
Appeal Decisions

Site visit made on 2 August 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2022

Appeal A: APP/W1905/W/21/3276364

1 Churchfield House, Churchfield Path, Cheshunt EN8 9EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Turone against the decision of Broxbourne Borough Council.
 - The application Ref 07/20/0946/F, dated 16 October 2020, was refused by notice dated 7 December 2020.
 - The application sought planning permission for demolition of garage and erection of new dwelling without complying with conditions attached to planning permission Ref 07/17/1166/F, dated 1 March 2018.
 - The conditions in dispute are Nos 2 and 14 which state that: 2) *The development hereby permitted shall be carried out and completed in accordance with the proposals contained in the application and drawings numbered 1255 301, Block Plan 2, Revision A, 1255 302, Proposed Site Plan 2, Revision A and 1255 304 Revision A submitted herewith, unless the Local Planning Authority otherwise agrees in writing.*
 - 14) *That the parking space(s) shall be used for the parking of non-commercial vehicles only and shall be retained thereafter for that purpose and made available to the occupiers of that property unless the Local Planning Authority otherwise agrees in writing.*
 - The reasons given for the conditions are: 2) *To ensure the development is carried out as permitted* and 14) *To preserve the amenities of the neighbourhood and ensure the provision of off-street parking facilities.*
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Appeal B: APP/W1905/Y/21/3276368

1 Churchfield House, Churchfield Path, Cheshunt EN8 9EG

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to vary or discharge conditions of a listed building consent.
 - The appeal is made by Mr Turone against the decision of Broxbourne Borough Council.
 - The application Ref 07/20/0952/LB, dated 16 October 2020, sought to vary condition No 2 of a listed building consent Ref 07/17/1167/LB, granted on 1 March 2018.
 - The works proposed are demolition of garage and erection of new dwelling.
 - The condition in dispute is No 2, which states that: *The development hereby permitted shall be carried out and completed in accordance with the proposals contained in the application and drawings numbered 1255 301, Block Plan 2, Revision A, 1255 302, Proposed Site Plan 2, Revision A and 1255 304, Revision A submitted therewith, unless the Local Planning Authority otherwise agrees in writing.*
 - The reason for the condition is: *To ensure the development is carried out as permitted.*
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Decision

1. Appeals A and B are dismissed.

Preliminary and Procedural Matters

2. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning, except where expressly indicated.
3. Planning permission and listed building consent have previously been granted for a garage at the appeal property to be demolished and a new dwelling erected. Both bays of the garage were to be removed and two parking spaces provided within an open courtyard between the rear of No 1 and the new dwelling.
4. The appeal applications seek to retain the part of the garage joining No 1 and to provide an alternative layout of parking. Parking for No 1 would be provided in the retained garage and a further parking space to the front of the property. The area of land previously proposed for parking for No 1 would instead be used for vehicle manoeuvring.
5. The applications therefore seek new permissions and consents that would, among other things, be subject to conditions specifying the plans that reflect the revised layout and parking arrangements.

Main Issue

6. The main issues are whether or not the conditions on both approvals are reasonable and necessary in order to protect the character and appearance of the street scene and preserve the features of special architectural or historic interest that the Grade II listed building at 1 and 3 Churchfield possesses, including its setting; and whether Condition No 14 is also reasonable and necessary to provide suitable living conditions for future occupiers of the new dwelling, in respect of off-street parking provision.

Reasons

Significance and Setting

7. The appeal relates to the left-hand of a pair of early-19th Century two-storey semi-detached houses, which are Grade II listed. The houses form a T-shape, with a two-storey perpendicular range at the rear. The architecture of the front and rear is elaborate, particularly in its brick detailing and timber joinery.
8. The appeal property has been extended considerably to its northeast, with a pair of flat-roofed garages. The garages adjoin the wall enclosing its garden and partly project forward of its front façade. They are not separated internally, so a larger internal space is accessed by the separate pairs of doors. While the garages fail to add to the architecture or historic integrity of the listed building or its setting, so represent an unsympathetic appendage to the listed building, the materials used in their construction and position up to the garden wall ensure that they are relatively discreet in the street scene.
9. Despite the extension to incorporate garaging, as far as it relates to the appeals before me, the significance of the listed building lies in its architectural and historic interest as an early 19th Century pair of houses with elaborate detailing.
10. The listed building also draws significance from its setting, which includes the front and rear gardens of the properties. The rear garden of No 1 is larger than

that of No 3 and landscaped with trees and flower beds, which allows the building to be appreciated from a reasonable distance. The building and its forecourt are also prominent in the street, as it lies near to the transition of the road to a footpath.

Effect of the Proposal

11. The previously approved scheme proposed to remove the garages attached to the property. This would increase the space around the listed building and visibility of its northeast façade, which would better reveal the significance of the listed building and improve its setting. By contrast, the part of the garage jointing to the listed building that would be retained would appear more conspicuous and cumbersome due to the space around it. This would draw attention away from the listed building so be more harmful to its special interest, including setting, and thereby result in harm to the character and appearance of the street scene.
12. The retention of the garage and inclusion of access beyond it would also create a pinch point between it and the forecourt of the new dwelling and reduce the space around the listed building. This would be cramped and unsightly and create further harm to its setting. However, this arrangement would not be apparent from the street, as the tall garden wall would restrict its visibility. The extent of landscaping for the new dwelling would also not alter from the original approved details. The proposal would therefore not result in harm to the character and appearance of the street scene in either respect.
13. The majority of the front curtilage of the house is already hard landscaped, apart from narrow strips adjacent to No 3 and behind the wall at its frontage. This space therefore already has potential to be used by the appellant for parking of his vehicles. Its continued use for parking in association with the proposal would therefore not be harmful and it would preserve the setting of the listed building and the character and appearance of the street scene.
14. As I outlined above the pair of garages are open plan inside and there are no details before me as to how the appellant intends to enclose the northeast wall following partial demolition of the garage. It is also unclear whether the vehicle manoeuvres shown on the appellant's swept path analysis would require any part of the front boundary wall and pier to be removed. However, the garage is a modern structure and the current form of the boundary wall and pier is likely to have been as a result of previous works. In such circumstances, the details could be satisfactorily agreed by suitably worded planning conditions.
15. While there would physically be less space for vehicles to manoeuvre within the site, the swept path analysis shows manoeuvres could be undertaken safely on entering and existing the site. Vehicle manoeuvres may pass over some areas of paving but this would not be harmful to occupiers of the new dwelling and they would not appear to be of any greater inconvenience than those already required by the appellant's vehicles. There would therefore not be harm caused to the living conditions of future occupiers of the new dwelling.
16. I acknowledge that neither the Council's heritage officers nor Historic England objected to the proposal but, as part of my statutory duties, I have considered the entirety of the proposal, as determined by the Council, afresh in light of the evidence before me. For the reasons set out above, it would result in some

harm to the special interest of the listed building, including its setting, and the character and appearance of the street scene.

Public Benefits and Conclusions on the Main Issues

17. The statutory duty in Sections 16(2) and 66(1) of the Planning (Listed Building and Conservation Areas) (England) Act 1990 (the Act) is a matter of considerable importance and weight. Paragraph 197 of the Framework states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Paragraph 199 also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
18. The proposal would be harmful to the special historic interest of the listed building, including its setting, which would have a negative effect on its significance as a designated heritage asset. In my view the harm that I have identified would equate to less than substantial harm to this significance. In such circumstances, paragraph 202 of the Framework identifies that this harm should be weighed against the public benefits of proposals.
19. While the removal of part of the garage would increase the space around the listed building, the retention of the remaining element of the garage would be more harmful. This would not therefore amount to a heritage benefit. The absence of any substantiated public benefit means that there would be no justification for allowing a proposal that would fail to preserve the special interest of the listed building, including its setting. In accordance with Policy HE2 of the Broxbourne Local Plan 2018-2033 (LP) and paragraphs 199 and 202 of the Framework, considered together, I conclude that the public benefits do not outweigh the great weight to be given to the identified harm.
20. Despite my findings in relation to the impact on the living conditions of future occupiers of the new dwelling and the effect of the proposed parking and manoeuvring arrangements on the character and appearance of the street scene, I conclude that the planning conditions are reasonable and necessary in order to preserve the special historic interest of the Grade II listed building and to protect the character and appearance of the street scene. Hence, the proposal would fail to satisfy the requirements of the Act, paragraphs 197, 199 and 200 of the Framework and would conflict with the design and heritage aims of LP Policies DSC1, HE1 and HE2.

Other Matters

21. The appeal property adjoins 43 and 45 Hatton Road, a Grade II listed building. I have therefore had regard to the aforementioned statutory duty. Given the proximity and physical relationship of the proposal with this asset, its setting would be preserved and the proposal would not detract from it, but this does not alter my findings in relation to the conditions, as outlined in the main issue.

Conclusion

22. For the reasons given above, I conclude that the appeals should be dismissed.

Paul Thompson

INSPECTOR