



Appeal Decisions

Inquiry held on 12-14 February 2014

Site visit made on 13 February 2014

by J C Chase MCD Dip Arch RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 February 2014

Ref: APP/R5510/A/13/2204776

Harefield Grove, Rickmansworth Road, Harefield, UB9 6JY

- 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 Sancroft Properties Ltd against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 28301/APP/2012/2598, dated 11 October 2012, was refused by notice dated 4 March 2013.
 - The development proposed is the conversion of the majority of the historic main house into a single dwelling unit; alteration and conversion of the existing glazed link including east and west wings and southern part of main house into 13 residential flats; conversion of the stable building into four self-contained flats; reinstatement of the entrance lodge house as two dwelling units; restoration of historic landscape including reinstatement of a garden wall; retention of Cottage House; conversion and extension of existing conservatory and adjacent building into a single dwelling unit; demolition of the glazed link and canopy including outbuilding to south; conversion and extension of southern outbuilding into a single dwelling house with garage; and construction of a new house with garage to the south east.
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Ref: APP/R5510/E/13/2204766

Harefield Grove, Rickmansworth Road, Harefield, UB9 6JY

- 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 Sancroft Properties Ltd against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 28301/APP/2012/2599, dated 11 October 2012, was refused by notice dated 10 April 2013.
 - The works proposed are the conversion of the majority of the historic main house into a single dwelling unit; alteration and conversion of the existing glazed link including east and west wings and southern part of main house into 13 residential flats; conversion of the stable building into four self-contained flats; reinstatement of the entrance lodge house as two dwelling units; restoration of historic landscape including reinstatement of a garden wall; retention of Cottage House; conversion and extension of existing conservatory and adjacent building into a single dwelling unit; demolition of the glazed link and canopy including outbuilding to south; conversion and extension of southern outbuilding into a single dwelling house with garage; and construction of a new house with garage to the south east.
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Decisions

1. Both appeals are dismissed.

Procedural Matters

2. At the Inquiry an application for costs was made by the London Borough of Hillingdon against Sancroft Properties Ltd. This application is the subject of a separate Decision.
3. The appellants have requested the substitution of revised plans, which are also the subject of a separate planning application. The Council raise no objection to the alteration, and to the extent that any third party may be affected, copies of relevant representations on the revised planning application have been made available to the Inquiry. It is accepted that the changes are not so great as to significantly alter the nature of the scheme, and these appeals are based on the amended drawings.
4. A Unilateral Undertaking is submitted, made in accordance with Section 106 of the Town and Country Planning Act 1990, to create obligations for the payment of contributions towards the provision of infrastructure and affordable housing. The level of affordable housing payment is in dispute, which is discussed further below, but in other respects the obligations do not bear on the main issues, and, as the appeals are dismissed on the basis of the assessment of those issues, there is no necessity to establish whether the obligations would accord with the tests in Regulation 122 of the Community Infrastructure Levy Regulations, 2010.

Main Issues

Planning Appeal

5. A number of the Council's grounds of refusal are no longer pursued, following submission of the revised plans and the Unilateral Undertaking. Having regard to this, and to the other representations received, the outstanding main issues are i) whether the proposal amounts to inappropriate development in the Green Belt, and the effect on openness, and ii) whether there would be an adequate contribution to the supply of affordable housing.

Listed Building Consent Appeal

6. The amended scheme would also overcome the Council's ground of refusal of the listed building consent application. However, in view of the statutory duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, it remains necessary to have special regard to the effect on the preservation of the architectural and historic interest of the listed building and its setting, and this is the main issue.

Reasons

7. The appeal property includes an 18th/19th century house, listed grade II, set within extensive landscaped grounds in countryside to the north of Harefield, within the metropolitan Green Belt. Following a period of without occupation, when the buildings had fallen into disrepair, the use was changed to offices in the 1980s, when extensive renovation of the original house was carried out. At the same time, the floor space was substantially increased by the construction of two new wings, connected to the house by a glass atrium, along with the renovation or replacement of buildings in the grounds. Following a further period without occupation, the present proposal is to convert the buildings to residential use, along with the construction of two new detached properties

(Orchard House and Conservatory House) adjacent to the main building, and a semi-detached pair of houses (The Lodge) at the road entrance.

Green Belt

8. Policy OL1 of the Hillingdon Unitary Development Plan (UDP), adopted 2007, restricts development of Green Belt land to predominantly open uses, whilst Policy 7.16 of the London Plan, adopted 2011, gives the strongest protection to the Green Belt in accordance with national guidance. That guidance is contained in chapter 9 of the National Planning Policy Framework (NPPF) which notes that the essential characteristics of Green Belts are their openness and permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. New buildings are generally inappropriate, but subject to a number of exceptions set out in para 89, including the limited infilling of previously developed land, provided it has no greater impact on the openness of the Green Belt, and the purposes of including land within it. To the extent that this is a less restrictive approach than UDP Policy OL1, it is entitled to greater weight by virtue of NPPF para 215.
9. The Council question whether the present proposals are entitled to consideration under the quoted criterion in NPPF para 89, noting that the definition of previously developed land in Annex 2 excludes certain categories of open land. However, this exclusion applies to land within built up areas, and there is no indication that Harefield Grove falls within any defined settlement boundary, nor that its surroundings have an urban character. It is also claimed that the present proposals would not amount to the infilling of small gaps between built development, as defined in Planning Policy Guidance Note 2. However, this advice is no longer current, and, in the absence of a comparable definition in the NPPF, it would be reasonable to include a range of types of layout within the definition of infilling. Whilst the semi-detached houses on the road frontage (The Lodge) could not be construed as infill development, in other respects the proposals follow the pattern of the existing built form by being set around a large courtyard.
10. There is a quantitative element to the assessment of openness, and the appellants indicate that the overall effect of the proposals would be to increase the floorspace on the site by about 9%. However, there was originally a lodge in the approximate location of that in the present proposal, which was demolished and planning permission obtained in 1985 for a replacement building. That replacement has not been built, but the Council's research has revealed a letter from the Principal Planning Officer to the owner's agent dated 2 February 1993, indicating that the permission had been implemented by the construction of adjoining gates, and therefore the permission for the lodge remained extant. The Council now question whether this former advice can be relied on, noting that the gates appear different from the approved scheme, that they could be treated as severable from the main planning permission, and that there is a lack of evidence that pre-commencement conditions were properly cleared.
11. Regard is had to the case law put forward by the Council in support of this position, and it is accepted that any of the identified defects could cast doubt on whether the permission had been implemented. However, it is also the case that the letter of 1993 arose out of an extended consultation, and involved the advice of the Borough Solicitor, as well as the planning department. It does

not appear to be a casual or ill-researched decision. This project would, no doubt, have generated a good deal of paperwork, which was not available to this Inquiry and which may no longer exist. In the absence of clear evidence to the contrary, it is reasonable to assume that the Council's opinion of 1993 took account of all the prevailing circumstances, including those which might bear on the matters now raised by the Council. The owners appear to have relied on the advice they were given by withdrawing an application for a renewal of the permission.

12. On the basis of the information that has been presented, there is a realistic prospect that a lodge building could now be built without the need for further planning permission. Whilst the earlier scheme is not exactly the same as the present proposal, it would have had a similar impact on openness. This aspect is entitled to weight as a potential fallback position, and there are adequate grounds to exclude the additional floorspace within the lodge building from the overall assessment.
13. There is also a qualitative aspect to the assessment of openness, and particular regard is had to the location and form of the new buildings. There are several negative aspects, including that the new construction at Conservatory House and Orchard House would extend beyond the existing line of development around the courtyard, into land which is presently open. It is also the case that the rebuilding and extension of a garden wall to contain the courtyard would have some impact on openness. At present, that containment is mainly achieved by vegetation, rather than built form.
14. On the positive side, there would be the removal of an outbuilding, and a 30% reduction in the area of hard pavings. Whilst the pavings themselves have a limited effect, their use for car parking would have a significant impact on openness. A reduction in the potential number vehicles from an indicated figure in excess of 120, to the present proposal for approximately 40 spaces, would have a distinctly beneficial effect. It is certainly the case that the residential use of the premises could lead to external paraphernalia and activity, and there would be limited scope to exert control over temporary equipment and structures. However, there would be the potential to avoid the subdivision of the space into private gardens by fencing, and to exclude permanent structures and outbuildings, by the use of appropriate conditions.
15. If the lodge building is excluded from the equation, then the appellants indicate that the additional floor space would amount to 2.6% of the existing accommodation. Whilst the extra built form would have some impact on openness, this would be adequately balanced by the positive aspects of the scheme, and in particular the reduction in the quantity of parking areas. Similarly, there is no clear indication that the residential use of the premises would be inherently more harmful than the existing use as offices, which, if fully occupied, would have the potential to generate significant levels of activity.
16. Taking these matters together, there are grounds to conclude that the proposals would not have a greater impact on the openness of the Green Belt, and, having regard to the previously developed nature of the property, would not further conflict with the purposes of including land within it,. As such, the scheme would comply with the final bullet point in NPPF para 89 and would not amount to inappropriate development in the Green Belt.

Affordable Housing

17. London Plan Policies 3.10 to 3.13 refer to the need to provide affordable housing, with the maximum proportion sought commensurate with the viability of the scheme and the need to encourage rather than restrain development. The Council's Planning Obligations SPD, 2008, gives detailed guidance. Whilst affordable housing is normally provided on site, there is no dispute between the parties that the particular circumstances of this case justify a financial contribution in lieu. Nor do the appellants take issue with the Council's assessment that the scheme would generate a cost of £780,000 to provide equivalent affordable housing elsewhere. However, it is not agreed that the scheme would remain financially viable with a contribution at this level, and a figure of £188,000 is offered in the Unilateral Undertaking. There are three main areas of dispute between the parties: the assessment of a benchmark land value; the cost of carrying out the necessary repairs and construction; and whether internal overheads should be a cost on the development in addition to the agreed level of profit.
18. The parties are agreed that the existing use value of the land is in the region of £1,150,000, but not that the appellants should be entitled to add a 20% margin to this figure (£230,000) as an incentive for the land owner to bring the site forward for development. The Council's advisor considers this uplift cannot be supported, and that any potential purchase price would be restricted both by the need to provide a planning compliant scheme, and the costs of holding the property, including those associated with repairing and maintaining the listed building. These points are noted, and the advice in 'Financial Viability in Planning', published by the RICS, does not endorse the adoption of existing use value plus a premium, where the uplift is often an arbitrary figure which does not reflect the real value of the land. Rather, market value is preferred. However, there is an expectation in paras E1.12-13 of that guidance that market value should include hope value, which may be generated by an expectation of more commercially attractive uses of the land. It is suggested that this is consistent with the NPPF when it refers in para 173 to the need to provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
19. No suggestion of such alternative uses has been presented to the Inquiry, but the evidence falls short of proving that there are not more financially viable uses of the property which would comply with the development plan. For instance, the Council have raised no objection to the principle of a change of use to residential. It is conceivable that the actual selling price of the property would include an element of hope value, and it is the appellants' assertion that the use of the 20% premium is intended to reflect this, in circumstances where it is not possible to achieve an accurate indication of market value. In addition, it is the Council's case, if not the appellants, that the condition of the Listed Building is not so poor as to justify major structural work, in which case it is questionable whether the need to repair and maintain the listed building would be a major disincentive for a prospective purchaser.
20. Overall, there are adequate grounds to consider that some provision for hope value would be an appropriate means of encouraging the owner to implement the redevelopment and to achieve the deliverability sought by the NPPF. Whilst recognising the limitations presented by the appellants' methodology, it seems

to better reflect the likely current value of the land than that adopted by the Council's advisor.

21. Turning to the construction costs of the development, it was indicated at the Inquiry that the main points of contention are the amount of work necessary to renovate the roof and windows of the main buildings, and the landscaping and repair works in the grounds. The appellants draw attention to their experience in dealing with the conversion of historic buildings, and that the cost estimates are based on the likelihood that significant defects will emerge as the work proceeds. This point is taken, and it is also appreciated that there is a limit to the extent to which the condition may be adequately established at this stage.
22. Nonetheless, there could have been a more detailed assessment than that provided, and the Council are correct in their assertion that there is a shortage of supporting evidence with respect both to the necessity of repairs to the main building and to the external works. For instance, no detailed structural survey has been submitted to prove the condition of the roof or the number of windows requiring replacement or major repair. The property was extensively renovated in the 1980s, and the full extent of the damp damage, which is the most apparent current evidence of failure of the fabric, was indicated at the Inquiry as having arisen recently. Both aspects diminish the likelihood that major structural repair will be needed.
23. With respect to the inclusion of a sum of £290,790 to cover internal overheads, it emerged during the Inquiry that this was intended to reflect the costs of pursuing the planning application, including the appeal. Even if this was considered to be a valid expense over the other allowances for professional fees and developer's profit, there is, again, no supporting evidence to show how this sum has been incurred.
24. The onus lies with the appellants to prove that the scheme would not be able to fully support contributions to affordable housing and, in the absence of substantial evidence, it is not possible to be reasonably certain that the submitted estimates are a realistic appraisal of the costs of the development.
25. The overall conclusion, therefore, is that the appellants are justified in the inclusion of a premium on the existing use value of the property, but not the level of construction costs and internal overheads. At the Inquiry, the difference between the parties amounted to approximately £610,000 (including an adjustment to reflect agreement on the capitalised value of ground rents). Deduction of the sellers' land uplift would diminish this figure to about £380,000. Whilst it is accepted that more detailed specification might well further reduce this difference, on the basis of the present evidence there is not a substantial case that the maximum contribution to affordable housing commensurate with the viability of the project is as low as the sum offered by the appellants. The scheme would not comply with the provisions of London Plan Policies 3.10 to 3.13 by failing to make an adequate contribution to the supply of affordable housing.

Listed Building

26. Harefield Grove has been placed on the English Heritage At Risk Register, largely because of the lack of a current use, and the likelihood that this would lead to neglect and structural deterioration over time. Section 12 of the NPPF refers to the desirability of putting heritage assets to a viable use consistent

with their conservation, and it is clearly a significant benefit of the scheme if a change to housing would provide both the resources and functional need to repair and maintain the building.

27. When originally built, the house would have been an imposing structure, set within its own grounds so as to be viewed in the round, and with stables and other subsidiary buildings set around an adjoining courtyard. The addition of the office wings in the 1980s had some effect on this character, but other aspects, including the courtyard, remain. Whilst English Heritage would prefer the complete removal of the linking block in order to better separate the historic elements from more recent development, it is accepted that the proposed replacement block, which has been reduced in scale in the amended scheme in order to provide some articulation between the buildings on either side, is a reasonable compromise. It is also noted that the rooms within the original house, which are well proportioned and are characteristic of a house of this type and period, will largely be retained in their existing form. Overall, there is no reason to disagree with the Council that the scheme as now submitted would preserve the significance of the listed building.
28. However, the alterations to the listed building are related to the specific scheme for which planning permission is sought, both in terms of the physical alterations to the property, and the change of use to residential. It would be undesirable to provide a listed building consent unless planning permission is granted for the overall scheme, for to do otherwise would have the potential for allowing isolated alterations to the listed building which would be inconsistent with its present form and use. As such, there is no certainty that the architectural and historic interest of the listed building and its setting would be preserved, and for this reason the listed building consent appeal is dismissed.

Conclusions

29. As the proposal does not amount to inappropriate development in the Green Belt, there is no need to establish whether very special circumstances arise, and there is no indication that the principle of the change of use and conversion of the property is otherwise inconsistent with the development plan. The potential advantages of the proposal are recognised, including the provision of 24 new dwellings, consistent with the NPPF objective to boost the supply of housing. Significant weight is given to the introduction of a beneficial use of the property, which would be likely to secure the long term preservation of the heritage item. It is also appreciated that the design of the extended and new buildings around the courtyard is guided by the desire to create a scheme with spatial and architectural harmony within the overall setting of the estate.
30. However, there is a clearly established need to contribute to the provision of affordable housing, and the appellants' case does not adequately establish that the sum offered for this purpose is the maximum commensurate with the commercial viability of the project. There is reason to consider that the benefits of the scheme would still be delivered if a contribution closer to that required by development plan policy was applied. This is a matter of sufficient importance to justify dismissal of the appeals.

John Chase

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr N Westaway	Of Counsel
He called	
Mr S Volley MSc, DipTP, MRTPI	Planning Appeals Manager, London Borough of Hillingdon
Ms S Harper BSc, DipUD, MA, MSc, MRTPI	Principal Conservation and Urban Design Officer, London Borough of Hillingdon
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Ms J Markwell	Obligations Officer, London Borough of Hillingdon
Mr G Ramos DipSurv, MRICS	DVS
Mr M Kolaszewski BA, MA UP	Principle Obligations Officer, London Borough of Hillingdon

FOR THE APPELLANTS:

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He called	
Dr P Smith B Arch, RIBA	Dr Peter Smith Architects and Planners
Mr A Collins MRICS, MRTPI, MCIT, MILT, MEWI	Collins and Coward Ltd
Dr D Birt BA, MSc, PhD	Douglas Birt Consulting
Mr P Bushnell	Peter Bushnell Associates

INTERESTED PERSON:

Mr J Ross RIBA, MRTPI	On behalf of the Harefield Village Conservation Area Panel
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DOCUMENTS

- 1 List of appearances on behalf of the London Borough of Hillingdon
- 2 List of appearances on behalf of the appellants
- 3 Letter from English Heritage dated 24 December 2013 concerning planning application no. 28301/APP/2013/3104
- 4 Letter from Greater London Authority dated 20 January 2014 concerning planning application no. 28301/APP/2013/3104
- 5 Unilateral Undertaking
- 6 Plans of the original lodge building
- 7 Note from Harefield Village Conservation Area Panel dated 6 January 2014 concerning application nos. 28301/APP/2013/3104 and 3015
- 8 Consolidated set of revised plans
- 9 Extract from UDP proposals map
- 10 London Plan Policy 8.1
- 11 Extract from Planning Obligations SPD July 2008
- 12 Extracts from London Plan July 2011
- 13 Planning Policy Guidance Note 2: Green Belts

- 14 Local Plan: Part 1, Strategic Policies, November 2012
- 15 Further Note on Affordable Housing
- 16 Extract from GLA Toolkit notes
- 17 Valuation Office Agency, revised Development Appraisal
- 18 Comparative cost breakdown by buildings
- 19 Schedule of Ground Rents
- 20 Examples of auction results
- 21 Financial Viability in Planning, RICS, 2012
- 22 Housing Economic Viability Assessment, Christopher Marsh and Co
and BNP Paribas, June 2011
- 23 Suggested Listed Building Consent Conditions
- 24 Suggested Planning Conditions
- 25 Plans showing extent of Listed Building
- 26 Council's outline costs submission
- 27 Greyfort v SSCLG, [2011] EWCA Civ 908
- 28 Notes of Salisbury DC v SSE, Queens Bench Division, 1982
- 29 Closing submissions on behalf of the London Borough of Hillingdon

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