
Appeal Decisions

Site visit made on 2 October 2018

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

an Inspector appointed by the Secretary of State

Decision date: 12th October 2018

Appeal A Ref: APP/R5510/W/18/3198386

2 Arlington Drive, Ruislip, HA4 7RL

- 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 Kanagasabapathy Kumanan and Mr Kanthan Thevarajah against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref: 71084/APP/2017/3603 dated 5 October 2017, was refused by notice dated 12 December 2017.
 - The development proposed is erection of two new semi-detached houses (4 and 6 Arlington Drive) and two new vehicular access and crossovers, part demolition of front boundary wall and site landscaping.
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Appeal B Ref: APP/R5510/Y/18/3198389

2 Arlington Drive, Ruislip, HA4 7RL

- 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 Kanagasabapathy Kumanan and Mr Kanthan Thevarajah against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref: 71084/APP/2017/3604 dated 5 October 2017, was refused by notice dated 12 December 2017.
 - The works proposed are two new semi-detached houses (4 and 6 Arlington Drive) and two new vehicular access and crossovers, part demolition of front boundary wall and site landscaping.
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Appeal C Ref: APP/R5510/W/18/3196615

2 Arlington Drive, Ruislip, HA4 7RL

- 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 Kanagasabapathy Kumanan and Mr Kanthan Thevarajah against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref: 71084/APP/2017/2246 dated 20 June 2017, was refused by notice dated 25 August 2017.
 - The development proposed is erection of two new detached two-storey houses (4 and 6 Arlington Drive) and two new vehicular crossovers and site landscaping.
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Appeal D Ref: APP/R5510/Y/18/3196617

2 Arlington Drive, Ruislip, HA4 7RL

- 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 Kanagasabapathy Kumanan and Mr Kanthan Thevarajah against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref: 71084/APP/2017/2247 dated 20 June 2017, was refused by notice dated 25 August 2017.
 - The works proposed are two new detached two-storey houses (4 and 6 Arlington Drive) and two new vehicular crossovers and site landscaping.
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Decisions

1. Appeals A and B are dismissed.
2. Appeals C and D are dismissed.

Preliminary Matters

3. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018 and is a material consideration in the determination of this appeal which needs to be taken into account from the day of its publication. However, the starting point for decision making remains the development plan, and the Framework is clear at paragraph 213 that existing development plan policies should not be considered out-of-date simply because they were adopted or made prior to this date.
4. The views of the parties on the bearing the new Framework will have on this case have been sought, and I have had regard to those submitted and to the revised Framework in reaching a decision.

Main Issues

5. The main issues in relation to Appeals A and C are:
 - the effect of the development on the character and appearance of the area; and
 - the effect of the development on the living conditions of neighbouring occupiers with respect to daylight/sunlight and outlook.
6. In addition, in relation to all the Appeals, there is a further main issue which is whether the proposal would preserve the special architectural and historic interest of the listed building No. 2 Arlington Drive, and the effect on its significance.

Reasons

Character and Appearance

7. The appeal site is an area of garden currently attached to 2 Arlington Drive, which is a Grade II Listed Building also known as Little Manor House. It is located in a suburban area characterised by detached and semi-detached houses with front gardens and substantial gardens to the rear. The markedly green and open character of the area is emphasised by the broad grassed verges, presence of street trees, and presence of mature trees and other vegetation in front gardens and glimpsed between houses.
8. The appeal site, while unusual in its large frontage onto Arlington Drive, due to its spacious nature and the mature trees and shrubs it contains, positively reinforces the visual character of the area and serves, along with the obvious vernacular construction of No. 2, as a reminder of its rural origins.
9. Appeal A relates to the proposed subdivision of the plot to create two semi-detached houses with gardens adjacent to No. 2, leaving an area of garden to its south west and to the rear, including a large irregularly shaped plot at the far southern end of the site. Appeal C relates to a development to create two new detached houses which would take up a larger amount of the original garden, and would leave a smaller plot to the south-west and rear of No. 2.

10. Although the insertion of two houses, either detached or semi-detached, would not be uncharacteristic of the pattern of development elsewhere along the street, they would in both cases significantly reduce the openness of the appeal site and the area around No. 2, which would be harmful to the character and appearance of the wider area. No. 2 would be left with a small garden space around it as a result of the Appeal C development, which would in itself be an anomalous element in the area, visible from the public realm, and so additionally harmful to the character and appearance.
11. The Appeal A development would entail the removal of a number of trees on the street frontage of the site and its boundary with No. 8. The affected trees are largely conifers, with some self-sown native species. While not in themselves meriting individual protection, as a group they make a positive contribution to the open and green character and appearance of the area. Their loss and replacement with open areas of hardstanding for parking or with built form would exacerbate the harm I have identified above.
12. The developments would both, therefore, fail to comply with policy BE1 of the Hillingdon Local Plan: Part One – Strategic Policies 2012 (the HLP1), which seek to avoid the inappropriate development of gardens where it would erode the character of suburban areas. Policy BE13 of the Hillingdon Local Plan: Part Two – Saved UDP Policies 2012 (the HLP2) seeks to resist development if the layout and appearance fail to harmonise with the existing street scene or other features of the area which the local planning authority considers it desirable to retain or enhance, while Policy BE19 seeks to ensure that new development within residential areas complements or improves the amenity and character of the area. Both developments would be in conflict with these policies.
13. Policy H12 of the HLP2 seeks to resist backland development in residential areas unless there would be no undue disturbance or loss of privacy to adjoining occupiers. Although the houses in the appeal developments would be in what is effectively the rear garden to No. 2, they would have their own access directly onto Arlington Drive. I thus conclude that the developments would not constitute tandem development of a backland area, and that this policy would not be applicable to them.
14. London Plan 2016 (the LP) policy 3.5 seeks housing development which enhances the quality of local places, taking into account their physical context, and the developments would not be in accord with this. LP policy 7.1 seeks new buildings which in their design and the spaces they create help reinforce the character of the neighbourhood, while policy 7.4 of the LP seeks development which has regard to the form, function and structure of an area, place or street, and has regard to the pattern and grain of the existing spaces and streets. The developments would be in conflict with these policies, and with the advice contained in the London Plan Housing Supplementary Planning Guidance 2016 in respect of design which responds to its physical context, including the character and legibility of the area and the local pattern of building.
15. Policy BE38 of the HLP2 requires development proposals to retain and utilise topographical and landscape features, including trees, which are of merit, and in the removal of a number of trees the development would fail to comply with this.

Living Conditions

16. No. 2 is orientated flank-on to the highway, with its long front elevation facing north-east, and rear elevation facing south-west towards the appeal site. There are a number of windows to habitable rooms in the rear elevation and facing onto the garden area. The development relating to Appeal A would set a long, flank elevation of two storeys in height, with a hipped roof above, on the north west boundary of the development, around 8 m from this elevation. The Appeal C development would, similarly, create a long flank elevation facing the habitable rooms in No. 2, but around 1 m closer.
17. Although no technical information regarding sunlight and daylight is before me, the closeness of the new dwellings in either development to No. 2 and their siting and orientation would mean that there would be strong likelihood of a loss of sunlight and daylight to habitable rooms and to the garden of No. 2. The proximity of a large built structure to the rear windows and garden area of No. 2 would also form an overly dominant element in views from those areas, which would have a harmful effect on the outlook of occupiers. On both counts, therefore, the living conditions of occupiers of No. 2 would be significantly harmed.
18. The developments would therefore conflict with policy BE19 of the HLP2, which seeks development within residential areas which complements or improves the amenity of the area. They would also conflict with the requirements of policy BE20 of the HLP2, in respect of daylight and sunlight to existing houses, and those of policy BE21 of the HLP2 in respect of avoiding a significant loss of residential amenity.
19. Policy 3.5 of the LP seeks to protect London's residential environment and attractiveness as a place to live, and the developments would not be in compliance with this. They would also fail to comply with the advice contained in the London Plan Housing Supplementary Planning Guidance 2016 in respect of ensuring that new housing development contributes to and enhances the quality of local places.
20. The Council's adopted Supplementary Planning Document HDAS: Residential Layouts advises design in new residential development which minimises the negative impacts of overbearing and overshadowing, and the developments would not be in accord with this.

Listed Building

21. No. 2 Arlington Drive is a timber framed house said to be of the sixteenth or seventeenth century, with a central range and gabled cross-wings, although this plan form may indicate earlier origins as a hall house. It has been largely refaced in brick, with some exposed timber framing visible on the south-west elevation. It was formerly a farm house. Its special architectural and historic interest and its significance therefore lie in its survival as an early rural building of traditional design and construction, including the use of vernacular materials.

22. The Glossary to the National Planning Policy Framework defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. It also states that the extent of setting is not fixed, and may change as the asset and its surroundings evolve. In this case, while the suburban development around the listed building has reduced the extent of open land about it, nonetheless the large garden area survives as a relict of its former open, rural setting in a farmyard with farmlands beyond. Part of the special interest and significance also therefore resides in this garden setting.
23. The appeal proposals would, by infilling a significant part of the garden, diminish this open setting and harm the ability to appreciate the historic rural origins and function of the building. They would thereby fail to preserve the special interest of the building and would harm its significance.
24. Although a greater area of open space would be retained by appeal proposals A and B, it would be an awkwardly spaced leftover to the rear of the site, and would therefore have no particularly strong spatial or visual relationship with the listed building. It would not therefore be sufficient to overcome this harm.
25. There is a surviving well on site, marked by a modern surround. This would be filled in as a result of the proposals relating to appeal C and D. It is located close to the rear entrance to the former farmhouse, and is likely to be a feature of some antiquity and relating to its special interest and significance as an early dwelling. Harm to special interest and significance would therefore arise from its loss as a visible and readable feature of the site which adds to the understanding of the listed building.
26. At the time of my visit the appeal site had been divided from the area around of No. 2 by a temporary fence of plastic netting, but there was no evidence that it had previously been separated from it. In any event, national Planning Practice Guidance is clear that as setting is the surroundings in which a heritage asset is experienced, it may therefore be more extensive than its curtilage¹. It may also include land which has a historic relationship with the listed building, which is so in this case. Therefore, the harm caused to the special interest and significance of the listed building by virtue of the harm to its setting cannot be set aside due to the status of the appeal site as a separately owned unit.
27. The proposals would therefore conflict with the requirement of policy BE1 of the HLP1 to improve and maintain the quality of the built environment, and the requirement of policy HE1 of the HLP1 to conserve and enhance designated heritage assets. Policy BE10 of the HLP2 seeks to avoid granting planning permission for proposals which are considered detrimental to the setting of a listed building, and the proposals would not accord with this. They would not accord, either, with Policy BE13 of the HLP2 which seeks to avoid development which fails to harmonise with features of the area which the local planning authority considers it desirable to retain or enhance.
28. Policy 7.8 of the LP seeks development affecting heritage assets and their settings to conserve their significance by being sympathetic to their form and scale. The proposals would not comply with this.

¹ Paragraph: 013 Reference ID: 18a-013-20140306

29. Policies BE8 and BE9 of the HLP2 relate to changes which would affect historic structures. Although the appeal proposals would remove part of the boundary wall of the site, the section affected is constructed of blockwork faced in factory-made bricks laid in a stretcher bond, and which consequently appears to me to be of limited historic interest. I conclude as a result that these policies are not applicable to the proposals.
30. The Council's adopted Supplementary Planning Document HDAS: Residential Layouts identifies features such as listed buildings as being elements of local distinctiveness to which new residential developments should have regard. The developments would not be in accord with this advice.

Planning Balance and Conclusion

31. Paragraph 193 of the National Planning Policy Framework (the Framework) is clear 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, irrespective of whether any potential harm amounts to total loss or substantial or less than substantial harm to its significance. I conclude that for the purposes of this the appeal proposals would amount to less than substantial harm.
32. Paragraph 196 of the Framework states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
33. The need for more housing is acknowledged as a pressing one in national planning policy, with an important role to be played by small and windfall sites in meeting this need. However, the contribution to the supply of housing to be made by the appeal developments would be a very minor one, and would be a benefit to which I accord limited weight. The glossary to the National Planning Policy Framework is clear that residential gardens in built-up areas are excluded from the definition of previously developed land, and I do not therefore accord any benefit to the proposals as making use of brownfield land.
34. There would not, therefore, arise any public benefits sufficient to overcome the harm to the special interest and significance of the designated heritage asset, and they would not as a result provide a convincing justification for the harm arising from the proposals.
35. On the basis of that harm, and the other harms I have identified above, I conclude that all the appeals should be dismissed.

S J Buckingham

INSPECTOR