

5. Class O of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), hereinafter the GPDO, grants planning permission for the change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Town and Country Planning Use Classes Order 1987¹, to a use falling within Class C3 (dwellinghouses). It is not in dispute that the lawful use of the building was Use Class B1(a) on 29th May 2013, and that the appeal site is not within a safety hazard area or military explosives area, nor is the site a scheduled monument. There is, however, disagreement between the Council and the appellant as to whether the appeal building is within the curtilage of a listed building.
6. Planning permission granted by Part 3, Class O of the GPDO is subject to a condition that, before beginning the development, an application is made to the local planning authority for a determination as to whether the prior approval of the authority will be required in respect of the transport and highways impacts of the development; contamination risks on the site; flooding risks on the site; the impacts of noise from commercial premises on the intended occupiers of the development; and the provision of adequate natural light in all habitable rooms of the dwellings. It is common ground between the main parties that there are no risks to the development from contamination, flooding, or noise from commercial premises, and the development would allow for the provision of adequate natural light to the proposed dwellings. From what I have read and from what I heard at the hearing and saw during the site visit, I have no reason to find otherwise in respect of these matters.
7. The Council resolved that its prior approval was required, and this was subsequently refused on the grounds that the proposed development would not constitute permitted development as the Council considered that the appeal building is within the curtilage of Swakeleys, a Grade I listed building. Prior approval was also refused on the additional ground that the proposal would not suitably mitigate the highways impacts created by the proposed development, and I will return to that matter in due course.
8. The appeal building, Harrington House, is a relatively modern, two storey, office building constructed in the mid-1980's. In front of the building is an area of car parking. From the evidence that I have been provided with, it is apparent that Harrington House and another nearby office building were permitted as enabling development to fund the restoration of Swakeleys.
9. Swakeleys is a Grade I listed building [List entry: 1080295] added to the List in 1956. Attached to the north side of the main house is a range of outbuildings which are separately listed at Grade I [List entry: 1286571] and were added to the List in 1974. To the south and west of the house are extensive managed

¹ Although the former Use Class B1(a) is now incorporated into Use Class E following amendments to the Use Classes Order in September 2020, under the transitional arrangements, the prior approval application and appeal are to be considered with reference to the Use Classes as defined on 31 August 2020.

- grounds. Swakeleys and the attached outbuildings lie a short distance to the south west of Harrington House.
10. To the north-northeast of Swakeleys is a further two storey office building, Vyners House, that was also constructed in the early to mid-1980's and is joined to Swakeleys by a short corridor. A further area of car parking is located to the west of Vyners House.
 11. Vehicular access to all three buildings is primarily gained via a private road to the north that connects to Milton Road which is a part of the road network within a residential area.
 12. The Oxford English Dictionary defines curtilage as an area of land attached to a house and forming one enclosure within it, although curtilage is not defined in the planning legislation. There is, however, a body of case law that addresses the matter and I have been particularly referred to three cases: *Challenge Fencing v Secretary of State for Housing Communities and Local Government* [2019] EWHC 533 (Admin), *Hampshire County Council v Secretary of State for Environment, Food and Rural Affairs, Blackbushe Airport Limited, The Open Spaces Society, Mr Peter Tipton, Mr David Simpson, Adrian Collett* [2020] EWHC 959 (Admin), and *R. (on the application of Hampshire CC) v Blackbushe Airport Ltd.* [2021] EWCA Civ 398.
 13. It is common ground between the parties that the principal legal test to determine whether land or a building is within the curtilage of a building is the one derived from *Methuen-Campbell*² and effectively endorsed by the Court of Appeal in *Hampshire County Council v Blackbushe Airport Limited*, namely that the land must be so intimately connected with the building as to lead to the conclusion that the former is in truth part and parcel of the latter. Although the Blackbushe Airport case concerned Common Land, the principles are equally applicable in determining whether land or buildings are within a curtilage of another building for the purposes of an application for prior approval under the GPDO.
 14. The question of whether the test is satisfied in any given case will depend on the facts and circumstances of that case. The judge in the Blackbushe Airport case set out that the application of the relevant factors needs to bear in mind the purposes of the governing statute. However, it was also noted that the concept of curtilage is not different in listed building cases.
 15. The primary purpose of Part 3, Class O of Schedule 2 to the GPDO is to facilitate the provision of new dwellings by permitting a change of use without a formal application for planning permission. Nonetheless, in including the provision that development is not permitted where the building in question is a listed building, or within the curtilage of a listed building, it recognises that there are other considerations in respect of such buildings that warrant a formal planning application being made.
 16. Neither party is arguing that Harrington House is to be considered a "curtilage listed" building in the terms contemplated by Section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Whilst the listing does not cover grounds or gardens or other land, and only relates to the building itself,

² *Methuen-Campbell v Walters* [1979] 1 QB 525

this does not prevent land, or other buildings and structures, from being within the curtilage of a listed building.

17. It is also common ground that the factors set out in *Challenge Fencing* are relevant to determining whether an area of land is within the curtilage of a building. In particular, the physical layout, the past and present ownership, and the past and present use, or function, of the land or buildings.
18. Swakeleys was built around 1630 as country residence. The historic Ordnance Survey maps included in the Council's submissions indicate that it was originally situated within a large estate. The estate was subsequently reduced in size through the early part of the twentieth century as new housing was built following the arrival of the Uxbridge Branch of the Metropolitan Railway in the early years of the century. By the middle of the century, the grounds were much reduced to a roughly square area of land surrounding the house with the truncated remnant of a formal avenue to the south and access from the north via The Avenue. Latterly access was also provided from Milton Road. Other remaining parts of the estate, no longer associated with the house, are now a public open space known as Swakeleys Park.
19. It is not in doubt, nor in dispute, that, at the time the planning application was made for its construction, the land on which Harrington House now stands was within the curtilage of Swakeleys. The relevant date for determining the extent of the curtilage for the purposes of the GPDO is the date of the application, in this case, February 2021. Nonetheless, this involves considering the both the past history of the site and how it was laid out and used at the time of the application.
20. The appellant's principal argument is that the construction and occupation of Harrington House created a new building with its own curtilage separate from that of Swakeleys. Harrington House and an area of land around it are under a separate title from Swakeleys. There is some logic to this argument, however, having regard to the court judgements put to me, it is also necessary to consider the other facts and circumstances.
21. Neither party has sought to define the curtilage of Swakeleys. It is accepted by the appellant that prior to the development of Harrington House, the curtilage of Swakeleys extended to the north at least as far as the remains of the garden wall to the north and west of the house. The Council consider this wall, now in two sections, to be curtilage listed and I have been provided with a copy of a Committee Report from 1985 relating to an application for listed building consent to form a break in this garden wall to provide access to the site of what would become Harrington House. One section of the wall now lies to the north and east of Harrington House and the other is to the north and west of Vyners House.
22. The appellant's original submissions accepted that the extant remains of the garden walls were likely to be within the curtilage of the house. However, at the hearing the appellant tabled an amendment to their statement seeking to clarify that the original statement of case should have read that whilst prior to the construction of Harrington House the wall would have been within the curtilage of Swakeleys house, since the construction of Harrington House, the walls were no longer within the curtilage.

23. The historic Ordnance Survey maps show the area of land now occupied by the appeal building as part of a walled garden, and later as tennis courts, and several show a path leading from Swakeleys to the eastern end of the area. It is clear from these that, historically at least, there was a close connection between this area and the main house.
24. I have also been provided with a copy of an agreement made under Section 52 of the Town and Country Planning Act 1971 dated 12 July 1984 that is associated with the planning permission granted at appeal in May of that year for Harrington House which, among other matters relating to public access to Swakeleys house and grounds, prevents occupation of the building that would become Harrington House until Swakeleys and the outbuildings were restored. Plan A attached to the Section 52 Agreement indicates with a red line the land bound by the agreement. This area includes the current appeal site, Swakeleys and the grounds to the south and west, areas of woodland to the north between the historic garden wall and the rear boundaries of housing on Milton Road, and also wooded areas adjacent to the rear boundaries of housing on parts of Pepys Close and Court Road, parts of Swakeleys Drive and Vyners Way, and adjoining the lake within Swakeleys Park. It is noted that at that time the land bound by the agreement was held under two separate titles.
25. Prior to its acquisition in the 1980's by Swakeleys House Limited, the organisation who restored Swakeleys and obtained planning permission for Harrington House, the wider site was owned and used by the London Postal Region Sports Club from the 1950's and prior to that the Civil Service Sports Council from around the early 1930's. During that period and up to the present the area of open land to the south and to the west of the house appears to have been playing pitches or, latterly, formal managed grounds used in association with the main house.
26. There is no requirement that a curtilage need necessarily be small, although it is also accepted that, having regard to the judgement in *Blackbushe*, neither can it be excessively large. Based on the information that I have, I consider that it is reasonable to conclude, that prior to the construction of Harrington House, the curtilage of Swakeleys would be the extent of the land delineated by the red line on Plan A contained in the 1984 Section 52 Agreement.
27. In terms of physical layout, Harrington House is situated approximately 100m from Swakeleys and slightly less from the attached outbuildings. I have noted the appellant's point that the principal entrance to Harrington House faces away from Swakeleys. I also noted during the site visit the fact that, when approaching from the north, the appeal building and car park are accessed through an opening in the garden wall. On arrival, this gives Harrington House a slightly more secluded air although, once through the opening, both the appeal building and Vyners House are partially surrounded by the remaining sections of garden wall.
28. The principal vehicular access to the site is from the north. This access route appears from the map evidence to have been created between 1977 and 1986, which would coincide with the planning permissions to change the use of Swakeleys to offices and to construct Vyners House that were granted in the early 1980's. This access road runs between a terrace of residential properties on Milton Road and the car parking area associated with a block of flats identified as Heath House on the Ordnance Survey based location plan

- submitted with the prior approval application. Once past these properties, the road bifurcates and one limb proceeds to the appeal building and the other continues to provide access to the car parking area to the west of Vyners House and to the courtyard formed by the listed outbuildings.
29. I observed that neither outside, nor inside, the site was there any signage that directed visitors to the various buildings, and it was apparent that this vehicular access was common to all of the buildings on the site. There was nothing that would indicate that it provided access to separate, unrelated, buildings. I also observed that there is a footway link that provides access to Vyners House from the car parking area to the front of Harrington House.
30. As the appellant has accepted that the prior to 1984 the land in question was within the curtilage of Swakeleys, the distance between Swakeleys and Harrington House alone is not conclusive of a separate curtilage.
31. Whilst the appellant has drawn my attention to the findings of the Inspector who granted planning permission for Harrington House that the proposed office block would be far enough away from the house and could well enough screened, this is in the context of the effect of the development on the setting of the listed building and not in respect of curtilage. The effect on the setting of the listed building is not a consideration in a prior approval application such as this. Nor are curtilage and setting synonymous.
32. Harrington House faces away from Swakeleys and once within the wider site has a separate access road leading to it and the car park. However, this is in large part due to its location within the wider site. I consider it very likely that the location of the building and car park would have been chosen to minimise the effect on the setting of the listed building, given that the previous Inspector found this to be the case. It is logical and practical that the principal elevation of the building would face onto the car parking area and an increase in office floorspace would necessitate an increase in car parking spaces over those approved as part of the earlier proposals. Locating the car parking closest to the main site access would minimise the extent of internal roadway required.
33. I saw during the site visit were that there is a degree of intervisibility between Swakeleys and Harrington House, albeit this is filtered by some tree cover. I also saw that in some views from the open area to the south all three buildings can be seen simultaneously.
34. There is no physical demarcation on the ground that separates Harrington House from Swakeleys and whilst Harrington House is enclosed on two sides by the garden wall that was present before the building was erected, there are no other fences or walls that separate it from the wider site. As noted above there is a pedestrian link from the car parking area in front of Harrington House to Vyners House, the latter being physically connected to Swakeleys. This would indicate some degree of mutual connectivity between the various buildings and parking areas. I observed at the site visit that the wider area that includes Swakeleys, Vyners House, Harrington House and the associated car parking areas is fenced around its perimeter and the access points to the land from Milton Road, the Avenue and Swakeleys Drive are gated. This results in the land all being contained within the same enclosure.
35. Harrington House is subject to a separate title. I have been provided with official copies of two registered titles. One, Title Number NGL540137, shows

the land occupied by Harrington House, an area of car parking and an area of land that encompasses the roadway leading from the vehicular access to the break in the garden wall. The other, Title Number NGL4611797, shows the majority of the wider area including Swakeleys, Vyners House, an area of car parking, and most of the open land surrounding the main house to the south, east, and west. Reference is made in these documents to a number of other Titles which I have not seen. However, at the hearing it was confirmed that the appellant owns all of the land up to the fenced boundaries around the wider site adjoining the existing housing and adjoining the lake within Swakeleys Park.

36. It is common ground that the land now included in Title Numbers NGL4611797 and NGL540137 had historically been in the same ownership, albeit a number of different owners, until 1985. In 1985 the land now covered by Title NGL540137 was transferred to a company called Miller Buckley Developments. It is also common ground that the appellant acquired both Titles in 1999 when they purchased the Swakeleys House Estate.
37. Consequently, Harrington House and the land conveyed with it was in separate ownership for a period of some 14 years. Both Titles had been in the same ownership for approximately 22 years at the time the application for prior approval was made.
38. Notwithstanding that the appeal site was in different ownership for a time, the evidence indicates that all three buildings were occupied under lease as offices by the Bristol-Myers company until 2001 when the lease was assigned to a different company. The occupancy by Bristol Meyers was on-going when the site was acquired by the appellant in 1999 and the two titles were once again in the same ownership.
39. At the hearing, it was set out that Swakeleys ceased to be actively used as offices in 2003. The lawful use as an office would have persisted until at least 2013 when planning permission was granted for Swakeleys to be converted to residential use. I have been provided with a copy of a Certificate of Lawful Use or Development dated 26 October 2018 which confirms that the development authorised by the 2013 planning permission and the associated listed building consent and conservation area consent had been commenced within the relevant time limits. These consents also authorise the demolition of Vyners House, which was currently vacant at the time of the site visit. At the time of the site visit, it was not clear the extent to which the planning permission had been implemented as Vyners House was still extant and there was no indication Swakeleys was occupied as a dwellinghouse.
40. From the submitted evidence and from what I was told at the hearing, Harrington House has been largely vacant since 2015 with only sporadic uses since that time, although its lawful use remains as offices.
41. From the evidence before me, it is clear that both Swakeleys and Harrington House were in use as offices and occupied by the same company from the mid 1980's until 2001. After that time, it appears that the use of Swakeleys as offices started to wind down and by the time of the prior approval application the process had begun to convert it to a residential use. Nevertheless, from the time of its construction through to at least 2001 Harrington House clearly had a direct functional connection with Swakeleys and could be said to be ancillary to the office use of that building. The lawful office use of both

premises remained until at least 2013. There is no evidence that either building was in active use at the time of the application.

42. Drawing these points together, Swakeleys has a large well defined curtilage, at the time of the application both buildings and the land around them were within the same ownership and, previously, during the time that the freehold ownership was separate, both buildings were leased to and operated as offices by the same company. Swakeleys, Harrington House and Vyners House are all contained within the same enclosure. Whilst Harrington House is located approximately 100m from Swakeleys, there is no physical demarcation or barriers between the buildings and is possible to move between them without impediment. Both buildings shared a common function as offices until at least 2013. At the time of the application, Swakeleys was in the process of being converted to a residential use whereas Harrington house retained a lawful use as offices, but neither building was in regular use. Nonetheless, for a lengthy period of time Harrington House was ancillary to the office use of Swakeleys. Whilst, technically, at the time of the application the two buildings may have had a different lawful use, it is not clear to what extent the permitted residential use of Swakeleys had commenced, or that this had severed any relationship between the two buildings.
43. The above points lead me to conclude that at the time that the prior approval application was submitted that Harrington House and the surrounding land was part and parcel of Swakeleys, and within the curtilage of the listed building.
44. From the evidence before me, I therefore find that as the appeal building is within the curtilage of a listed building, the proposed change of use to residential is not permitted under Article 3(1) and Part 3, Class O of Schedule 2 to the GPDO.

The effect on highways

45. The second reason for refusal on the decision notice related to the failure of the appellant to secure parking permit restrictions for future residents and financial contributions required to mitigate the highways impacts of the development. At the hearing, the Council confirmed that this latter point in respect of financial contributions had been included erroneously and this was not a matter that it was pursuing as part of the appeal.
46. Prior to the re-opening of the hearing the appellant submitted a draft Unilateral Undertaking (UU). This has not subsequently been signed or dated. The draft UU seeks to prevent the proposed residential units within the appeal building from being occupied by persons who hold a residential parking permit issued by the Council. The Council does not have any objections to the draft UU and considers that it addresses its concerns in respect of highways matters.
47. Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply in the case of prior approvals, although development plan policies are relevant in so far as they relate to the prior approval matters and assist in assessing the impacts of the proposals. In this case, the highways effects of the proposal.
48. Policy DMT6 of the London Borough of Hillingdon Local Plan Part 2 Development Management Policies 2020 expects new development to comply with the car parking standards set out in Appendix C to the Local Plan. These require that

proposals for 1-2 bedroom flats provide a maximum of 1 to 1.5 car parking spaces per unit. The scheme proposes 47, one bedroom flats and it is proposed to provide 47 car parking spaces and 3 visitor spaces within the existing car park area. This would comply with the Council's car parking standards.

49. The section of Milton Road adjacent to the appeal site is a controlled parking zone (CPZ) which operates from 09:00 to 17:00, Monday to Friday and restricts on-street parking to persons holding a parking permit issued by the Council. Outside of marked parking bays, a variety of parking restrictions are present in the form of double and single yellow line waiting restrictions on Milton Road and the adjoining streets.
50. I have noted that the Highway Authority have not raised any objection to the proposal subject to certain conditions being imposed should prior approval be granted. In particular the Highway Authority states in its comments that the extensive local parking restrictions that surround the location would inherently assist in discouraging untoward parking displaced from the development. The Highway Authority did not request that occupiers of the proposed development be restricted from applying for parking permits.
51. A number of other policies are cited in the reason for refusal set out on the decision notice. However, neither these policies nor Policy DMT6 sets out a requirement that new development should be car free or have the allocation of parking permits restricted.
52. I saw when I visited the site that although it is located in an area with a Public Transport Accessibility Level of 2, which is considered poor, the appeal site is nonetheless a relatively short walk from Ickenham underground station. Bus services operate on Long Lane and Swakeleys Road, which are also a short walk from the appeal site. The future occupiers of the proposed development would, therefore, not necessarily be dependent on private cars for their day to day travel requirements.
53. At the time of my site visit, I observed that whilst there were a number of vehicles parked in the visitor parking bays on Milton Road, these bays were not occupied to capacity and spaces were available. I recognise, however, that there would be higher demand for parking spaces in the evenings and weekends at times when the CPZ is not operational.
54. This notwithstanding, given that there is on site provision of car parking spaces and alternative modes of transport are accessible in the vicinity of the site, I am satisfied that the proposed car parking provision is adequate for the development proposed and that any small amounts of overspill car parking that might occur could be accommodated within the existing on-street provision.
55. Paragraph 57 of the National Planning Policy Framework (the Framework) sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.
56. The obligations in the submitted UU would be directly related to the development and fairly and reasonably related in scale and kind to the development. However, given the factors set out above, I do not find that the

UU would be necessary to make the development acceptable in planning terms. Consequently, it would not meet the tests set out in the Framework.

57. In addition to the issue of car parking demand, concern was also raised by local residents in respect of additional vehicle movements and road safety on the surrounding road network.
58. The appeal site is connected to the adopted highway network by a private access road joining Milton Road. Milton Road connects to the local distributor road network to the east at its junction with the B466. The site is also accessed from the B467 to the North via Ivy House Road and Milton Road. Some concerns have been raised that the site may be accessed via the Avenue. However, as this is both a narrow road and clearly marked as a private road, I consider that it is less likely to be used than the wider roads on the adopted highway network.
59. I saw when I visited the site that Milton Road and Ivy House Road are residential streets with sufficient width for two way traffic flows. I did see, however, that in places the carriageway width was constrained by parked vehicles, and this is particularly true of the stretch of Milton Road immediately outside the appeal site which has a narrower carriageway and is marked out as parking bays to the north side.
60. The application was accompanied by a Transport Statement (TS) that set out traffic flow data on Milton Road and assessed traffic generation from both the proposed development and from a resumption of the office use.
61. The traffic flow data was collected in late January and early February 2020 just prior to the first national lockdown imposed in March 2020 in response to the coronavirus pandemic. Therefore, I consider that this is representative of normal road conditions. This found a weekly average of 127 vehicles in both directions using Milton Road between 08:00 and 09:00, and 104 between 15:00 and 16:00
62. Whilst Harrington House is not currently in use, it has a lawful use as offices which could be recommenced. The TS extrapolated from first principles that this existing use would result in approximately 56 peak hour vehicle movements. There is no evidence that would indicate that the assumptions that were used to determine this were not robust.
63. Calculations for the proposed use were made using the TRICS database. This is a widely used and accepted form of predicting trip generation from proposed developments. The TS concluded that the proposed development would be expected to generate a total of 29 trips by all transport modes in the morning peak (between 08:00 and 09:00) and 26 trips by all modes in the afternoon/evening peak hour (between 17:00 and 18:00). Of these, seven trips are expected to be undertaken by car and in the morning peak and nine in the afternoon peak. It also predicted up to four light goods vehicle and up to one heavy goods vehicle movement per day.
64. As set out above, the Highway Authority have not objected to the proposals although it did suggest that the expected trip generation is slightly underestimated. I would agree that the expected trip generation is low but would also concur that the underestimation is small and the Highway Authority

figure of approximately 12 additional peak hour vehicle movements is more realistic.

65. I have noted that the proposal would represent a reduction from the permitted office use. Although this use has ceased and there is nothing that would suggest that a resumption of the office use would necessarily occur if the proposal did not go ahead, this nevertheless serves as a useful comparison.
66. Within the context of the current average vehicle flows on Milton Road, the additional vehicle movements resulting from the proposed development would not represent a significant increase in vehicle movements on the road network and there is no evidence that would suggest that the effect on the road network would be either severe, or would result in conditions that would be prejudicial to road safety.
67. I therefore conclude that the proposed development would not cause harm to the safe operation of the highway in the vicinity of the appeal site with particular regard to car parking.

Other Matters

68. At the hearing I did raise with the main parties the question of whether all of the works proposed by the prior approval application fell within the scope of Part 3, Class O of the GODO. In particular, whether the creation of bin and cycle storage was permitted as this would constitute operational development. Class O allows for a change of use but does not make allowance for additional operational development.
69. Both main parties accepted that operational development would not be permitted by Class O and suggested conditions could be used to address the provision of bin and cycle storage. As I have found that the proposal would not be permitted development by reason of the appeal building being within the curtilage of a listed building, this point is now moot, and I do not need to consider it further.

Conclusion

70. I have found that the appeal building is within the curtilage of a listed building and, the proposal, therefore, falls outside the scope of development permitted by Class O of Part 3 of Schedule 2 to the GPDO. This is a fundamental matter and, consequently, the appeal must necessarily fail notwithstanding that I have found that the proposal would not have an adverse effect on highways and transport, and the other prior approval matters are not in dispute.
71. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R. Kimblin QC – Counsel for the appellant
Mr A. Buckle – DP9 Planning
Mr T. Holtham – DP9 Planning
Mr P. Pugh – Conservation Planning

FOR THE LOCAL PLANNING AUTHORITY:

Ms M. Murphy – Counsel for the London Borough of Hillingdon
Ms M. Malhotra – Strategic & Major Applications Manager, LBH
Ms A. Lad – Conservation Officer, LBH
Mr M. Butler – Conservation & Design Manager, LBH
Ms V. Agbakoba - Planning Lawyer, LBH

INTERESTED PARTIES:

Mr J. Bent – Local Resident
Mr T. Wheeler – Local Resident
Mr P. Connolly – Local Resident
Mr H. Tizard - On behalf of Ickenham Residents Association

Documents submitted at the hearing

1. Suggested structure of discussions
2. Addendum to Mr P. Pugh's Statement
3. High Court Judgement: Challenge Fencing v Secretary of State for Housing Communities and Local Government [2019] EWHC 533 (Admin)
4. Official Copy of Register of Title and Plan: Title Number NGL4611797
5. Official Copy of Register of Title and Plan : Title Number NGL540137
6. Certificate of Lawful Use or Development Reference: 23202/APP/2018/3787
7. Copy of Section 52 Agreement dated 12 July 1984 between Swakeleys House Limited and London Borough of Hillingdon