



Appeal Decisions

Site visit made on 1 August 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal A

Appeal Ref: APP/A5840/W/22/3313720

Tappen House, Dulwich Common, London SE21 7ES

- 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 Sanjay and Anjula Newatia against the decision of the Council of the London Borough of Southwark.
 - The application Ref 22/AP/1299, dated 8 April 2022, was refused by notice dated 25 November 2022.
 - The development proposed is a new orangery and greenhouse, first floor side extension to existing wings, loft conversion, reconstruction and extension of existing garden to form new gym and lower ground floor extension to form a new swimming pool.
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Appeal B

Appeal Ref: APP/A5840/Y/22/3313738

Tappen House Dulwich Common, London SE21 7ES

- 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 Sanjay and Anjula Newatia against the decision of the Council of the London Borough of Southwark.
 - The application Ref 22/AP/1300, dated 8 April 2022, was refused by notice dated 25 November 2022.
 - The works proposed are a new orangery and greenhouse, first floor side extension to existing wings, loft conversion, reconstruction and extension of existing garden to form new gym and lower ground floor extension to form a new swimming pool.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Preliminary and Procedural Matters

3. Tappen House is a Grade II listed building which lies within the Dulwich Village Conservation Area (“the DVCA”). I have therefore had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Act”).
4. For most of its existence, Tappen House has been known as “Glenlea”; this is the primary name by which the building is referred to in the official list entry¹. Glenlea was also used on the original planning and listed building consent application forms², though the address was given as “Tappen House” on the

¹ List entry number 1385471

² Albeit that it was misspelt as “Glenea” on the application forms.

appeal forms, and I have used that name throughout my decision, including in the banner headings above, for consistency with its more recent usage by the main parties.

5. The appellants included revised drawings as part of the appeal submissions. These made a number of amendments to the scheme, in particular omitting the proposed greenhouse, and altering details of the proposed orangery (notably, slightly reducing its height by the omission of a barrel-vaulted lead roof, changing the external finish from Portland stone to white stucco, and changing the door openings). Although these drawings had had been submitted to the Council on 11 August 2022 (and considered by them between then and 14 September 2022), it determined the applications on the basis of the original drawings.
6. In deciding whether to accept these revised plans, I have considered the “Wheatcroft principles”³ and whether any prejudice would occur. The scope of the amendments is relatively limited, as they are not intended to address all of the Council’s concerns about the scheme. The appellants have stated that they notified interested parties about the revised drawings (although the letter referred to in their appeal statement was not provided to me), and I note also that the Council does not object to the appeals being determined based on the amended scheme. Taking all this together, I am satisfied that no prejudice would occur should I accept the amended drawings, and I have determined the appeals on the basis of the revised plans.
7. The Government published revised versions of the National Planning Policy Framework (“the Framework”) on 5 September 2023, replacing the July 2021 version extant at the time the applications were determined, and again on 19 December 2023. The amendments made did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering is that of the December 2023 version.

Main Issue

8. The main issues in both appeals are whether the proposal would preserve the Grade II listed Tappen House, or any features of special architectural or historic interest that it possesses, and whether the proposal would preserve or enhance the character or appearance of the DVCA.

Reasons

Significance and special interest

9. Tappen House is a substantial detached house in a prominent position on the South Circular Road, which was listed in September 1972. It comprises the original Georgian villa – a two-storey central section with partial basement, designed by George Tappen, the surveyor for Dulwich College, and built for Charles Druce, the college’s legal advisor – with later extensions on both sides. The original villa was constructed between 1804 and 1808; the west wing was developed in two phases during the mid- and late-19th century, while the east wing, which incorporates a remodelled original stable block, was completed as recently as 2009.

³ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

10. The imposing front elevation is five bays wide, with a battlemented parapet over a moulded cornice and a plain frieze. The central three bays project forward to an Ionic tetrastyle portico, which it is suggested was rebuilt following bomb damage during the second world war. The later side wings are set slightly behind the main front elevation which, along with their lower height, ensures that they are subservient to the original building. Views of Tappen House from the South Circular Road are partly obscured by the boundary wall and planting (including trees) within the front garden, but most of the frontage can be seen from the opposite footway, and fuller views are available through gates and a railing opening in the front wall. The front of the building presents a grand public face in which the form, period and style of the house are clearly discernible.
11. The rear elevation is in clear contrast to the polite front façade, as it is less formal and more functional in character. However, it presents a neat and elegant face to the very generous rear garden, which has a large central lawn surrounded by areas of landscaping and mature planting. A terrace, aligned with the central three bays of the house, is accessed from the ground floor living room and dining room by three sets of French doors, providing a visual and functional connection between the original villa and its gardens. Although the scale of the side wing extensions is more apparent at the rear, in scale and form they remain subservient to the original core of the building. The extensions and alterations which have been made mean that neither the front or rear elevations have the symmetry of form or fenestration which might be expected of a “typical” Georgian property, but it remains an orderly and clearly legible example of the type.
12. It is apparent that the interior of the building, which is not described in the official listing, has been altered over the years, though the main parties agree that the entrance hall and the main staircase to the first floor are likely to be original features. The principal rooms within the ground floor of the original villa retain a scale and quality which reflects its high-status origins. The rather more convoluted layout of the first-floor bedrooms appears not to be original; it is suggested that the configuration may date from the late 19th century to meet the needs of the large family then living there, or was possibly put in place during the latter part of the second world war when the house was leased to the government of the Netherlands and used to accommodate and train Dutch secret agents (a role commemorated by a discreet plaque close to the front door).
13. The DVCA was first designated in 1968, and subsequently extended in 1971 and 2005. The key townscape characteristic of the Conservation Area is the relationship between the north-south medieval route through Dulwich Village, and the houses and secondary roads that run from it. The initial framework for the area was laid out by Edward Alleyn, the founder of Dulwich College, in the 17th century. It contains substantial Georgian houses (including the appeal property) and fine Victorian and Edwardian terraces, which sit comfortably alongside 1930s family homes and pockets of more recent development. There are also fine Georgian and Victorian institutional buildings, including of course those of the College. The DVCA also has a strong sense of openness, as a consequence of its numerous playing fields, parks, tree-lined roads and large gardens, giving it a very pleasant verdant appearance and spacious character.

14. Based on my observations and all the evidence before me, I consider that the special interest and significance of the listed building insofar as it relates to this appeal is largely derived from its age (it being one of the earliest surviving houses in the area), the composition of its façades, its high-quality architectural features, the distinction between its polite and functional elements, and its associations with Charles Druce and George Tappen as their first residential project in Dulwich.
15. Tappen House is experienced from the South Circular Road, and from within its generous front and rear gardens. While these grounds have been reduced by adjacent development, given their generous size they emphasise the grand and aspirational design of this listed building. This is demonstrated by the strong relationship between the house and its garden, which can be seen in the clear visual and spatial links between the “high status” ground floor living rooms and the rear terrace and gardens. Furthermore, the composition of the rear facade can be experienced from the rear garden area. In these respects, the setting provided by the garden areas makes a positive contribution to the significance of the listed building.
16. Notwithstanding that the house has been altered internally and externally over its long existence, the Georgian form and historic role of Tappen House as a large family dwelling is clearly legible from the public realm. The building’s architectural quality and the spaciousness of its gardens also means that the house makes a very positive contribution to the character and appearance of the DVCA and the wider townscape.

Proposal and effects

17. There are several elements to the proposed scheme. The existing loft space of the original Georgian villa would be converted to create a new studio space, bedroom and storage rooms. This would require the roof to be raised, with a ridge height around 750mm higher than at present, and it would have a flat top incorporating two rooflights. Three zinc-clad dormers would be added to the rear of the building, aligned with the window openings below.
18. The alterations at roof level would fully retain the existing parapet. While the current roof is partly visible above the front parapet, its low pitch means that it is not a prominent feature. Raising the ridge height would increase the mass of the building at roof level, making the roof a more prominent feature when seen from the South Circular Road. At the rear of the house, where the central section of the existing parapet is lower than at the front, the three dormers would draw the eye and highlight the alterations at roof level. While the appellants have pointed out that the rear dormers would not be visible from the public realm, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building are possible. While I saw that some other buildings within the DVCA do have dormers, I am not aware that any are on houses of similar low-pitch roof with parapet design to Tappen House. There is also no evidence before me to suggest that Tappen House itself has ever had dormers.
19. Both the increased bulk of the roof itself, arising from the additional height and massing, and the addition of the rear dormers, would erode the architectural quality of, and visually compete with, the composition of the façades. Although I note the appellants’ comment that “the existing roof structure will be retained where possible”, there is little evidence before me to indicate whether

structural intervention or removal of part or all of the existing roof would be required to facilitate the proposal. Nevertheless, in my experience it is more likely than not that the proposal would lead to the loss of part of its historic fabric. While it may well be that the existing roof and chimneys are in need of restoration and repair, this does not in itself amount to a justification for the extent of the roof alterations proposed.

20. There have been a number of historic and modern extensions into the rear garden area, although these are to the sides of the main rear elevation. The alterations to part of the fenestration on the rear elevation have eroded its symmetry, but nevertheless the overall rhythm that forms part of the architectural composition of the rear façade is still clearly discernible. The proposed orangery would be subordinate in size compared to the overall size of Tappen House, and as amended would reflect the materials and architectural detailing of the house. Nevertheless, it would be a substantial addition to the rear of the building. It would be connected to the main dwelling by a glass link section, which would provide a modest degree of visual separation and distinction between old and new in angled views. However, rather than enhancing what the appellants describe as “a bland garden elevation”, the size and siting of the orangery would result in it dominating the rear façade when viewed from the rear garden. Moreover, even though the upper floors of the rear elevation would still be visible, the orangery would further erode the inherent rhythm of this part of the listed building’s rear elevation. This would materially diminish the aesthetic value that this part of the rear elevation makes to the architectural composition of this façade and the contribution it provides to the special interest and significance of the listed building.
21. Views from the existing principal ground floor living rooms through the orangery into the garden would still be possible. The use and form of the space as a formal dining room however, as well as the furniture within the space, would diminish the direct spatial and visual connection between the original house and the large landscaped gardens. As such, in this respect the proposal would have an adverse impact on the ability to appreciate the listed building's special interest and significance.
22. The proposal includes the excavation of a basement under the orangery and reconfigured terrace to accommodate a swimming pool. The submitted basement impact assessment states that with the clay substrate water will cause volumetric change to the ground allowing it to swell and shrink. It goes on to indicate that underpinning the rear wall of Tappen House would decrease the risk of subsidence. However, it also states that the report is not for construction purposes, and that further information and design would be necessary. No additional information along these lines is before me, and it is therefore not clear as to the exact nature or design of the underpinning works. I therefore do not consider that it has been demonstrated that this part of the proposal would preserve the special interest or significance of the listed building.
23. The increased prominence and mass of the main roof, the potential loss of some original or historic fabric, the intrusion of the orangery into the rear garden, and the potential for physical damage stemming from excavations or underpinning, mean that the proposal would fail to preserve the special interest and significance of the listed building. It would also cause some harm to the

DVCA, Tappen House and its garden being an important contributor to its special character and significance.

24. The proposed gym at the north-west corner of the ground floor would replace (on a slightly larger footprint) an existing non-original brick and timber outbuilding and store room. First-floor extensions to the existing east and west wings would be modest in size, set back from and subservient to the main front elevation of the house. These elements are also similar in design to extensions previously granted planning permission and listed building consent in 2017⁴ but which have not subsequently been implemented. The Council considered that these elements of the scheme would not have an adverse effect on the listed building and, based on all the evidence before me and my observations on site, I agree. That the proposal would be acceptable in these respects would not, however, mitigate or outweigh the other harm which I have found.

Public benefits and balance

25. Drawing all of the above points together, it is clear to me that the scheme would lead to an erosion of the historic form and legibility of Tappen House, as well as the potential loss of some original or historic fabric. I therefore find that the proposal would fail to preserve the special interest and significance of the listed building. The proposal would also fail to preserve or enhance the character or appearance of the DVCA. The significance of the designated heritage assets would be harmed, contrary to the requirements of sections 16(2) and 72(1) of the Act.
26. The Framework requires great weight be given to the conservation of a heritage asset when considering the impact of a proposal. Paragraphs 207 and 208 of the Framework require the decision-maker, having identified harm to the designated heritage asset, to consider the magnitude of that harm. In this case, I consider the degree of harm would be less than substantial when considered in the context of the significance of the assets as a whole. In such circumstances, any harm should be weighed against any public benefits of the proposal, including securing the optimum viable use of the building.
27. Tappen House is occupied as a single dwelling by the appellants and their family. There is nothing before me to suggest either that the optimal viable use of the building is anything other than a single private dwelling, or that this would be at risk without the proposal in these appeals going ahead.
28. The appellants have stated that some of the works (to the main roof in particular, but also including the use of double glazing, passive ventilation, and low-energy lighting) would allow the thermal performance of the building to be updated to modern sustainability standards. Notwithstanding that no substantive evidence has been submitted in this respect, a significant reduction in greenhouse gas emissions would be likely to be an appreciable public benefit. The scheme would also facilitate the refurbishment of chimneys and the reintroduction of joinery and period cornicing; again, I have not been provided with very much detail on these matters, but they would amount to a moderate heritage benefit. Beyond this, however, the proposal appears to be largely a reflection of the appellants' preferences, and the benefits of the scheme would therefore largely be private ones. In giving considerable importance and weight to the identified harm to the significance of the

⁴ LPA Refs: 17/AP/1720 and 17/AP/1721

designated heritage assets of Tappen House and the DVCA, I find that this would not be outweighed by the public benefits arising from the proposal.

29. My attention has been drawn to cases where planning permission has been granted for what the appellants consider to be comparable consents elsewhere within the DVCA. I have not been provided with full details of those other schemes, but although their scope is varied (including some apparently quite substantial extensions) it is notable that the only one which relates to a listed building, Old Blew House⁵, is for what on the face of it appear to be some rather limited interventions in respect of replacing an existing conservatory and removing some internal masonry⁶. None of these other cases appears directly comparable to, or adds significant weight in favour of, the proposal before me in these appeals.
30. I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed Tappen House, and the character and appearance of the Dulwich Village Conservation Area, thus failing to satisfy the requirements of the Act and paragraph 203 of the Framework. There would also be conflict with Policies P13, P14, P19 and P20 of the 2022 Southwark Plan, and with Policy HC1 of the London Plan 2021; together, and among other things, these policies seek to ensure that development conserves and enhance the significance of the local historic environment, including listed buildings and conservation areas. As a result of this conflict, the proposal would not be in accordance with the development plan.

Conclusion

31. For the above reasons, and having regard to all other matters raised, I conclude that the appeals should be dismissed.

M Cryan

Inspector

⁵ "The Orchard" (LPA Ref: 02/AP/0408) is first described in the submitted heritage statement as "unlisted", and there is nothing before me to suggest that the description of it later in the same document as a listed building is not simply an error.

⁶ LPA Ref: 14/AP/1422