



Appeal Decisions

Site visit made on 23 October 2023

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2023

Appeal A Ref: APP/L5810/Y/23/3327237

Grove Cottage, 52 Ham Street, Richmond upon Thames, London TW10 7HT

- 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 D Bejan against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 23/1361/LBC, dated 16 May 2023, was refused by notice dated 17 July 2023.
 - The works proposed are described as ground extension, new first floor window, first floor rear extension and associated site landscaping.
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Appeal B Ref: APP/L5810/W/23/3321553

Grove Cottage, 52 Ham Street, Richmond upon Thames, London TW10 7HT

- 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 D Bejan against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 22/3762/HOT, dated 21 December 2022, was refused by notice dated 19 April 2023.
 - The development proposed is ground floor extension, refurbishment of the existing porch, new first floor window, replacement fenestration and associated site landscaping.
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Appeal C Ref: APP/L5810/W/23/3327201

Grove Cottage, 52 Ham Street, Richmond upon Thames, London TW10 7HT

- 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 D Bejan against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 23/1264/HOT, dated 9 May 2023, was refused by notice dated 5 July 2023.
 - The development proposed is described as ground extension, new first floor window and associated site landscaping.
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Appeal D Ref: APP/L5810/W/23/3327220

Grove Cottage, 52 Ham Street, Richmond upon Thames, London TW10 7HT

- 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 D Bejan against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 23/1360/HOT, dated 17 May 2023, was refused by notice dated 10 July 2023.
 - The development proposed is described as ground extension, new first floor window, first floor rear extension and associated site landscaping.
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Appeal A: Decision

1. The appeal is dismissed.

Appeal B: Decision

2. The appeal is dismissed.

Appeal C: Decision

3. The appeal is dismissed.

Appeal D: Decision

4. The appeal is dismissed.

Application for costs

5. An application for costs was made by Mr D Bejan against Richmond upon Thames London Borough Council for Appeal B. This application is the subject of a separate Decision.

Preliminary Matters

6. As set out above there are four appeals on this site. Appeal A concerns the refusal of listed building consent, whilst Appeal B, Appeal C and Appeal D concern the refusal of planning permission. In all cases, the appeal site is the same and I have used a standard address for all four appeals. I have considered each proposal on its individual merits and with regard to the relevant legislation, policy and guidance. However, to avoid duplication I have dealt with the four schemes together, except where otherwise indicated.
7. For Appeal B the description of the proposal on the application form is inaccurate. Consequently, I have used the description contained on the Council's Decision Notice which better describes the proposal.

Main Issues

8. The main issues are:
 - Whether the proposals would preserve a Grade II listed building;
 - The effect of the proposals on the significance of the Ham House Conservation Area;
 - Whether the proposals would be inappropriate development on Metropolitan Open Land, having regard to the relevant development plan policies and the National Planning Policy Framework 2023;
 - The effect of the proposals on the living conditions of nearby occupiers, with particular regard to outlook; and,
 - If the development is inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Grade II listed building

9. Newman House is a 3-storey brick building on the eastern side of Ham Street. It is said to date from the late 18th century and has a central pedimented portico, with steps up to the main entrance. At ground floor level there are two windows on either side of the portico, with five windows across the front elevation at the upper two levels. There is a parapet wall above the cornice, with the top of a

slate roof visible in views from Ham Street, alongside brick chimney stacks on the northern and southern elevations of the building.

10. Newman House is a Grade II listed building¹ and is set back from Ham Street, behind a brick wall some two metres high, and some mature and semi-mature trees and bushes. Much of the front boundary wall is constructed from similar bricks to the main building, and continues north along Ham Street to the appeal building, Grove Cottage.
11. Grove Cottage is a 2-storey, rectangular shaped brick building with a modern tiled, hipped roof containing contemporary ventilation ducts. It contains a contemporary porch by its entrance on the western elevation, with six, timber-framed, brick-arched windows on its southern elevation, three at ground floor level and three smaller ones directly above at first floor level.
12. The building is positioned next to a substantial wall on the northern boundary of the site, which extends to the rear, and to the front where it joins the front boundary wall next to Ham Street. The front boundary wall contains timber gated pedestrian and vehicular access points to Ham Street. The northern elevation of Grove Cottage, above the side boundary wall has been painted a white/cream colour.
13. The garden of Grove Cottage is somewhat overgrown and cluttered at present and is positioned to the front, side and rear of the building. It is separated from the front and side grounds of Newman House by a close boarded timber fence with concrete supports, some 1.5 metres tall, part of which has collapsed. Newman House is located a few metres away to the southeast of Grove Cottage and is readily visible over the contemporary fence from the building and the garden areas.
14. Section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) defines what a *listed building* is and at sub-section (b) states that 'any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall...be treated as part of the building.'
15. I am satisfied from the evidence that the appeal building existed prior to 1 July 1948 within the curtilage of Newman House. Consequently, with reference to s1(5)(b) of the Act, the appeal building, Grove Cottage, is to be treated as part of the Grade II listed building, Newman House.
16. All four appeals propose works to Grove Cottage that require listed building consent. However, only Appeal A concerns the refusal of listed building consent by the Council. In determining that appeal I have had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, consistent with s16(2) of the Act. Furthermore, with regard to Appeals B, C and D, I have also had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, consistent with s66(1) of the Act.
17. In my view the significance of this designated heritage asset, insofar as it relates to these appeals, stems from its historical development and the

¹ List Entry Number 1358097

association between Grove Cottage and Newman House, its location, including its setting, and its design and materials.

18. Reference is made by both main parties to the status of Grove Cottage as a Building of Townscape Merit. However, as set out above, Grove Cottage is also part of a Grade II listed building, and I have considered the effects of the proposals accordingly.
19. The current floorspace for Grove Cottage would exceed the requirements for a 1-bed/1-person dwelling, with reference to the Nationally Described Space Standards 2015 (NDSS). No compelling evidence has been produced to show that the appeal building could not be occupied in this way, and from observations it seems to have been used as a dwelling in the recent past.
20. However, the building would be below the minimum standard for a 1-bed/2-person dwelling over two storeys, and in any event, for all of the appeals the proposals are to create a 2-bed/3-person dwelling, which requires additional space to be created to accord with the NDSS for such a dwelling.
21. For Appeals A, C and D the proposals would entail the construction of a single storey, ground floor extension to the rear and side of Grove Cottage. This would have a flat, green roof with small parapet and would cover an area of some 24sqm. It would be primarily of brick construction, although the front part would be rendered. It would contain a kitchen and dining area with rooflights, and with a separate single bedroom containing windows facing onto a patio area and the remaining garden.
22. The proposed ground floor extensions for Appeals A, C and D would extend past and above the easternmost ground floor window. The central ground floor window would also be removed and replaced with French windows beneath the retained brick archway, opening onto the patio. The extensions would be accessed from a new opening in the eastern elevation, and an enlarged opening by the easternmost window of Grove Cottage.
23. For Appeal B, the ground floor extension would be of a similar design and materials, but would be somewhat larger, extending further along the southern side of Grove Cottage and would cover an area of some 34.5sqm. It would have a different layout including a bathroom and a lightwell to serve a bedroom, all of which would be accessed by a new opening in the eastern elevation.
24. The larger extension would go past and above the existing central and eastern ground floor windows which would be replaced by access/egress points to the extension; the front element, containing much of the kitchen and dining area would be rendered. Glazed sliding doors would open onto a patio area overlooked by the remaining ground floor window.
25. For Appeals A and D, a first floor extension would be constructed at the rear on the eastern elevation of Grove Cottage, above part of the ground floor extension. This would contain a bathroom and would be clad in zinc, with a small window to the south. It would be set-in short distances from the sides of the host building and from the rear. It would have an angled roof slope, and would be accessed by a new opening in the eastern elevation of the building.
26. All of the Appeal proposals would include a new brick arched timber window, to match the existing, which would be inserted into the front elevation directly

above the porch, which would be refurbished. The new window would provide additional light to the main bedroom. The staircase would remain in its current position and the remaining windows would be replaced to match, with new timber framed windows beneath the brick arches. The proposal for appeal C would include a first floor bathroom, whilst for Appeal B this would be a small study area.

27. For all the proposals, a new trellis-topped fence would be constructed on the boundary with Newman House, with pleached trees planted to provide further screening along part of the boundary. Further pleached trees would be planted on the northern boundary by entrance pathway, alongside a lawn, whilst an area of hardstanding for a vehicle would be provided by the access gates in the front boundary wall.
28. The proposals for Appeals A and D would entail replacing the modern rooftiles with handmade clay tiles and reinstating the missing brick chimney stack. However, this would not be done as part of the proposals for Appeals B and C.
29. The appellant's Statements of Case for Appeal A, Appeal C and Appeal D include repeated references to a *Newland(s) House*, which is nowhere in the vicinity of the appeal site, in addition to *Newman House*. Furthermore, I am not satisfied that the submitted evidence adequately assesses the features of special architectural or historic interest, which contribute to the significance of Grove Cottage/Newman House as a designated heritage asset. This includes the historical relationship between the buildings; the architectural features of Grove Cottage, including the provenance of the design of the existing windows; evidence to support the use of clay roof tiles; and the design and materials for the proposed reinstatement of the chimney stack for Appeal A and Appeal D.
30. Additionally, the submitted drawings do not adequately show all of the current architectural features, including the six windows in the southern elevation. A similarly limited level of detail is provided with regard to the proposals. With reference to the windows for example, where new windows are to be installed to match the existing, detailed, annotated, existing and proposed plan, elevation and section drawings, of windows and openings, would be expected.
31. Nevertheless, from the evidence, the insertion of a new first floor window, the proposed ground floor extensions and the proposed first floor extension, would be visually incongruous and would detract from special architectural and historical features of the building, including its design, the brickwork and the windows/openings.
32. The size and position of the first floor extension means it would be visible in views from Ham Street to the south and particularly from Sandy Lane, in a gap between existing buildings. Together with the proposed materials, this would make it an alien feature that would detract from Grove Cottage and the setting of Newman House, when viewed from Sandy Lane.
33. The insertion of a new window above the entrance porch would also be an obtrusive change to the front elevation, the rationale for which is not obvious, given it would serve a bedroom which already has two windows. The total/partial loss of two of the six existing windows on the southern elevation due to the size and position of the extensions would also significantly detract from the historical character and appearance of Grove Cottage, and the setting of Newman House.

34. The proposed ground floor extensions would be partly screened in views from Ham Street by the front boundary wall of Grove Cottage/Newman House. Nevertheless, the top parts of the proposals would be visible from the western footpath on Ham Street. The scale and massing of the proposed extensions would be disproportionately large on what is a modestly sized building. The rendered elements of the ground floor extensions would also be visually obtrusive, and would have an adverse effect on Grove Cottage and the setting of Newman House.
35. I note that the conversion of the building to a 2-bed/3-person dwelling is said to be necessary for the appellant and their family to live there. The proposed extensions would improve the functionality of Grove Cottage for a larger number of occupants, and have been designed as clearly distinct additions to the original building.
36. However, the scale, massing, design, materials and position of each of the appeal proposals would fail to preserve Grove Cottage, part of a Grade II listed building, and would also detract from the setting of the Grade II listed Newman House, causing less than substantial harm. The scale of harm between Appeals A/D, B and C would be different, but in each case less than substantial.
37. I note the appellant's comments on what they consider to be the public benefits of the proposal, most of which are private benefits. Restoring original features of historical or architectural significance to a listed building would be a public benefit. However, as referenced above, there is very little substantive evidence to demonstrate that the proposed rooftiles and reinstated chimney stack would be appropriate on the appeal building, and very limited drawn information regarding the restoration works has been provided.
38. The appeal building is currently vacant. However, from the evidence it has previously been used as a dwelling house and it has not been demonstrated that the current layout is not its optimum viable use. Environmental benefits from the design of the building and the landscaping are referenced, but are not substantiated. There would be some limited economic benefits from the construction works, and social benefits, including bringing a vacant building back into use. However, the public benefits do not outweigh the less than substantial harm to the significance of a designated heritage asset that I have found.
39. For these reasons, the proposals would fail to preserve Grove Cottage, part of a Grade II listed building, and would detract from the setting of the Grade II listed Newman House, causing less than substantial harm. This harm would not be outweighed by public benefits. Consequently, insofar as relevant, the proposal would conflict with Policy HC1 (heritage conservation and growth) of the London Plan 2021² (LP); with Policies LP1 (local character and design quality), LP3 (designated heritage assets) and LP4 (non-designated heritage assets) of the Richmond upon Thames Local Plan 2018 (RUTLP); with Policy C2 of the Ham and Petersham Neighbourhood Plan 2018-2033 (HPNP); and, with the National Planning Policy Framework 2023 (the Framework), in this regard. I can find no conflict with Policy G7 (trees and woodlands) of the LP and Policies 28, 29 and 30 of the emerging Local Plan are not in the evidence before me.

² Spatial Development Strategy for Greater London 2021

Ham House Conservation Area

40. The appeal building, Grove Cottage, and nearby Newman House are both located within the Ham House Conservation Area (HHCA). During my site visit I considered the HHCA, with reference to the annotated map and description provided by the Council.
41. Ham House is a Grade I listed³, 3-storey brick mansion said to date from the 17th century and which is located some 500 metres to the north of Newman House. The building is set within extensive landscaped grounds, which are listed as a Grade II* park and garden⁴ and which are historically and functionally linked to other open land in the area, including via a series of tree-lined *avenues*, to the east and south.
42. In my view, the significance of the HHCA as a designated heritage asset, insofar as it relates to these appeals, stems from its location and historical pattern of development. The buildings to be found along Ham Street, including in the vicinity of the appeal site, with the semi-rural spaces and woodland beyond, make a particular contribution.
43. As set out above, I have found that the proposals would fail to preserve Grove Cottage, part of a Grade II listed building, and the setting of the Grade II listed Newman House, which make positive visual and historical contributions to the character and appearance of the HHCA. The proposals would, therefore, detract from the character and appearance of the HHCA causing less than substantial harm to this designated heritage asset.
44. Again, as set out above, the very limited public benefits of these proposals would not outweigh the harm caused to the listed building or the harm that would be caused to the HHCA.
45. For these reasons, the proposal would cause less than substantial harm to the significance of the HHCA that would not be outweighed by public benefits. Consequently, insofar as relevant, the proposal would conflict with Policy HC1 of the LP; with Policies LP1, LP3 and LP4 of the RUTLP and Policy C2 of the HPNP, and with the Framework, in this regard. I can find no conflict with Policy G7 of the LP and Policies 28, 29 and 30 of the emerging Local Plan are not in the evidence before me.

Inappropriate development on Metropolitan Open Land

46. Part of the appeal site, including Grove Cottage itself and the land to the rear and side of the building where the proposed extensions would be located, is within designated Metropolitan Open Land (MOL).
47. Policy G3 (metropolitan open land) of the LP states that MOL is afforded the same status and level of protection as Green Belt, and amongst other things, should be protected from inappropriate development in accordance with national planning policy tests that apply to the Green Belt. Policy G3 is consistent with the Framework and I give it full weight.
48. Policy LP13 (green belt, metropolitan open land and local green space) of the RUTLP predates Policy G3 and whilst it is not fully consistent with the

³ List Entry Number 1080832

⁴ List Entry Number 1000282

Framework with regard to inappropriate development in the Green Belt, I still give it substantial weight.

49. The construction of new buildings should be regarded as inappropriate in the Green Belt, and so on MOL, subject to certain exceptions⁵. The appellant's evidence is confused with regard to these exceptions, with reference made to paragraphs 149a), c), e) and g) of the Framework.
50. Paragraph 149a) concerns buildings for agriculture or forestry and is clearly not relevant in this case. Paragraph 149e) concerns limited infilling in villages and is referenced in the appellant's statements for Appeal C and Appeal D. However, in those statements the appellant indicates that it does not apply to either appeal⁶, despite subsequently referencing it under openness and MOL Harm in their Statement. This is not helpful, but from the evidence, I do not consider the appellant intended to include reference to Paragraph 149e) to support their case, and in any event, I do not consider it is relevant to these appeals.
51. However, paragraph 149g) of the Framework is also referenced in the appellant's statements for Appeal C and Appeal D and does apply. It states that limited infilling...which would not have a greater impact on the openness of the Green Belt, and so of MOL, than the existing development would not be inappropriate development. Openness is one of the essential characteristics of the Green Belt and so of MOL.
52. Paragraph 149c) of the Framework also applies and states that the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building, is not inappropriate development. No further assessment of openness is needed for paragraph 149c).
53. The original building is two storeys in height with a hipped roof, and occupies a footprint of some 35 sqm, including a front porch. The proposed ground floor extensions for Appeal B and Appeal C would enlarge the footprint of Grove Cottage by some 34.5sqm and 24sqm, respectively. For Appeal D, a first floor rear extension of some 6sqm is also proposed on top of the ground floor extension of some 24sqm. The height of the ground floor extensions would be some 2.8 metres and the height of the first floor extension would be some 2 metres on top of that.
54. The proposed extensions would, therefore, result in a very substantial increase in the scale and massing of the building, with its footprint increased by some 69% (Appeal C), some 86% (Appeal D), and some 99% (Appeal B).
55. Whilst the various metrics are not determinative in themselves, in my view, the scale and massing of each of the proposed extensions would mean they were disproportionate additions over and above the size of the original building. Consequently, the criterion for the exception to inappropriate development at paragraph 149c) is not met.
56. Furthermore, the increase in the scale and massing of the appeal building from the extensions would mean a significant reduction in the spatial openness of the MOL. In views from Sandy Lane in particular, the first floor rear extension would be visible in a gap between buildings, whilst the ground floor extensions

⁵ Including those listed at Paragraph 149 of the Framework.

⁶ Appeal C Statement Paragraph 3.15. Appeal D Statement Paragraph 3.28.

would also be visible above the boundary wall by Ham Street. This would thereby reduce the visual openness of the MOL to some extent. The proposals would, therefore, not meet the criteria for the exception to inappropriate development at paragraph 149g) of the Framework.

57. For these reasons, the proposals would be inappropriate development on MOL. Consequently, they would conflict with Policy G3 of the LP and Policy LP13 of the RUTLP, and with the Framework, in this regard.

Living conditions - Outlook

58. The appeal site is next to Grey Court Stables, which is located to the northeast of Grove Cottage, and is said to be a building previously within the curtilage of Newman House that has now been converted to a residential use. There is a ground floor window in the central part of the southern elevation of the building, with a smaller window, closer to the boundary with Grove Cottage, at first floor level, which overlook a private amenity space.
59. The current boundary between Grove Cottage and Grey Court Stables is marked by a close-boarded timber fence with a trellis top which is some two metres in height; an Ivy plant has grown up to the top of the trellis. The proposed ground floor extensions would be flat roofed, some 2.8 metres tall, and would replace the boundary fence between the properties. For Appeal D⁷ there would be an angled roofed, first floor extension, set back from the boundary with Grey Court Stables, and set in from the southern elevation of Grove Cottage.
60. The appellant has provided a Daylight and Sunlight Assessment of the effects of the proposal which concludes there would be very limited impact on the occupiers of Grey Court Stables. There is no compelling evidence that would cause me to dispute these findings.
61. The proposals would adversely affect the outlook from the two windows in the southern elevation of Grey Court Stables. However, the design, size and position of the proposed extensions means this would not result in a significant reduction in outlook in this case.
62. For these reasons, the proposals for Appeal D would not cause unacceptable harm to the living conditions of nearby occupiers, with particular regard to outlook. They would, therefore, not conflict with Policy LP8 (amenity and living conditions) of the RUTLP, and with the Framework, in this regard.

Other Considerations

63. Inappropriate development is, by definition, harmful to the Green Belt, and so to MOL, and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt, and so to MOL, and 'very special circumstances' will not exist unless the potential harm by reasons of inappropriateness, and any other harm, is clearly outweighed by other considerations.
64. The construction of any of the appeal proposals and the subsequent occupation would result in some economic benefits to the local economy. There would also be social benefits of refurbishing and bringing back to use a currently vacant residential building. Environmental benefits from the design of the building and

⁷ This is the same proposal as for the listed building consent Appeal A.

the landscaping are referenced, but are not substantiated. Even if I were to accept the stated environmental benefits, alongside the economic and social, the small scale of the proposals means that these would attract only limited weight in their favour.

65. The appellant does not consider the appeal site meets any of the MOL functions contained in Policy G3 of the LP and questions whether the land at the corner of Sandy Lane and Ham Street, including the appeal site, should be designated as MOL. However, Policy G3-B-2) of the LP includes reference to historic features of national value. Grove Cottage is a part of the Grade II listed building, Newman House. Listed buildings are nationally designated features almost invariably with historic value, and I see no conflict with the appeal site being included within MOL.
66. In any event, alterations to the boundary of MOL is not a matter before me. As Policy G3-C of the LP makes clear, this would be a matter for a review of the local plan. The appeal building, and much of the appeal site, is within MOL and I have assessed its effects accordingly, as set out above. Whether the MOL containing most of the appeal site should be designated as such carries no weight in my decision.
67. The appellant also makes reference to the five purposes of Green Belt land at paragraph 138 of the Framework, and considers that the appeal site does not meet these purposes. However the appeal site is not within the Green Belt, it is within MOL, the purposes of which are different. Even if I were to accept the appellant's points, this matter would carry no weight in my decision.
68. The views of the appellant or the Council with regard to the acceptability or otherwise of different elements of the proposals have no bearing on my assessment, and carry no weight in my decision.
69. I have found that the proposals for Appeal D would not cause unacceptable harm to nearby occupiers. However, this would be expected of any proposal and so carries neutral weight.
70. I have found that the proposals would fail to preserve Grove Cottage, part of a Grade II listed building, would adversely affect the setting of the Grade II listed Newman House, and would detract from the character and appearance of the HHCA. These matters carry substantial weight against the proposals.
71. For these reasons I find that the other considerations in this case, as set out above, do not clearly outweigh the totality of the harm to MOL that I have identified, and any other harm. Consequently, the very special circumstances necessary to justify the proposed development do not exist. The proposed development would therefore conflict with Policy G3 of the LP, Policy LP13 of the RUTLP and with Paragraph 149c) and 149g) of the Framework.

Conclusion

72. Notwithstanding the acceptable effect on the living conditions of nearby occupiers, the harm caused to designated heritage assets and to MOL would outweigh this. For the reasons given above, I conclude that Appeal A, Appeal B, Appeal C and Appeal D are dismissed.

Andrew Parkin

INSPECTOR