



Appeal Decisions

Site visit made on 26 April 2023

by D Moore BSc (HONS), PGDip, MCD, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 05 May 2023

Appeal A: APP/Z4310/Y/22/3301964

The Orangery, Knolle Park, Liverpool

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act) against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr Anthony Kong of the Leo Property Group against Liverpool City Council.
 - The application Ref 22L/0533 is dated 17 February 2022.
 - The works proposed are "re-construction and extension of the Orangery building to form a single storey, detached house".
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Appeal B: APP/Z4310/W/22/3301952

The Orangery, Knolle Park, Liverpool

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Anthony Kong of the Leo Property Group against Liverpool City Council.
 - The application Ref 22F/0463, is dated 17 February 2022.
 - The development proposed is "to erect new dwellinghouse using remnants of historic Orangery".
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Decisions

Appeal A

1. The appeal is allowed, and listed building consent is granted for re-construction and extension of the Orangery building to form a single storey, detached house at The Orangery, Knolle Park, Liverpool in accordance with the terms of the application Ref 22L/0533 dated 17 February 2022, subject to the conditions in the attached Schedule.

Appeal B

2. The appeal is allowed, and planning permission is granted to erect new dwellinghouse using remnants of historic Orangery at The Orangery, Knolle Park, Liverpool in accordance with the terms of the application, Ref 22F/0463, dated 17 February 2022, subject to the conditions in the attached Schedule.

Application for costs

3. An application for costs was made by Mr Anthony Kong of the Leo Property Group against Liverpool City Council. This application is the subject of a separate Decision.

Preliminary Matter

4. The Council has indicated that it would have refused to grant planning permission and listed building consent for the development, had it determined the applications. The Council considers that the development would have an unacceptable impact on protected trees and would be contrary to Policy GI 9 of the Local Plan (January 2022).

Main Issues

5. The proposed development is a new single-storey structure on the site of the former Knolle Park Orangery to create a new dwelling. The main issues are:
 - Whether the proposal would preserve a Grade II listed building, Knolle Park (Saint Gabriel's Convent), and any of the features of special architectural or historic interest that it possesses.
 - The effect of the proposal on the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed buildings, and the effect on trees covered by the St Gabriel's Convent, Knolle Park Tree Preservation Order (1971).

Reasons

6. The development concerns land at the now disused Saint Gabriel's Convent, which was formerly known as Knolle Park. The surrounding area is residential in character and forms part of an affluent suburb to Liverpool, with a mix of large nineteenth century houses interspersed within more recent residential development. Mature trees contribute to the character of the area, making it a verdant and attractive place to live.
7. The principal building was listed in 1975 (Ref: 1356262). It was designed and used as a private residence, dating from the nineteenth century. The former house is an imposing stone-built structure, set within what were originally expansive grounds, with a high level of tree cover and shrubbery. The building has fallen into a state of disrepair, and the grounds have been reduced in size over time. The former Lodge to Knoll Park, which is sited on the northern boundary, is listed Grade II. This is also stone-built, and in the neo-classical style. The historic entrance to Knolle Park, formed by stone gate piers at the corner of Church Road, is listed grade II, as is the former stable block on Church Road. The stable block has been converted to houses whereas the Lodge and entrance are disused.
8. The appeals concern the former Orangery, which is not listed in its own right. There is very little remaining of the original building, other than the rear wall. Nonetheless, for the purposes of the LBCA Act, a listed building includes any structure that is within its curtilage which has existed since before 1st July 1948. On this basis, the parties agree that the former Orangery should be treated as a 'curtilage listed' building.
9. Orangery buildings were fashionable in the nineteenth century and were often built as a display of good taste and wealth, and to grow exotic plants. The building sits on the northern boundary, facing the main house and it is likely to have been used in connection with the house as a form of garden room.

10. Given the above, I find that the special interest of the principal listed building, insofar as it relates to these appeals, to be primarily associated with its form and architectural details, and its original use as a private residence of local standing. The relationship of the principal building to its grounds and associated buildings, including the former Orangery, assists in understanding the historic building, how it was used, occupied and developed and indicates the social standing of the former occupants. Overall, the landscaped grounds and garden buildings, stables, Lodge and entrance gates contribute positively to the significance, in that they form part of the setting to the principal listed building and show how the whole property was designed and developed.
11. The proposal involves the construction of a new single-storey dwelling. The rear wall of the former Orangery would be retained in part and altered to accommodate a relatively large rear extension. A utilitarian lean-to garden store at the rear would be demolished.
12. The development would be modern in appearance, with a significant amount of glazing to reflect the former structure. A lightweight canopy would extend around the front glazed range. The dwelling would be visible from the adjoining Beaconsfield Road, but it would not be prominent given its flat roofed design and overall form. There would be a loss of historic fabric due to the demolition of the lean-to structure and the alterations to the wall. However, the lean-to may well be a later addition, due to its construction materials and location at the rear. I consider its historic value to be limited. The alterations to the wall will involve the loss of some historic fabric but given the overall condition of the remaining structure, I do not consider that the relatively minor alterations proposed would be harmful.
13. The development would reflect the form and scale of the building that existed previously albeit larger and with a modern interpretation. The proposed design and use of materials is appropriate to the setting and, where possible, the historic fabric is retained and acknowledged within the structure. The redevelopment of the former Orangery would enable the retention of much of what remains of the building and would re-establish a building on the site of the historic curtilage building. This would aid the interpretation of the principal listed building and its relationship with its grounds and other curtilage structures. There would be no effect on the setting of the other listed buildings in the vicinity given their distance from the appeal building. I find, therefore, that the proposal would preserve the significance of the designated heritage assets. I note this finding is consistent with that of the Council.
14. The wider grounds of the former Knolle Park would have been a designed landscape to complement the house. It would have consisted of lawns, walkways and parkland, including specimen trees and woodland. Mature trees and shrubbery remain on the site, and they make a positive contribution to the area, as explained. Trees of landscape and individual value should be retained as far as possible. Moreover, the trees within the grounds are covered by a TPO and should not be removed unless there are exceptional circumstances.
15. The development would require the removal of trees T4 and T6 (referred to as T7 and T9 in the updated Arboricultural Impact Assessment). Both are mature Sycamore trees, which are considered to be category C of low quality and value¹. Tree T5 (T8), also a Sycamore, would be adversely affected due to its

¹ Tree Survey and Arboricultural Assessment Ref 21_5837_09_25 dated 21 October 2021.

proximity to the development although it is shown to be retained. This is category B, considered to be of moderate quality and value. T1 is a mature Sweet Chestnut, defined as category A. It is a good quality tree which makes a positive contribution to the local area but would likely be affected by its proximity. T7 may also be affected as the root protection zone conflicts with the proposed parking bay. This is a category A Horse Chestnut, which also contributes positively to the character of the area.

16. The removal of trees T4 and T6 would be regrettable but necessary to accommodate the proposal. The trees have some value in the local landscape, but this is limited by their condition and, given their location and species, they may well be self-seeded. I consider their removal is justified, therefore. Trees 1, 5 and 7 will likely be impacted by the development, which would affect their long-term health. There may also be pressure from future occupants to carry out tree works, given their relative locations. The trees to be retained have landscape value and should be incorporated into the development in a way that safeguards them for the future. The scheme as it stands does not achieve this, however, I must consider whether the development could be made acceptable with planning conditions.
17. The Council has suggested a condition requiring an arboricultural method statement and others to minimise incursions into the root protection area and levels changes, to which the appellant agrees. I consider this would overcome the harm identified. I have therefore imposed conditions relating to tree protection, ground levels and underground services.
18. Given the above I conclude that, on balance, the proposal would preserve the special interest and setting of the principal Grade II listed building, and the setting of other listed buildings in the vicinity. This would satisfy the requirements of the LBCA Act and paragraph 197 of the National Planning Policy Framework (the Framework). There would be minor conflict with policy GI 9 of the Local Plan that seeks, among other things, to ensure the retention of protected trees. However, in this instance the harm to protected trees that are worthy of retention could be overcome through the use of appropriate planning conditions.

Other matters

19. The site is designated as Open Space within the Local Plan. The Council advises there would be no conflict with Policies GI 1 and GI 4, which seek to retain the recreational function and key features of open space. There is no reason for me to disagree with this assessment. In addition, the scheme has been designed to provide a high-quality living environment for future occupants, which the Council acknowledges.
20. I note that the Council is seeking a further car parking space and EV charging facilities but there is no suggested condition or any relevant development plan policy reference. I am satisfied therefore that the proposed parking provision is adequate.
21. The Council is also seeking enhancements to biodiversity, which is consistent with the advice within the appellant's ecological appraisal². I have included measures within a landscaping condition.

² Ecological Appraisal and Roost Assessment Survey, dated 16 March 2022.

22. There is also a risk to breeding birds and I have imposed a condition to restrict tree felling and clearance to outside of the breeding season. I am satisfied that the scheme as conditioned takes the opportunity to improve biodiversity in accordance with paragraph 174 of the Framework.

Conditions

23. I have imposed the standard condition relating to time limits along with a condition to specify that the development should be carried out in accordance with the approved plans. I have imposed a pre-commencement condition requiring a construction method statement. There is a need to ensure the protection of trees covered by the area wide TPO prior to any works on site.
24. A condition requiring details of site levels is necessary due to the level changes within the site, and because of the proximity of protected trees. I have also imposed conditions to protect the retained trees, which is necessary as the development would not be acceptable otherwise. A landscaping scheme is required to ensure the details are appropriate to the historic setting, in addition to securing enhancements to biodiversity through the incorporation of bird and bat boxes and appropriate planting, and to ensure underground services are sensitively located having regard to the roots of protected trees. Details are required prior to any works starting on site due to the presence of protected trees. Similarly, I have imposed a condition to prevent the removal of trees and scrub until outside of the bird breeding season.
25. I have not imposed any restrictions on the use of the building. It is designed and built as a dwellinghouse and any departure from the approved plans, or subsequent material change of use of the planning unit, would constitute a breach of planning control. Permitted development rights should not be removed except in exceptional circumstances. Neither have I imposed the materials condition, as the details are contained within the applications. The Council's proposed condition restricting further windows is not necessary. The internal lighting and ventilation have been considered as part of the design concept and new openings are unlikely. There is no justification for the suggested archaeological condition, and I have not imposed it.

Conclusion

26. I conclude that the proposal would preserve the special interest and setting of the Grade II listed buildings. The harm to protected trees, those which are worthy of retention, can be mitigated through imposing appropriate conditions. The proposed development would lead to investment into the site, which would assist in ensuring the future of the heritage assets. The benefits outweigh the loss of two protected trees, which are considered to be of low value. For the reasons given, the development would accord with the development plan as a whole and should be approved subject to the conditions set out below.

Debbie Moore

Inspector

Schedule of Conditions

Appeal A

- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
- 2) The works hereby permitted shall be constructed in accordance with the materials specified in the application and the approved plans.

Appeal B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Plan 1100
 - Proposed Site Plan 1201
 - Demolition Plan 1102
 - Elevation 01 1400
 - Elevation 02 1401
 - Elevation 03 1402
 - Elevation 04 1403
 - Ground Floor Plan 1300
 - Roof Plan 1301
 - Section 1500
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) No development shall take place until the following information shall have been submitted to and approved in writing by the local planning authority:

- i) a full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries and levels across the site at regular intervals;
- ii) full details of the proposed finished floor levels of the building and hard landscaped surfaces.

The development shall be carried out in accordance with the approved details.

- 5) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- i) a statement setting out the design objectives and how these will be delivered;
 - ii) means of enclosure, retaining structures and boundary treatments;
 - iii) vehicle parking;
 - iv) hard surfacing materials;
 - v) minor artefacts and structures e.g. refuse or other storage units, etc.;
 - vi) proposed and existing functional services above and below ground e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant;
 - vii) a planting plan including schedules of plants and species, and proposed numbers/densities;
 - viii) details of bird and bat boxes; including numbers, type, locations and timing of installation;
 - ix) lighting, floodlighting and CCTV;
 - x) an implementation programme, including phasing of work where relevant.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]

- 7) No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by condition 6 shall have been submitted to and approved in writing by the local planning authority. This scheme shall be appropriate to the scale and duration of the works and shall include details of:
- i) induction of staff in awareness of arboricultural matters;

- ii) identification of individuals and their responsibilities;
- iii) statement of delegated powers;
- iv) timing and methods of site visiting and record keeping, including updates;
- v) procedures for dealing with variations and incidents;
- vi) the scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved in writing by the local planning authority.

The scheme of supervision shall be implemented as approved.

- 8) No tree felling, scrub clearance or vegetation management are to take place during the bird breeding season, which is the period 1 March to 31 August inclusive.