Appeal Decision

Hearings held on 15 March 2022, and 6 September 2022

Site visits made on 21, 22, 23 March 2022, and 8 September 2022

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

an Inspector appointed by the Secretary of State

Decision date: 10 November 2022

Appeal Ref: APP/K3605/W/21/3275811
Esher Place, 30 Esher Place Avenue, Esher KT10 8PZ

- 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 Birchwood Esher Two Ltd against the decision of Elmbridge Borough Council.
- The application Ref 2020/0440, dated 12 February 2020, was refused by notice dated 26 November 2020.
- The development proposed is the erection of 4 x 3-bedroom semi-detached houses.

Decision

1. The appeal is dismissed.

Preliminary matters

2. This appeal was made alongside appeals[1] against the refusal of planning permission and listed building consent for four developments at Esher Place or within its grounds. Each application for permission, alongside any parallel application for consent, was made by a different applicant, and concerned a different site within the house or its grounds. I have considered each appeal on its own merits.

3. Evidence concerning the issue of affordable housing common to all the appeals was heard at a Hearing. In reaching agreement on one aspect of this issue, detailed evidence on viability was exchanged between the appellant and the Council, before the Hearing. However, as this was only submitted shortly before the Hearing, the Hearing was adjourned to allow time for its proper consideration. A further round of evidence was exchanged between the main parties before the Hearing resumed.

[1] Appeal Refs: APP/K3605/W/21/3275789+APP/K3605/Y/21/3275801 House conversion
APP/K3605/W/21/3275803+APP/K3605/Y/21/3275807 House extension
APP/K3605/W/21/3275808 3 houses
APP/K3605/W/21/3275811 4 houses

4. At the resumed Hearing, the appellant mentioned that, because of the increase in building cost indexes and the Bank of England base rate since agreement was reached in the statement of common ground on the residual land value (RLV), the RLV might no longer be accurate. They requested that the main parties be allowed to reconsider the agreed RLV together, and to make a simple adjustment to it, during a brief adjournment during the Hearing.

5. The Council, however, refused to reconsider the agreed RLV in a brief adjournment. Its concern was that the RLV was properly agreed by quantity surveyors, with many of its assumptions not index-based but specific to the developments, and agreed through compromise. An updating exercise, it said, would require full and proper re-examination of all the assumptions rather than the application of a notional allowance; a far longer exercise than could be carried out in a brief adjournment. Moreover, it also identified the risk that if the cost allowances in the agreed RLV were to increase, then so may the other assumptions in it, such as capital values. This may balance out any index adjustments.

6. The appellant also remarked that, though this was not a position advanced by them in their statement of case nor in their financial viability appraisal, that credit should be given against the vacancy of the existing building (VBC). The National Planning Policy Framework (the Framework) supports the re-use of brownfield land, where vacant buildings are being reused or redeveloped. It indicates that any affordable housing contribution due should be reduced by a proportionate amount.

7. The Council was unable, at such short notice given it at the resumed Hearing, to agree that VBC should be applied. Without substantive evidence on the vacancy of the building, it was unable to properly consider whether VBC would apply, and if it did, what proportion may apply. I saw at my site visits that some of the building appeared to be occupied. In these circumstances, without details of what precisely is being claimed, and without the evidence to support that, the weight I can give this is very limited.

8. In the event, no evidence on these late matters was advanced, nor was any adjustment to the agreed RLV or to the appellant’s financial viability appraisal pursued by the appellant. Moreover, there is no allowance for VBC in the appellant’s FVA, neither against the proposal in the existing building, nor against the aggregate of the four developments.

9. Other matters were considered under written representations. I visited the site and neighbouring land over three days after the adjourned Hearing; the first and second days in the company of the appellant, the Council, and interested parties, to the building, grounds and neighbouring land; the third day, to the grounds, on my own. I also revisited the building and grounds, alone, after the close of the resumed Hearing.

10. As the proposal concerns a listed building, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Application for costs

11. An application for costs was made by Elmbridge Borough Council against Birchwood Esher Two Ltd. This application is the subject of a separate decision.

Main issues

12. From everything I have read, seen and heard, the main issues are the effect of the proposed development on:

    A. the setting of the grade II listed building Esher Place;

    B. the character and appearance of the area;

    C. the living conditions of the occupiers of 11 Waynflete Tower Avenue, with particular regard to privacy, light, and outlook;

    D. the living conditions of the occupiers of 28 Esher Place Avenue, with particular regard to privacy and outlook; and,

    E. whether the proposal should make a financial contribution to affordable housing.

Reasons

The significance of the listed building and its setting

13. There is broad agreement between the parties on the historical development of Esher Place. Most of what is visible today of this grand country house and grounds is the remodelling work of architect George Robinson and landscape architect Achille Duchêne at the end of the C19, for Lord Vincent, the first Viscount d'Abernon. He altered and extended the core of this house which was originally built by Edward Lapidge in the early C19, for stockbroker John Spicer.

14. However, this was not the first development here. Henry Pelham, the third prime minister of Great Britain, acquired the site in the early C18 and

commissioned William Kent to remodel the C15 house and grounds built for Bishop Wayneflete including its gate house, the Wayneflete Tower. The Tower survives, and is a grade I listed building.

15. Robinson re-orientated the house and he upgraded its classical villa appearance to follow an altogether grander, more formal, French influence. As well as altering its frontage, he extended the house, with a wing to the north, and he added a building for real tennis, linked to the north wing by a long, low, curving gallery. The architect Sir Edwin Lutyens added a sunken theatre and a sunken garden in around 1905. The house was given to the Ragged School Union in 1930. The children's home continued until 1952 when it was sold to the Unite Trade Union.

16. There is thus historical, associative and some communal, social value in the development of the building and its landscape, much of which survives today. Reflecting the architectural taste at the end of the C19, the historical value that can be attributed to the French formal style by the considerable efforts and costs to change the building is substantial.

17. The special architectural interest in the building, described by Pevsner as a very large, Frenchy mansion, is apparent in the French design influence. Externally, this has been achieved by the formal arrangement of classical elements in the facades and the forms of the buildings. This includes, for instance, the raised roof and projecting elements of the central section; the vertical ascendancy in the order and pairing of pilasters; the modulation and layering of the different textured panels of stone and brick; the semi-circular headed openings; the stone balustrading, including at parapet level; the mansard roofs; and the oeil-de-boeuf windows. These highly crafted, expressive elements in the language of its architecture give the listed building a very high degree of historic and architectural significance.

18. Despite the development of much of the original grounds for housing in the C20, views from the house towards the River Mole reveal the logic of siting the original house here on a promontory, commanding the approach from the river through the gatehouse. While most of the Picturesque landscape devices are only visible in historical documents now, the siting of the house, the sheer modelling of the ground behind it, and the location of surviving trees, suggest the hand of William Kent. The Crouching Venus, attributed to him, survives from this phase. It presently stands close to Lutyens' sunken theatre. The mid

C18 Pelham Vase, its plinth inscribed with beautiful relief panels, listed grade II, remains close to the modern boundary of the garden.

19. There remains a geometric character to the layout, often symmetrical, and the detailing of the terraces, the formal lawns, and the paths which connect them, to both the front and back of the house reflecting the French landscape tradition. Especially notable are Lutyens' sunken garden and sunken theatre of around 1905, which as outside 'rooms' with different characters, extend that French influence into the landscape setting of the building.

A. *The effect of the development on the setting of the listed building*

20. There are three principal effects on the setting of the listed building. First, its spatial setting, or the space around the listed building in which it is experienced. Further encroachment of housing into the garden of the house would undermine the spatial character of the building whose large volume is balanced by the substantial open space of its setting to the rear.

21. Second, its landscape setting. Sited so close to the sunken theatre, the proposed houses would have an over-enclosing and intrusive effect on it. The houses would undermine the landscape device as an isolated feature in the garden of the house and relegate its status as a landscape device which was part of the development of the house and which reflects its C19 French influence. The effect would be conspicuous in views from within the theatre and beside it, but also from the defined walks in the garden.

22. Third, the manoeuvring of cars and the passing of future occupiers into and out of the front doors of this number of houses at such proximity to the theatre would risk being so distracting to the intended use and enjoyment of the space that its purpose would be compromised and its theatrical effectiveness undermined. This would further undermine the status of this feature as an important part of the landscape of the house.

23. I appreciate that housing has been developed close behind the sunken theatre. However, as a theatrical landscape device it remains intact, and it has an associative value shared with the other significant landscape device to the rear, the sunken garden, also by Lutyens.

24. I can find no inconsistency with my findings and the conclusions of the Inspector in the 1990 appeal decision[2] for two detached houses, on the same

[2] Appeal Ref: T/APP/K3605/A/90/151405/P7

part of the garden of Esher Place. The Inspector in that appeal found that the houses would have a considerable impact on views across the grounds of Esher Place, and that they would be intrusive and harm the present attractive open character of the grounds. He concluded that the impact on the setting of the listed building would be seriously detrimental.

25. My conclusion on this issue is that the proposed development would harm the setting of the listed building, resulting in very considerable harm to the historic and architectural significance of the listed building. It would not preserve the setting of the building to the desirability of the preservation of which the Act requires me to have special regard. It would conflict with DMP policies DM2 and DM12 where they require proposals to take account of the historic environment and to preserve or enhance the setting of listed buildings.

26. It would also conflict with the Framework, which in paragraph 200, identifies the potential for harm to the significance of a designated heritage asset including from development within its setting, and which in paragraph 206 encourages development within the setting of heritage assets to look for opportunities to better reveal their significance.

B. The effect of the development on the character and appearance of the area

27. This is an area the overwhelming characteristic of which is the spacious arrangement of large, detached houses standing on large plots, arranged with lateral gaps between the houses which, in this area to the north and east of the listed building, face the street. The houses surrounding the site of the proposal have generous front gardens with many having even deeper back gardens.

28. In this typological context, the proposed semi-detached form would appear out of place. I appreciate that the intention is for the houses to appear as workers' cottages. However, their widths, depths, the height of their roofs, and their internal layouts with two bathrooms reflect more the model of a large suburban house than the worker's cottage. Nor does the architectural language of the houses do anything other than root them in suburbia, particularly their splayed front bays and the faux porticos over their six-panelled front doors.

29. Moreover, the very short front gardens and lack of front enclosure to the houses would exacerbate their lack of grounding into a place. They would have no architectural relationship to the listed building and no place in its spatial or landscape setting. Neither would their arrangement, siting and detailing

belong to the housing surrounding them on three sides. Their higher footprint:plot ratios, shorter plot depths, and the narrower plot widths of the centre houses would exacerbate the typological incompatibility of the proposal with the pattern of development which surrounds the site, with which it would appear conspicuously at odds.

30. I conclude on this issue that the proposed development would undermine the spatial and landscape character of the area and would appear at odds with its architectural identity. It would conflict with policies CS9 and CS17 of the Elmbridge Core Strategy 2011 (CS) which expect development to enhance the local character of the area, integrating sensitively with locally distinctive townscape, landscape and heritage assets, and DMP policy DM2 which requires that proposals are based on an understanding of local character and take account of the natural, built and historic environment. It would also be at odds with a fundamental objective of planning as described by the Framework; the creation of high quality, beautiful and sustainable buildings and places.

C. The effect on the conditions of the occupiers of 11 Waynflete Tower Avenue

31. Because of the blind flank of the closest of the proposed houses there would be no significant risk of overlooking into the house or garden of 11 Wayneflete Tower Avenue. The closest house would be sited a sufficient distance from No 11 to avoid a substantial effect on the diffuse skylight entering the rooms of No 11, and there is no substantive evidence to suggest that the availability of sunlight reaching the back garden of No 11 would be reduced by an unacceptable degree.

32. Notwithstanding the separation distance, the proposed houses would be sited on ground substantially higher than the house at No 11, whose back garden generally maintains the contours of the site of the proposed houses for much of its depth. The effect of the development on the outlook from within the rooms of No 11 would be visually intrusive. From the back garden of No 11, particularly from the higher-level terrace, the closest proposed house would have a significantly overbearing effect. I can see no inconsistency from this finding and the conclusion of the Inspector in the 1990 appeal decision[3] for two detached houses in outline, on the same part of the garden of Esher Place.

[3] Appeal Ref: T/APP/K3605/A/90/151405/P7

33. I conclude on this issue that the proposed development would cause harm to the living conditions of the occupiers of 11 Waynflete Tower Avenue from loss of outlook. This places the development in conflict with DMP policy DM2 which protects the amenity of adjoining occupiers.

D. The effect on the living conditions of the occupiers of 28 Esher Place Avenue

34. There is a close-boarded fence standing on the appeal site along most of the long boundary with 28 Esher Place Avenue. A second timber fence stands alongside the back garden of No 28.

35. I acknowledge that the fences may not reduce all potential noise from manoeuvring into the parking spaces proposed beside No 28. However, the parking spaces and access road would not extend significantly beyond the back wall of the house at No 28. Given the number of vehicle movements likely to be generated by the occupiers of the proposed houses, the arrangement does not suggest a level of intrusion from noise or fumes from manoeuvring, turning or parking that would be harmful to the occupiers of No 28. Nor would the condition be uncharacteristic of similar arrangements in the built-up area. Moreover, there is already an access drive beside No 28, which could be reused for parking and turning.

36. I have taken into account the 1990 appeal decision. However, the site layout in that proposal extended the parking and access road substantially beyond the back garden of No 28.

37. Given the present enclosure along the long boundary of No 28, subject to a condition to control its effective ventilation and its height, the proposed bin store would not cause a loss of privacy to the occupiers of No 28.

38. There would be no windows in the proposed houses able to directly overlook the garden or rooms of No 28 to a significant degree, and a planning condition could secure the sensitive location of screening of the back garden of the closest proposed house to avoid overlooking between back gardens.

39. I appreciate that the outlook from the back rooms and the back garden of No 28 would change. I note that the level of the house at No 28 is lower than the back garden. However, the roof of the closest house would be part-hipped. It would be sited sufficient distance from No 28, that it would not reduce the

outlook of the occupiers to an unacceptable degree, or to a degree that is not commonly accepted in the built-up area.

40. I conclude on this issue that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 28 Esher Place Avenue from loss of privacy or loss of outlook. There would be no conflict with DMP policies DM2 and DM8 which protect the amenity of adjoining occupiers and require waste and recycling facilities in new development.

E. Whether the proposal should make a contribution to affordable housing

41. The Council has set out in policy CS21 of the Elmbridge Core Strategy 2011 (CS) its aim to provide 1,150 affordable homes between 2011 and 2026. On sites of 1-4 homes it requires a financial contribution equivalent to 20% of the gross number of homes. The sub-text to the policy indicates that where the delivery of affordable housing is unviable, this must be demonstrated through the submission of a financial appraisal alongside a planning application.

42. I note that the Framework says that affordable housing should not be sought from residential development that is not major, and I acknowledge that this proposal is not a major development. The policy in the Framework is a material consideration of significant weight.

43. However, whereas the Council estimates[4] that the need for affordable housing in the borough is 269 homes per annum, it reports[5] that in the 9 years to 2020 it provided a total of only 615 homes. It describes how, in order to have met the affordable housing need in that period, 94% of residential development would have needed to have been affordable. It also suggests that the acute need for affordable housing in Elmbridge has been caused by its very high house prices, which are significantly above regional and national averages. It also sets out the importance of small sites to housing, which provided almost half of its total between 2011 and 2021.

44. The appellant has not objected to the application of CS policy CS21. Indeed, it has submitted a Financial Viability Appraisal (FVA) to justify the lack of any provision or contribution to affordable housing. On this basis, I can see no

[4] Para 4.49, Assessment of Local Housing Needs, March 2020, by Cobweb Consulting for EBC
[5] Statement on Affordable Housing on Small Sites (update) by EBC, October 2021

reason why CS policy CS21 should not apply to the development in this proposal.

45. In the planning application the subject of this appeal, the appellant initially indicated[6] that a financial contribution towards affordable housing equivalent to 20% of the dwellings would be secured by a planning obligation. However, when the Council determined the application, no obligation had been provided, the lack of which prompted one of the reasons for refusal.

46. The appellant has submitted with the appeal a financial viability appraisal (FVA). This has assessed the aggregate viability across all four developments. It acknowledges that CS policy CS21, which would require, across all the developments together, 14 homes as affordable housing, but concludes that the aggregate proposal would be unable to provide any affordable dwellings or contributions to affordable housing.

47. The parties agree that the aggregate residual land value (RLV) of the four developments would be £7,916,989. They disagree however, on the benchmark land value.

48. <u>Benchmark land value (BLV) based on the existing use value (EUV)</u>: In calculating the EUV the appellant values the existing buildings at £8,100,000 to which they add £900,000 as a special assumption for the value of an unbuilt extension. This makes their EUV £9,000,000. The Council, on the other hand, values the existing use at £4,320,000; the difference between the parties is more than 100%.

49. The appellant's value of the existing use is based on the agreed nett internal area of the building, 36,000ft², and a capital value of £225/ft², wherein the difference lies. This capital value was based initially on a schedule[7] of sales transactions of sites in the area. However, whereas the Planning Practice Guidance (PPG) advises that EUV is the value of the land in its existing use, and the last use of the building was as a residential training centre, the appellant's schedule of transactions has no similar reference but instead includes transactions for sites with uses as diverse as skilled nursing facilities, care facilities, hotels, and schools.

[6] Application covering letter, 12 February 2020 ref: SB/JS/7974
[7] Section 18, Valuation Report by Perry Hill, 19 May 2021

50. I appreciate that the location of the appellant's comparables are close to the appeal site, but the schedule is not comparing like use with like use. This makes the accuracy of the £225/ft^2 valuation uncertain. Moreover, notwithstanding that the uses are incomparable, it is not clear how the collection of rates in the schedule, which vary from £76/ft^2 to £508/ft^2, has led to the valuation of £225/ft^2.

51. In support of their EUV, the appellant submitted further comparables[8] of sites sold within a radius of 7.5 miles. However those examples vary substantially in size and use ranging from a former police station to a church, a day nursery, surgeries, care homes, schools, hotels, a meeting hall and a riding centre. Again, this is not comparing like with like, and, as before, it is unclear how the rates which vary from £233/ft^2 to £1,089/ft^2 have led to a valuation at the appeal site of £225/ft^2. That the appellant's valuation is neither as high nor as low as the comparables they present does not give me confidence in the valuation.

52. The Council's valuation[9] of EUV on the other hand, at £120/ft^2, or £4,320,000, included an example of a training centre, Alvescot Lodge, in Oxford. Though the floor area of that training centre was around half that of Esher Place, the area of its grounds was similar. It sold at £104/ft^2. Applying the same £/ft^2 rate, £/acre rate or a room rate of that sale, would give an EUV of less than £4,000,000 for Esher Place.

53. I recognise that as a location, Oxford may have less land value than Esher. It may be further from London and from Heathrow Airport. However, the catchment area of a conference centre is far broader than that of a house, a nursing home, or a school. Indeed, I heard that delegates from across the world have attended conferences at Esher Place. Oxford is a well-connected city. Moreover, for the purposes of a residential training course or conference, the land value of the location is, I consider, of less relevance than the character of the place, the quality of the conference space and accommodation, and how easy it is to reach.

54. A second example from the Council, of a language centre in St. Albans, with around three times the floor area and ten times the land area of Esher Place,

[8] Supplementary evidence by Perry Hill, 15 March 2022
[9] Appendix 3, Review of Benchmark Land Value, 2 March 2022, by Dixon Searle Partnership

sold for £66/ft^2. Setting aside the acreage rate because it would result in a very low value at the smaller Esher Place, and applying the Council's uplifted rate of £100/ft^2 would, like the other training centre example, result in an EUV at Esher Place of less than £4,000,000. Given the smaller size of Esher Place, the Council's estimate allowing some uplift, seems fair.

55. On this basis therefore, and given all the evidence before me, the appellant's valuation of £8,100,000 appears a substantial over-estimate of EUV for the existing building. The EUV of the existing building is more likely to be at or very close to the Council's estimate of £4,320,000.

56. Special assumption in the EUV: The appellant has added £900,000 to the EUV of the site for the value of the unbuilt extension to the main building. However, the PPG is explicit[10] in defining EUV as the value of the land in its existing use, and that it should disregard hope value. It states[11] that alternative use value (AUV) refers to the value of land for uses other than its existing use, and that where it is assumed that an existing use will be refurbished or redeveloped this will be considered as an AUV when establishing BLV.

57. The area of land for the extension is part of the gardens of the house. The whole site was marketed in 2017, well after the planning permission for the extension was received, but received no interest in the continued use. Moreover, the appellant's own valuation[12], albeit with reference to market conditions after the Covid-19 pandemic, considered that it would be 'unlikely that demand will fill the existing building', let alone the building extended. I appreciate that this referred to booking anxiety in the aftermath of the pandemic, which may now have subsided. But equally, during the pandemic, online conference calls and online meetings became commonplace. It is unclear how, since the pandemic, this technology has affected the expectations of potential conference delegates and the demand for residential conference and training centres.

58. In these circumstances, I am not convinced that to add £900,000 to the EUV for an unbuilt extension to a building for whose use there is no evidence of

[10] Planning Practice Guidance, paragraph 10-015
[11] Planning Practice Guidance, paragraph 10-017

[12] Valuation Note 3, Valuation Report by Perry Hill, 19 May 2021

demand, is justified. Moreover, the appellant's nominal value of the extension at £900,000 is based on an allowance of £100,000 for each of its 36 rooms, giving a gross development value (GDV) of £3,600,000. However, it is not clear how that value was reached, nor the reason why it should switch from the area rate used for the existing building to a room rate for an extension to it. Its value lies in being part of the rest of the building whose facilities it would share. This suggests it should be valued on an area basis.

59. Notwithstanding this, and even incorporating the £900,000 value for the unbuilt extension, for the reasons already given, the appellant's position remains a substantial over-estimate of EUV.

60. Conclusion BLV based on EUV: The parties agree that a 10% premium over the EUV should be included as a reasonable incentive for the landowner to sell. Using the agreed RLV of £7,916,989 and the appellant's EUV of £9,000,000 indicates that there would be no surplus for affordable housing.

61. However, for the reasons above, I cannot agree with the appellant's valuation of the EUV which the evidence and the application of the PPG suggests is an over-estimate. Using the Council's more accurate EUV of £4,320,000 and adding a 10% premium of £432,000 would result in a BLV of £4,752,000. This suggests that there would be sufficient headroom in the aggregate scheme for more than a nil contribution to affordable housing, as required by the development plan.

62. Even if I agreed with the appellant that the unbuilt extension should be part of the EUV, which I do not, this would make an EUV, based on the Council's rate for the existing building but with the appellant's value of the extension, of £5,220,000. Adding to this a 10% incentive would make a BLV of £5,742,000; still sufficient margin for some contribution to affordable housing.

63. Benchmark land value based on an alternative use value (AUV): The PPG recognises that an AUV may be informative in establishing BLV. It is, however, limited to those uses which would fully comply with up-to-date development plan policies. Where it indicates that plan makers can set out the circumstances in which AUVs can be used it includes where the alternative use could be implemented; where it can be demonstrated that there is market demand for that use; and, if there is an explanation as to why the alternative

use has not been pursued. It also indicates that the AUV should be supported by evidence of costs and values and that the AUV already includes the premium to the landowner.

64. <u>AUV as a hotel:</u> The appellant has proposed that an alternative use for the building might be as a hotel, with 52 rooms. With a capital value of £8,100,000 for the building, the room rate would need to achieve £155,769.

65. By comparison, they refer to two, local hotels with capital values, by room, of £162,463 and £193,000. However, the higher value is for a hotel in a more prestigious location than Esher Place, being alongside the Thames and with Hampton Court Palace in sight.

66. The Council has also submitted examples of comparable hotels. Most of these I find incomparable, because of size, or facilities, or location, or a combination of these factors. However, its example of the Warren House Hotel in Kingston, surrounded by large properties, a private estate, similar in the area of its grounds, similar in the number of bedrooms, and not least its location, has much in common with Esher Place. I appreciate that Esher Place does not have a pool or spa, but it has compensating factors, not least its splendid interior and its spatial setting. The room rate that the Warren House Hotel achieved, of £165,217, suggests that the appellant's room rate of £155,769 to achieve the £8,100,000 valuation of the building would not be an unrealistic aspiration at Esher Place.

67. Another example, the 3* Kingston Lodge Hotel, a 67-room hotel with conference facilities, sold at a rate of £162,687/room. Given the similarity of its location and size, this example too suggests that the appellant's target room rate of £155,769 is not unrealistic.

68. Notwithstanding this, the compared hotels had been trading, whereas the existing building was last used as a residential training centre, and would require works to convert it to a hotel. From my own inspection, save for a very few, the bedrooms in Esher Place would require modernisation to bring them up to the standard of a modern hotel like those in the comparisons. Moreover, the other, non-bedroom spaces are important in a hotel. These spaces would also require some work and hence cost. This is a listed building where internal works to change it to a hotel would present opportunities, but also extra-over costs.

69. The appellant insisted that the building is ready-to-trade, whereas the Council estimated that the cost of converting the building to a hotel would be around £100/ft^2, or £3,600,000. The Council does not set-out the assumptions it used in selecting that cost. Equally, and despite the clear guidance in the PPG that an AUV should be supported by evidence of costs, in the face of that estimate, an estimate which changes decisively the valuation, the appellant does not set-out how changing the use could be totally cost-free, which I saw could not realistically be the case. I cannot therefore rely on the appellant's valuation.

70. Assuming that the appellant's aspirational room rate is achievable, the conversion works suggested by the Council would result in an AUV as a hotel of £4,500,000. This too would suggest that with an alternative use as a hotel, there may be sufficient headroom for more than a nil contribution to affordable housing, as required by the development plan.

71. However, as well as there being no substantive evidence from either side on the cost of conversion, neither is there any evidence of market demand for a hotel here. This introduces even more uncertainty to the value of this alternative use. Moreover, while the Council could not point out any obvious conflicts with the development plan from a change of use to a hotel during the Hearing, the lack of evidence of the use fully complying with the development plan also casts doubt. While AUV may be informative in establishing BLV, the factors above make any reliance on an alternative use as a hotel a precarious assumption. This limits the weight I can give this speculative AUV.

72. <u>AUV as a care home</u>: The examples of care homes and skilled nursing facilities from the appellant range in value from £75.81/ft^2 to £507.72/ft^2. However, the size of most of them, which range from around 4,000ft^2 to around 11,000ft^2 are too small to compare to Esher Place, which is £36,000ft^2. At the other extreme, the St. John's Wood care home, at 60,000ft^2 and £108.21/ft^2, which is far larger than Esher Place, is equally an outlier. However, the homes in Hayes and Dorking which have areas of around 29,000ft^2 and 21,000ft^2 are more comparable to Esher Place, at least in size. They sold for £152.64/ft^2 and £150.17/ft^2. This suggests that the appellant's value of £225/ft^2 may be slightly over the mark.

73. More significantly, there is no evidence of demand for a care home here, and no indication of the costs for the works which would be necessary to convert it from its present use. This limits the weight I can give this speculative AUV too.

74. AUV as a day school: I discount most of the Council's examples of day school transactions, located in the shires, or a considerable distance from London, as being incomparable geographically. The appellant's examples of schools, except for one which is less than half the size of Esher House which limits its relevance, have values substantially less than £225/ft^2. However, there is no evidence of any demand for a day school here, no indication of the costs required for conversion of the building to that use, and no evidence that the use would fully comply with the development plan. This limits the weight I can give this speculative AUV too.

75. AUV as a boarding school: I have also considered the examples of boarding schools given by the appellant, the most comparable of which, Hampton Court House, is a period building of 30,000ft^2, with a value of £463/ft^2. While this suggests that the appellant's rate of £225/ft^2 may be reasonable, there is no evidence that there is demand for a boarding school here, and no indication of the costs to convert the building from its present use. Again, this limits the weight I can give to the claimed value of such an alternative use.

76. Conclusion on BLV: For the reasons above, none of the alternative use values are sufficiently reliable to inform the benchmark land value to any significant degree. Returning to the BLV above, based on the existing use, it is clear that there is sufficient headroom for some contribution to affordable housing.

77. Overall Conclusion on affordable housing issue: Notwithstanding my findings above, the assumptions in the appraisals of both parties, particularly the RLV and BLV, relate to the aggregate of four developments on four sites, rather than this singular development on this particular site. The calculations and conclusions in the FVA do not separate the development in this appeal from the developments in the other appeals. There is no means to disaggregate the elements in the FVA relevant to this proposal from the other proposals. There is also no certainty that all the developments included in the FVA will gain the necessary planning permissions and listed building consents. Nor is there any certainty that they would be implemented, and no mechanism to secure an adjustment in the event that they were not.

78. In other words, whereas the applications concern four separate proposals, the financial calculations are based on the collective value. This flies in the face of DMP policy DM4 which encourages developers of adjoining sites to work together to deliver comprehensive development. It means that the success of each appeal on this issue, is dependent on the success of each of the other appeals, or as the appellant put it during the Hearing; it’s either all of them or its none of them.

79. In these circumstances, it is not possible to conclude that the proposal should not make a financial contribution to affordable housing. In fact, the evidence suggests that it should. In the absence of any contribution, the development would be in conflict with CS policy CS21. This weighs against the proposal.

Other matters

80. The Planning Practice Guidance indicates that when assessing the setting of a heritage asset it may be necessary to consider the implications of cumulative change. I have considered this proposal on its own merits, and found very considerable harm to the significance of the listed building from development within its setting. The same is true of the appeals for the three other projects which I have dismissed with similar conclusions.

81. The collective harm to significance from the four sets of harms considered together would be greater than the harm to significance from the harm I have identified in each singular case, though still, in my view, amounting collectively to no greater than less than substantial harm to significance. As I am dismissing these appeals on their own merits in each individual case, I have not pursued the matter of cumulative change any further.

82. Because of the distance of the proposed development from Wayneflete Tower, the location, extent and nature of the development, as well as the development between them, the setting of Wayneflete Tower would not be affected. So too the Pelham Vase, which is distant from the proposed development. The settings of these listed buildings would therefore be preserved in accordance with the expectations of the Act, and the objectives of the Framework which recognise the potential for harm to the significance of a designated heritage asset from development within its setting.

83. I have taken into account the other matters raised by local residents, including traffic and road safety, trees and drainage. However, as I am dismissing the

appeal on the main issues and they could not alter my conclusions, I have not considered them further.

Planning balance

84. The proposed development would harm the setting of the listed building, resulting in very considerable harm to the historic and architectural significance of the listed building. I give this harm considerable importance and weight in the planning balance of this appeal.

85. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of the asset or from development within its setting, and that any harm to the significance of a designated heritage asset should require clear and convincing justification.

86. Although the degree of harm I have identified would, in the terms of the Framework, be less than substantial, a position[13] shared by the appellants, this does not equate to a less than substantial planning objection, especially where the statutory test is not met. In these circumstances, 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.

87. There is no dispute that the Council cannot demonstrate a five-year supply of deliverable housing sites, and the appellant's claim that the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years has not been refuted. The appeal therefore falls to be determined in accordance with paragraph 11d) of the Framework.

88. Designated heritage assets are protected by policies in the Framework. In applying its policies concerning designated heritage assets, I have found clear reason for refusing the development. Accordingly, the tilted balance does not apply, and the Framework is not a material consideration in this context to indicate a decision other than in accordance with the development plan.

[13] Built Heritage Appeal Statement, May 2021, para 7.8, and Statement of Case, May 2021, para 6.40

89. Information boards and a research project may have some, public benefit in explaining the history and significance of the listed building, though the scale of such a benefit would be limited. More significantly, the proposals would bring new dwellings in a location with good access to services and facilities and in an area which suffers from a shortfall of housing. In the context of the Government's objective to significantly boost the supply of homes, this attracts significant weight. Construction would bring economic benefits too, from employment and the commissioning of services, which attract moderate weight. Future occupiers would bring local economic benefits from using facilities, additional spending and commissioning local services.

90. Overall, 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 great weight should be given.

Conclusion

91. While the development would not harm the living conditions of the occupiers of 28 Esher Place Avenue, it would cause harm to the living conditions of the occupiers of 11 Waynflete Tower Avenue from loss of outlook. It would also undermine the spatial and landscape character of the area and it would appear at odds with its architectural identity.

92. It would result in very considerable harm to the significance of the listed building and its setting. It 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. Moreover, while the development plan requires the development to include affordable housing, it has not been possible to conclude that the proposal should not make a financial contribution to affordable housing. In the absence of any contribution, this too puts the proposal in conflict with the development plan.

93. Notwithstanding all the benefits of the proposal which attract significant weight, they would not outweigh the very considerable harm to the significance of the listed building and its setting, and the conflict with the development plan, when read as a whole. There are no other material considerations which suggest that the decision should be taken other than in accordance with the

development plan. Having taken into account all matters raised, and for the reasons above, the appeal is therefore dismissed.

Patrick Whelan
INSPECTOR

Appearances

FOR THE APPELLANT:

David Steen	Appellant
Ross Minerva	Appellant
Steven Brown BSc(Hons) DipTP RTPI	Wolf Bond Planning, Chartered Town Planning Consultants
Robin Furby BA(Hons) Law	Director, S106 Management
Mike Aldous BA(Hons) MRICS	Registered Valuer, Perry Hill Chartered Surveyors

FOR THE LOCAL PLANNING AUTHORITY:

Jack Trendall BA(Hons) MSc MRTPI	Senior Planning Officer, Elmbridge Borough Council
Nick Molyneux BA(Hons) MCIH	Dixon Searle Partnership

FOR ESHER PLACE RESIDENTS LTD:

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