



## Appeal Decision

Site visit made on 9 January 2024

by **Sarah Manchester BSc MSc PhD MIEnvSc**

an Inspector appointed by the Secretary of State

**Decision date: 15 March 2024**

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**Appeal Ref: APP/V2723/W/23/3323943**

**Cloister House, Brough Park, Richmondshire DL10 7PJ**

- 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 Mrs Irina Iosip against the decision of Richmondshire District Council.
  - The application Ref 22/00759/FULL, dated 3 November 2022, was refused by notice dated 16 December 2022.
  - The development proposed is described as "land engineering works within the curtilage of the Listed Building (Grade-1) (Retrospective)".
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. As the appeal relates to a listed building I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The revised National Planning Policy Framework (the Framework) was published on 20 December 2023. This is a material consideration in the determination of this appeal. However, as the revisions are not directly relevant to the main issue in the appeal, I am satisfied that the interests of the main parties would not be prejudiced by this change.
4. The development has already been carried out. At the time of my visit, I observed that the submitted plans reflect the development. Therefore, I have determined the appeal on the basis that planning permission is sought for the retention of the development that has been implemented.
5. The planning application was not advertised in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015. However, the necessary notifications have now been carried out and copies of the site notice and press notice notifications have been provided. Therefore, I am satisfied that the requirements of the Order have been met and the interests of third parties would not be prejudiced by my determination of this appeal.

### Main Issue

6. The main issue is whether the proposal would preserve the setting of a Grade I listed building "Brough Hall" (Ref: 1318301) (the LB) and any of the features of special architectural or historic interest that it possesses.

## Reasons

7. Cloister House comprises part of the east wing of the LB, and it is one of 10 dwellings created from the late 20<sup>th</sup> century subdivision of the heritage asset. The LB was built in the 15<sup>th</sup> century and it is an imposing country house set in generous landscaped grounds. The open parkland, with managed grassland and scattered trees, allows the grand north and east elevations to be viewed on the formal carriageway approach to the LB as well as elsewhere from within the lawned grounds that surround the building. Consequently, I find that the open parkland and sweeping lawns, which comprise its setting, contribute positively to the special interest of the LB as a fine country house built for a notable family.
8. The development is a rectangular gravelled area, over 3m wide and nearly 12m long. It is sunk below ground level, with a long, low gabion stone retaining wall on the side closest to the LB and, elsewhere, rough grass slopes that rise to meet the elevated embankment that separates it from the wider grounds.
9. The development replaced a former garden that included a koi pond with paving, a water feature, raised beds and planting. However, the pond was created sometime after 2009 and it was not an original or historically authentic feature of the grounds. The aerial photographs from 2002 and 2009 appear to show an area of planting adjacent to the east elevation of the LB, possibly with a path leading from the driveway to the north. This would be consistent with the existing stone steps and the short length of stepping-stone path between the driveway and the appeal site. However, there is little evidence that excavated areas or earth embankments were a feature of the historic grounds.
10. The earth embankment and sunken feature are inauthentic and interrupt what would historically have been an area of relatively even topography, most likely laid to lawn and blending seamlessly with the surrounding open grassland. There is no historic precedent for the development.
11. The sunken gravelled area and low retaining wall are screened from long range views by the earth embankment. However, the embankment itself is a discordant feature that interrupts the smooth flow of the lawn around the LB. In close views, including from the driveway, the development is visually obtrusive. Moreover, it does not constitute high quality design such as would be expected in the designed parkland setting of a historic country house. The sunken gravelled area and retaining wall are wholly incongruous in the surrounding lawned context. Irrespective of its relatively small scale, the development significantly erodes the well-preserved historic setting of the LB and thus harms its special architectural and historic interest.
12. The third party representations point out that the embankment and sunken seating area screen the appellant's garden furniture from views, thereby rendering it less obtrusive in views of the LB. While that may be so, residential paraphernalia is temporary and, in that regard, there were no tables or chairs in the appellant's garden at the time of my visit. In contrast, the development is proposed as a permanent feature of the landscape grounds.
13. My attention has also been drawn to ha-has, such as may be a feature of historic designed landscapes. However, even if a ha-ha was historically authentic in this location, the development is a discrete sunken gravelled area

rather than a deep, dry ditch boundary feature. Markedly dissimilar landscape features elsewhere do not provide a justification for the scheme.

14. Paragraph 205 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 the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that any such harm should have a clear and convincing justification. Given the nature and scale of the development, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. In these circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
15. The appellant is of the opinion that the development is beneficial as it replaces the former koi pond and water feature and reinstates views of the LB with maintained grassland. The removal of the unauthorised former garden development could be considered a public benefit. However, as the historic ground levels have not been reinstated, any benefit in this regard would be clearly outweighed by the visual harm and loss of historic authenticity that I have found. In any case, the removal of the pond, raised beds and paved areas could be achieved without the ground remodelling, retaining wall, embankment and importation of gravel. While I understand the appellant's desire for a greater degree of privacy in her garden, this is a private benefit. There are no public benefits sufficient to outweigh the harm that I have identified.
16. Given the above, I conclude that, on balance, the development fails to preserve the setting and thereby the special interest of the Grade I listed building. It fails to satisfy the requirements of the Act, paragraph 205 of the Framework and conflict with policies CP3, CP12 and CP13 of the Richmondshire Local Plan 2012-2028 Core Strategy Adopted December 2014. The policies seek, among other things, to secure high quality design and development that is visually attractive and respects and enhances the special qualities of the local area including the historic environment; that promotes the character and quality of local landscapes and historic features of acknowledged importance; and conserves and where appropriate enhances the significance of heritage assets. As a result, the development is not in accordance with the development plan.

### **Other Matters**

17. The appellant considers that the development is in keeping with the style of neighbours' gardens. Be that as it may, the open sweeping lawns on the formal approaches to the LB have not been visually or physically subdivided. Gardens unobtrusively sited away from the principal elevations do not provide a visual context or a justification for the scheme.
18. I accept that the development would be less expensive to maintain than a koi pond with a water fountain and pump. However, the evidence indicates that the pond had already been infilled when the appellant bought the property. In any case, the pond was unauthorised, and its removal was not reliant on the creation of the development. The former pond does not provide a justification for the appeal scheme.
19. Third party representations have been received in relation to the planning application and the appeal, both supporting and objecting to the development.

While I have taken into account the views of interested parties, these do not alter my findings in relation to the harm to the listed building.

20. I note concerns relating to communication with the Council, and the lack of a site visit before the application was determined. However, these are not matters for the appeal and they do not have a bearing on the planning merits.

**Conclusion**

21. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

*Sarah Manchester*

INSPECTOR