The Planning Inspectorate

Appeal Decision

Site visit made on 5 March 2025

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State

Decision date: 9th April 2025

Appeal Ref: APP/C3620/W/24/3345633
High Bank, Mill Hill Lane, Brockham RH3 7LS

- 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 & Mrs Martin and June Higgins and Baldwin against the decision of Mole Valley District Council.
- The application Ref.MO/2024/0170/PLA, dated 29 January 2024, was refused by notice dated 28 March 2024.
- The development is a proposed new cottage in the curtilage of a listed building.

Preliminary Matters

1. High Bank was built in 1966-1967 to strongly modernist designs by architects John and Beryl Higgins for themselves and their young family. It was listed at Grade II in April 2023. In parallel with this appeal, I am determining another[1], under s.20 of the Planning (Listed Buildings and Conservation Areas) Act 1990, that relates to works proposed to the listed building. As the two appeals are unconnected, I have dealt with them separately.

2. The appellant submitted revised drawings in the course of making the appeal which together remove a first floor window originally proposed in the north elevation (drawings 04A and 03A), correct a contradiction between plan and east elevation (drawing 07A), and supplement the amount of new planting (drawing 02A). Given the nature of what they contain, which are modest refinements of the scheme considered by the Council, I consider that I can take these revised drawings into account without causing prejudice to anyone.

3. On that basis, I have dealt with the appeal on the basis of what is shown on these revised drawings.

Decision

4. The appeal is dismissed.

Main Issue

5. As set out above, High Bank is a Grade II listed building. The first main issue to consider, therefore, is the effect of the proposal on the setting of the listed building. In the parlance of the National Planning Policy Framework[2], that can be expressed as the effect of the new dwelling on the setting, and thereby the significance, of the designated heritage asset.

[1] APP/C3620/Y/24/3346904
[2] Referred to hereafter as the Framework

6. There is also a need to consider the effect of the proposal on the living conditions of occupiers of No.5 Holly Close through visual impact, and the potential for overlooking and, finally, one must consider the potential effect of the development proposed on protected species.

Reasons

7. The list description for High Bank is helpfully informative about the reasons behind its addition to the statutory list in 2023. The nature of its special architectural and historic interest is set out in full. On top of that, we are told that part of the special interest of High Bank is derived from its thoughtful, integrated relationship with its landscaped setting. The interrelationship between the house and its garden was an important consideration in the design of both. The garden, envisioned as a series of outdoor rooms, was laid out at the same time as the house. These garden rooms, and views into and out of them, are framed by the house and elements of the landscaping. I was able to see all of that during the course of my site visit.

8. The new house proposed would be set within this garden, dividing it into two separate curtilages with a strong boundary treatment (a hedge and boundary fence). Important parts of the setting of High Bank, some of the 'outdoor rooms' referred to above, would be severed from it, and built upon. Given the important contribution the original garden makes to the setting, and the significance, of High Bank, this severance and destruction would obviously detract from the setting of the listed building, and its significance.

9. The new dwelling proposed would take on what is described as the 'Surrey style', and the form of a traditional cottage, offering, it is said, a striking juxtaposition. However, I would observe that the proposed dwelling is rather larger than what I would regard as a traditional cottage. While it would not emerge above the frontage of High Bank, in views from Mill Hill Lane, it would not be of a subservient scale. This would add to the harm to the setting and the significance of High Bank that I have referred to above.

10. In line with the workings of the Planning (Listed Buildings and Conservation Areas) Act 1990[3], the Framework tells us that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The Framework distinguishes between harm to significance that is 'substantial' and what it terms 'less than substantial'.

11. The bar for a finding of substantial harm is set very high, and with that in mind, I find that the harm to the significance of High Bank that would be caused would be less than substantial. Nevertheless, bearing in mind the importance of the original garden as a setting to it, the significance of High Bank would be damaged to a considerable degree by the proposal.

12. Where less than substantial harm is found, paragraph 215 of the Framework tells us that this harm should be weighed against the public benefits of the proposal. I believe that the Council area is one that suffers from severe housing pressure. The provision of a new dwelling would help to relieve that pressure, to a limited extent, and the scheme would bring some associated ecological benefits (see below).

[3] S.66(1) applies in this case

13. However, I do not consider that to be anything like enough to outweigh the harm to the setting and thereby the significance of High Bank that would be caused. That is especially so when one considers the 'great weight' that must be attached to the conservation of designated heritage assets.

14. I am aware from dealing with the parallel appeal in relation to High Bank that the house needs some repair and maintenance. The balance I have carried out above might be different if the new dwelling had been proposed as an 'enabling development' designed to address a conservation deficit. However, it was not, so I cannot take that matter any further.

15. On my analysis, the conclusion I have drawn above in relation to the impact of the proposal on the setting and thereby the significance of the designated heritage asset set against its public benefits is sufficient reason on its own to justify dismissing the appeal. The proposal is contrary to Policy ENV43 of the Mole Valley Local Plan and, the approach of the Framework.

16. It seems to me that there is some irony in having to consider the impact of the proposal on the living conditions of occupiers of No.5 Holly Close through visual impact and the potential for overlooking when the adjacent gable end of No.6 Holly Close in particular has a visual impact on the garden of High Bank that I regard as extreme, and the rear (east) elevation overlooks the garden. Nevertheless, the proposed dwelling would have something of a visual impact on the rear garden of No.5 Holly Close, and it might give at least the perception of overlooking. However, given the way the dwellings to the north of High Bank and its garden are arranged, as part of a settlement, I do not consider that the resulting impact on the living conditions of occupiers of No.5 would be of a magnitude falling outside of reasonable bounds. There would be no conflict with Local Plan Policy ENV22 that seeks to protect the amenities of occupiers of neighbouring properties from *significant* harm as part of the development control process (my emphasis).

17. In terms of protected species, the appellant provided a Preliminary Environmental Assessment that ruled out any impact on protected species other than, potentially, the Great Crested Newt, for which an eDNA test was recommended. Testing of the shallow pond on site was negative. However, testing of the deeper pond to the west (in the garden of High Bank) was positive. This pond is most likely too small to provide for breeding, but it could act as a resting place for newts on their way to larger pond(s).

18. The appellant is willing to accept a condition that would secure improvements to this pond as part of the development. This alongside the provision of bat and bird boxes, that could also be secured by condition, suggests to me that the proposal could lead to improvements in relation to protected species. In that way, it would comply with Local Plan ENV15.

Conclusion

19. As set out above, notwithstanding some public benefits that the scheme would deliver, its harmful impact on the setting and thereby the significance of High Bank is the overriding factor. On that basis, I dismiss the appeal.

Paul Griffiths

INSPECTOR