



Appeal Decisions

Site visit made on 28 June 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th August 2022

Appeal A: APP/H1515/W/21/3277508

Lion Lodge North, The Avenue, Brentwood, Essex CM13 3RZ

- 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 Mario Kempe against the decision of Brentwood Borough Council.
 - The application Ref 21/00043/HHA, dated 8 January 2021, was refused by notice dated 21 May 2021.
 - The development proposed is ground floor extension at side (eastern) and rear (northern) elevations. Internal alterations including provision of ensuite cloakroom at first floor level. Partial removal of utility room enclosure and removal of pergola.
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Appeal B: APP/H1515/Y/21/3277528

Lion Lodge North, The Avenue, Brentwood, Essex CM13 3RZ

- 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 Mario Kempe against the decision of Brentwood Borough Council.
 - The application Ref 21/00044/LBC, dated 8 January 2021, was refused by notice dated 21 May 2021.
 - The works proposed are ground floor extension at side (eastern) and rear (northern) elevations. Internal alterations including provision of ensuite cloakroom at first floor level. Partial removal of utility room enclosure and removal of pergola.
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Decision

1. Appeals A and B are dismissed.

Applications for costs

2. Applications for costs were made by Mr Mario Kempe against Brentwood Borough Council, which are the subject of a separate Decision.

Procedural Matters

3. At the time of my site visit I observed that the wardrobes shown on the existing plan for Bedroom 1 had been removed and the room subdivided to provide an en suite bathroom, but I have based my assessment on the proposals shown on the application drawings.
4. The Council has confirmed that the policies from the Brentwood Replacement Local Plan (2005) referred to in the Decision Notice have been superseded by policies from the Brentwood Local Plan 2016-2033 (Adopted 23 March 2022) (LP). Appeal decisions must be based on the policies from the development plan prevailing at the time of determination. In the case of this appeal, the Council has suggested that Policies BE14, BE16 and MG02 of the LP are now

the policies relevant to the determination of the appeals. The appellants are aware of the policies and have had the opportunity to comment on their relevance to the appeal.

5. Section 72(1) of the Planning (Listed Building and Conservation Areas) (England) Act 1990 (the Act) confers on the decision maker a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. This duty applies to planning and listed building appeals. Moreover, the site is within the Thorndon Park Conservation Area, the boundary of which more or less follows that of the Grade II* listed Thorndon Hall Park and Garden with the same name, except for an area of land adjacent to the A127. Although harm to both is not referred to on the Decision Notice, the Council has referred to it in its evidence, I have therefore considered this in my reasoning.
6. The Council must consult Historic England where a planning application affects a Grade II* registered park or garden. The consultation was therefore carried out by the Council and I have had regard to any comments of the main parties in relation to Historic England's response.

Main issues

7. The main issues are whether the proposal would preserve a Grade II listed building, known as 'Lion Gates with Railings Lion Lodge North Lion Lodge South', a Grade II* registered park and garden, Thorndon Hall, and any features of special historic interest that they possess, and the extent to which it would preserve or enhance the character or appearance of the Thorndon Park Conservation Area.

Reasons

Significance and Setting

8. The appeal concerns Lion Lodge North, which is part of the Grade II listed building known as *Lion Gates with Railings Lion Lodge North Lion Lodge South*. This lies at the very eastern edge of the Thorndon Park Conservation Area (CA) and Thorndon Hall Park and Gardens.
9. The lodges are situated either side of a central gated driveway. The listing description suggests the rectangular and of rusticated stone gate piers were probably constructed at the time of Thorndon Hall (1764) by James Paine and the lodges later on in the 18th Century. The piers feature rams' head swagged friezes and cornices and are topped by reclining lions facing one another.
10. The original lodges are of two-storeys and arranged on a square floor plan, with a pyramidal slated roof, beneath which brick walls are finished in stucco render, with a plain string course between floors. The single windows on the west are set within a semi-circular arched recess, with opposing ornamental roundels of man and woman. The windows at ground and first floor on the eastern side are also set within an identical recess, but detailing of window and door openings elsewhere is simpler.
11. The lodges have been extended away from the driveway between them, some of which are included in the listing description, including those of the 20th Century to the north and east of the north lodge, such as that with a flat roof and triple window. While this is atypical of the roof form of the original lodge

and other extensions, it is visually recessive. There is also a modern pergola at the northern end.

12. The resolution and scale of the historic aerial and plan imagery within the appellant's Design and Heritage Statement (DHS) is not clear, but the document incorporates a plan of the expansion of the north lodge. Together with the information contained in the listing description, this sufficiently demonstrates the provenance of the later additions and there is no substantive evidence before me to contradict the appellant's position.
13. The South Lodge has also been altered more recently with an extension approved by the Council to its kitchen/dining area¹, which I refer to in more detail below.
14. Despite incremental changes to both of the lodges, many of which emanate from the 20th Century, there is still symmetry between the lodges when viewed from the west. The significance of the listed building today is therefore derived from its architectural and historic interest, as a pair of notable former lodge buildings previously related to an 18th Century country house, Thorndon Hall.
15. The listed building also draws significance from its setting, which includes the large gardens associated with each lodge. The south lodge has a largely open boundary to its eastern side. By contrast, although mature planting of the garden boundary to the driveway reduces visibility of the north lodge, I am mindful that vegetation is subject to seasonal change and is ephemeral. In any event, the ability to appreciate the architecture and plan form of the lodges from within their gardens contributes to the understanding and significance of the heritage asset, and the existing projections to the northern side of the lodge are, to a certain extent, still apparent from the driveway.
16. The listing for Thorndon Hall Park and Garden suggests it is the site of an early 18th Century park and woodland by Lord Petre, with subsequent alterations in the mid-18th Century by Lancelot Brown and in the 1790s probably by Richard Woods. It is now a country park and golf course. Despite multiple ownership, including its separation from Thorndon Hall, the significance of the Park and Garden today is derived from its special historic interest as an 18th Century designed landscape. Given their close relationship, the significance of the CA is principally derived from the positive contribution made by the Park and Garden to its character and appearance.
17. The appeal site is within both and its landscaped qualities and the importance of the listed buildings to the history of the development of Thorndon Hall contribute to the understanding and significance of both heritage assets.

The Proposal

18. The proposal would reconfigure the existing plan form of the ground floor of later additions through demolition of the flat-roofed extension to the east and smaller additions to the north, including the pergola, and construction of a replacement extension. This would project north as far as the pergola, but further to the east, beyond the existing projection. The flat roof would be replaced by a gable to the north and twin hips with a valley between to the east. The fenestration would be wholly glazed to part of the end elevations and

¹ Planning References: 13/00147/LBC & 13/00146/FUL.

the whole of the east façade. Openings would also be blocked in the wall furthest north and a new opening formed to extend the existing bathroom.

19. I have already referred above to works at first floor in the lodge building, but the proposed plans show a small WC to be formed in the northeast corner of Bedroom 1, which would be served by the window in the north façade.

Effect of the Proposal

20. The proposal embodies lightweight glazing and a similar roof profile to the extension in situ at the south lodge, so its appearance would not, of itself, be harmful to the listed building. Nevertheless, there are several differences between how the extension in situ and the appeal scheme relate to the original square floor plan of each of the lodges.
21. The extension to the south lodge projects beyond its east façade and is separated from it by a reasonably wide entrance area set back of that elevation. The existing extension to the north lodge incorporates a narrower gap, so it is closer to the original lodge, but does not project as far as the proposal and its flat roof is lower and unassuming.
22. The same gap would be retained for the appeal scheme, the principal footprint of which would be to the east, but it would extend further north beyond the existing dining room to include the space occupied by the pergola. This would contrast with the south lodge which is of two separate component parts to the south and east. There would therefore be a greater extent of development sited east of the north lodge, which would be conspicuous and imposing, in closer proximity of it. This would have a more harmful effect on the floor plan layout and setting of the building. However, given the historic evolution of the lodge set out above, it is highly likely that the proposal would not lead to the loss of important historic fabric, so the demolition of later additions would not be harmful to the significance of the listed building.
23. The proposed WC in Bedroom 1 would project awkwardly beyond the chimney breast, with a doorway angled away from it. It would therefore subdivide the room and obscure the window to the northeast corner. In this context, it would constitute harmful alterations to the plan form of the bedroom.
24. As I outlined above, the presence of mature planting to the boundaries of the garden of the appeal property is not determinative in this instance, even though this may, to a certain extent limit perception of the harm to the listed building and its setting to where it would be observed from its private garden. However, unlike listed buildings, the significance of a conservation area is more widely experienced. Under such circumstances, proposals must be judged according to their effect on an area as a whole and must therefore have a moderate degree of prominence. The proposal would be situated away from the road and would not be prominent, so the character and appearance of the CA would be preserved. Similarly, it would be set within planting of the garden and wider Park and Garden, so it would preserve the existing characteristics of the surrounding woodland.
25. The proposal would bring greater symmetry and unity to the composition of the additions to the lodges, it would not directly affect the original lodge or result in the loss of important historic fabric, and the works to Bedroom 1 would have no direct effect externally. Nevertheless, the extension would crowd the lodge

building and distract from its architectural and historic interest. Furthermore, alteration of the floor plan and concealment of a window in Bedroom 1 would undermine the legibility and, thereby, the understanding and significance of the listed building.

Public Benefits and Conclusions on the Main Issues

26. The statutory duties in Sections 16(2) and 66(1) of the Act are matters of considerable importance and weight, as are the aims of paragraphs 197, 199 and 200 of the Framework.
27. The proposal would be harmful to the special historic interest of the Grade II listed building, including its setting. This would have a negative effect on its significance as a designated heritage asset, which would equate to less than substantial harm to its significance as a designated heritage asset. In such circumstances, paragraph 202 of the Framework identifies that this harm should be weighed against the public benefits of proposals.
28. The removal of the utility and dining rooms which include slightly pitched and flat roofs respectively, would better reveal the significance of the listed building so would amount to positive heritage benefits, but these would be replaced by the proposal so this benefit could not be realised.
29. The proposal would complement existing accommodation within the property and improve its living environment. While this would better meet the needs of the appellant, this would amount to a private benefit. Although the property only includes two bedrooms, there is no substantive evidence before me to suggest that its continued viable use as a residential dwelling would be dependent on the proposal, as it has an ongoing residential use that would be unlikely to cease in its absence.
30. Taking the above together, the public benefits I have outlined would not justify allowing works and development that would fail to preserve the special interest of the listed building, including its setting. Therefore, in accordance with 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 less than substantial harm that I have identified.
31. In light of all of the above, despite my findings in relation to the CA and Park and Gardens, I conclude that the siting of the proposal would fail to preserve the special historic interest of the Grade II listed building, including its setting. Hence, it would fail to satisfy the requirements of the Act, National Planning Practice Guidance, paragraphs 197, 199 and 200 of the Framework and conflict with the design and heritage aims of LP Policies BE14 and BE16.

Other Matters

32. The appellant has also confirmed in the DHS that Thorndon Park is also designated as a Site of Special Scientific Interest (SSSI). Natural England (NE) has not been consulted as part of the planning application or appeal in connection with it. As the Planning Inspectorate is a Section 28G authority in respect of the Wildlife and Countryside Act 1981², I am mindful of the responsibility to notify NE should the intention be to give consent for development that would be likely to damage the features for which the SSSI

² As amended by the Countryside and Rights of Way Act 2000.

has been designated. The proposal is within a landscaped garden area but, in any event, I have found harm in relation to the first main issue, so it is not necessary for me to consider this matter in any further detail.

Conclusion

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

Paul Thompson

INSPECTOR