



Appeal Decision

Site visit made on 16 May 2023

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 06 July 2023

Appeal Ref: APP/N1920/W/22/3310146

County End Magpie Hall Road Bushey Heath BUSHEY WD23 1NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms Sophie King against the decision of Hertsmere Borough Council.
 - The application Ref 22/0156/FUL, dated 31 January 2022, was refused by notice dated 5 May 2022.
 - The development proposed is Erection of detached, 3-bed dwelling with associated access, parking and landscaping to the rear of existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. My observations indicate that although it is not suggested that the proposed development would require listed building consent, the proposal would lie within the setting of County End, a Grade II listed building and, mindful of the duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Listed Buildings Act) the main issues to be addressed in this matter are:

Main Issues

- Whether the proposed development would cause harm the setting of County End, a designated heritage asset and, if so, notwithstanding the considerable importance and weight to be attached thereto, whether any other consideration would outweigh that harm, and
- The effect of the proposed development on the character and appearance of the area.

Reasons

Listed building

3. County End (the listed building) is a Grade II listed building dating from the eighteenth and subsequent centuries which originally sat within extensive grounds. That setting has been eroded and curtailed by incremental change, the most significant of which, since the date of listing, being the recent development of 'Heathbourne Village' a moderately dense residential redevelopment of 41 houses and flats on land formerly occupied by a nursing

home to the immediate north of County End and the appeal site. County End lies within a curtilage which features a number of trees and screening from adjacent road frontages on its southern side. However, as images provided by the appellant indicate, the removal of trees and other greenery which formerly lay adjacent to the County End northern boundary but within the Heathbourne Village site has irreversibly changed the setting of the listed building such that it is now experienced within the context of a bulky 2½ storey apartment block some 12m from that boundary immediately to the rear of County End and prominently positioned within its setting as experienced from the garden area.

4. Although, altered and extended, the scale, proportions and detailing of County End reflect its origins as a gracious dwelling originally set within spacious gardens, of which no evidence remains. Nevertheless, County End would, but for the recent development on its northern side, have been well related to, and experienced within, the residue of that garden area with limited visual awareness of surrounding development. Although little has changed in the approach view, the garden setting is an important component in the appreciation of the significance of this listed building (notwithstanding its location to the side) and it is to the impact of the proposal on that garden setting to which I now turn.
5. The appellant provides a full and detailed overview of what are considered, by the appellant, to be the impacts what is proposed. Specifically, it is suggested that the principle of partition to create the appeal site has been established by permissions granted (ref: 19/0549/FUL and 20/0599/ADJ); the 'identified permission(s)' such that, by implication, there would be little further reduction in the garden area which provides the setting of County End arising from the appealed proposal. The identified permission(s) provided for a driveway across the appeal site to provide access to a single dwelling north of the appeal site in an area now occupied by 5 dwellings. However, even if the implementation of the approval for 5 dwellings¹ has not, in legal terms, extinguished the identified permission it is plainly apparent that there is no prospect of implementation and in consequence no weight can be attached to the proposition, by way of a fallback argument, that the garden area is already diminished to a similar extent to that which would result from the proposal.
6. Recent development to the north of the listed building has significantly and harmfully altered the setting of County End. To my mind the effect of that change is to substantially increase the sensitivity of the setting of County End to further development which depletes the listed building's garden setting and opportunities to appreciate its historic significance. Notwithstanding the design proposed or the condition and layout of the garden area, the proposal would further reduce and diminish the garden setting, and therefore harmfully impact upon the historic significance of the listed building. I therefore conclude that the proposal would fail to preserve the setting of the designated heritage asset, County End and, having regard to paragraph 199 of the National Planning Policy Framework, that this is a matter to which great weight should be applied.

Character and appearance

7. The appeal site would be accessed from Magpie Hall Road in a location which has been found suitable for a single dwelling. Although this would introduce a

¹ Namely the 5 dwellings under construction at the time of the site visit

gap in the presently well-enclosed frontage, such access points are found in the locality where, generally, larger residential properties sit behind frontage screening and established greenery. The proposal would insert a dwelling of modest scale into an established residential area populated by dwellings of varied appearance in large plots. Whilst I note the comments of the Council as to the limited plot size and spacing around the proposed dwelling, noting the 'lodge' design, I consider that the proposal would not be visually obtrusive since it would be glimpsed from the opening in road frontage and partly screened such that its relationship with boundaries and adjacent dwellings would not be prominently apparent. I consider that what is proposed would have little impact upon the street scene or, therefore, upon the character and appearance of the immediate locality. In consequence, there would be little conflict with the objective set out in SADM3 of the Hertsmere Site Allocations and Development Management Policies Plan 2015 (SADM) which requires windfall development to respect scale, design and pattern of local development.

8. This conclusion, however, does not outweigh the harm I have identified to the setting of County End, to which great weight must be applied, nor does it diminish the significant conflict with Policies SADM29 which requires development to protect, conserve or where possible, enhance, the significance, character and appearance of heritage assets.

Other matters

9. I note the appellant refers to a deficiency of housing land and to the Housing Delivery Test position in Hertsmere. Any prospect of engaging the 'tilted balance' as provided in paragraph 11(d) of the Framework is constrained where the presumption of granting permission is clearly and demonstrably outweighed by adverse impacts when assessed against national policy. In this case I have identified significant harm to the setting of a heritage asset which is an irreplaceable resource²; the conservation of which attracts considerable importance and weight. In these circumstances the delivery of one dwelling would not outweigh the harms I have identified.
10. Consequently, having taken all matters raised into account, my reasoning directs that the proposal would fail to accord with the development plan taken as a whole and that, in consequence, the appeal cannot succeed.

Andrew Boughton

INSPECTOR

² Framework paragraph 189