

9 Goldington Road,
Bedford
Bedfordshire
England
MK40 3JY

Ref: 07344B

Brie Foster – Associate Planner
Peacock & Smith
8 Baltic Street
Clerkenwell
London
EC1Y 0UP

By e-mail only

18th May 2022

Dear Brie,

**Heritage Rebuttal in support of proposed replacement dwelling at
25 Ham Farm Road, Richmond – Application ref: 22/0934/FUL**

Introduction

HCUK Group have been instructed to respond on behalf of the applicant to the consultation response provided by the Conservation Team at the London Borough of Richmond Upon Thames (LBRUT) in relation to the above application. This response was made available by the Planning Case Officer, Holly Eley, on 11th May 2022.

HCUK provided the Heritage Statement in support of the submitted scheme now under consideration. In this document it was concluded that the proposed replacement dwelling would preserve the special character and appearance of the Parkleys Estate Conservation Area for the purpose of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (hereafter referred to as the Act).

The existing house was designed in 1955 by Eric Lyons and is considered to be a non-designated heritage asset, and putative Building of Townscape Merit.¹ Accordingly the existing house has been treated as a NDHA within the submitted heritage statement and the approach taken by LBRUT in this regard is not challenged. For the avoidance of doubt the only designated heritage asset considered to be affected by the proposal is the Parkleys Estate Conservation Area.

The proposal is to demolish the existing house and replace it with a new one of contemporary high quality design and specifically to be fully accessible.

The Council's Conservation Officer has objected 'in principle' to the demolition of No. 25 Ham Farm Road on the grounds that it would cause 'substantial harm' to the conservation area. The Conservation Officer furthermore objects to the replacement building in design terms, considering it an "*unwelcome precedent, leading to eventual erosion of the character of the CA and its reason for designation in the first instance.*"

The following responds to each of the conservation officer's substantive points in the order presented in the e-mail shared by Holly Eley on 11th May. Unless indicated otherwise, the conservation officer's comments are all italicised.

Level of Harm to the Parkleys Estate Conservation Area and Application of the Statutory Duty under Section 72(1)

The conservation response notes that, "*The house, little altered, still contributes a distinct character to the streetscene and has an interesting garden frontage.*" It is not specified whether this is the garden frontage to the public highway or the private garden to the rear of the property. If it is the former, it should be noted that the proposed scheme seeks to retain the garden apron to the front, original paved and lawn areas with the car port positioned in the same location as the existing garage. The footprint of the replacement house largely replicates that of the existing. The rear garden elevation would obviously be changed, but the design of the replacement building is of very high quality and would have no noticeable affect on the conservation area for the reasons discussed below.

¹ The Conservation team member notes that "*as part of this application I would consider the building to be a non-designated heritage asset worthy of taking forward to local designation.*"

The conservation officer continues;

"Representative of its time it also forms one of a group of houses of a similar age, scale and character, which together form a strong cohesive whole.

Demolition of a building such as this one within the CA can therefore be concluded as causing substantial harm, as the CA is largely made up of buildings of a similar age and design to this one along the main stretch of Ham Farm Rd; so the loss of one begins to erode the character and the reason why the CA was designated in the first place."

Here it must be pointed out with some vigour that reference to substantial harm suggests that the section 72 duty to preserve or enhance the conservation area has been misapplied. The meaning and effect of these duties have been considered by the courts, including the Court of Appeal decision in relation to South Oxfordshire DC v SSE & J Donaldson (March 1991, CO/1440/89). The Court found that section 72 requires attention to be directed to the effect on the conservation area as a whole rather than on particular parts of it. The conservation officer appears not to have considered the effect of the proposal on the designated asset as a whole, but instead has focused on the Ham Farm Road area in isolation.

It is evident that the Parkleys Estate warrants designation as a conservation area primarily on account of the national importance of the court blocks of flats developed by Bargood Estates / Span Developments, this being their first and best preserved housing project. All of the court blocks are individually grade II listed. The conservation area designation is thus merited with or without Ham Farm Road, though clearly the latter contributes to its significance and was integral to how it was developed and is justified in being included. However, not all parts of the conservation area are of equal significance and the Ham Farm Road elements cannot be said to be the most important part of the heritage asset or the part of greatest architectural or historical value. Indeed the degree of visual cohesion and intactness on Ham Farm Road is far from a defining characteristic of the asset as whole, unlike the flatted Court development within the main part of the Parkleys Estate.

The extent of loss and alteration along Ham Farm Road to date also makes it less sensitive to change. The houses here represent a diversity of styles, some very conventional (nothing like Parkleys) with only a few reflecting the post war Modernism of the main estate with any conviction. Another way of understanding the Ham Farm Road houses was as a commercial development to raise funds to build the flats. The coherent design rigour that applies to all the Span developments simply has not been applied to the development at Ham Farm Road, a fact which makes it less significant architecturally and from a historical perspective. Hence the claim of substantial harm, even if the proposal were just to demolish the house and not replace it with anything, is greatly overstating the effect on the asset's overall significance. For reference, the conservation area's significance and relative importance / contribution of the Site is set out in paragraphs 4.36-4.44 of the heritage statement.

The case of *Dorothy Bohm & Ors v Secretary of State for Communities and Local Government & Ors [2017]* clarifies the position with regards to the correct application of the legislation when dealing with positive contributors in conservation areas, noting that:

"... when considering the impact of the proposal on the CA under s.72 [of the Planning (Listed Buildings and Conservation Areas) Act 1990] it is the impact of the entire proposal which is in issue. In other words, the decision maker must not consider merely the removal of the building which made a positive contribution, but also the impact on the CA of the building which replaced it."

"Section 72 requires the overall effect on the CA of the proposal to be considered. There is no requirement for a two stage process by which the demolition part of an application has to be considered separately from the proposed new development."

In arriving at a conclusion of 'substantial harm', demolition seems to have been considered separately, without regard to the replacement building (though the conservation officer also considers that to be harmful, which is strongly rejected), and without reference to the conservation area as a whole. Consideration therefore needs to be given to Ham Farm Road as a subordinate feature of the conservation area in terms of the overall hierarchy of significance, not least because none of the houses on Ham

Farm Road is statutorily listed. Whereas the Court developments to the south are all listed grade II and make up the bulk of the heritage asset and its special interest.

Furthermore, while paragraph 207 of the NPPF and PPG do allow for the possibility of substantial harm to a conservation area, it would be because the positive contributor to be demolished was *so important or integral* to the special character and appearance of the asset as a whole, that its loss would culminate in substantial harm.² In this instance, such a claim greatly exaggerates the impact because the building was never previously identified as a positive contributor (until threatened with demolition) or locally listed, though has now been nominated as such and is considered an NDHA for the purpose of this application. It is thus difficult to see how the conservation officer can now argue that the special interest of the Parkleys Estate, and reason for its designation, hinges on the existence of No. 25 Ham Farm Road and its indefinite preservation. Clearly there are more important buildings within the conservation area (e.g. the listed and established locally listed buildings), and evidently the significance of the CA would remain very much intact even if the building were replaced.

Substantial / less than Substantial Harm not outweighed by public benefits of the proposal

The conservation response states;

"The harm caused by the demolition of this building, both as a good representative building of its type, and the loss within the conservation area, is also not outweighed by any public benefit as this is an existing private dwelling, proposed to be replaced by another larger private dwelling which is unsustainable and a loss to the overall character of the CA."

This assumes that the replacement building would result in some residual harm to the conservation area, thereby engaging paragraph 201 or 202 of the NPPF. As noted below, HCUK have not identified any residual harm to the designated heritage asset because of the quality and acceptability in heritage terms of the replacement dwelling. The

² NPPG (reference ID: 18a-019-20190723)

requirement for public benefit therefore falls away. The absence of residual harm also reinforces the innate sustainability of the proposal from a heritage perspective.

We furthermore conclude in the Heritage Statement at paragraph 6.10 that, *“the use of high-quality materials and locally relevant design and landscaping will reinforce the positive visual impact of the proposed replacement building. Together with much improved accessibility and all round sustainability, this will ensure the long-term effect of the development is consistent with the NPPF’s primary objective of achieving sustainable development.”*

Objection ‘in principle’ to the demolition of the existing house

The conservation response states:

“I would therefore conclude that I have an in principle objection to the demolition of the existing house on the site, a view which is shared by the amenity society representing 20th century architecture.”

Whether or not this view is shared by the Twentieth Century Society (who are not the decision maker and are not obliged to consider all aspects of the proposal in line with national legislation and policy, correctly applied - as outlined above) an objection ‘in principle’ is contrary to the proper application of both section 72 (1) of the Act and paragraph 203 of the NPPF. Section 72 is dealt with above.

In terms of paragraph 203, harm to a non-designated heritage asset (NDHA) is not measured in terms of substantial or less than substantial harm (Paragraphs 201 and 202 of the NPPF) as for designated heritage assets but must be considered as part of a balanced judgement on the application as a whole. The demolition of the NDHA should not be considered separately or be subject to a separate evaluation with tests applied such as those which relate to designated heritage assets. Paragraph 203 requires this balanced judgement to have regard to the scale of any harm or loss and the significance of the heritage asset. Recent case law (*Dorothy Bohm & Ors v Secretary of State for Communities and Local Government & Ors [2017] EWHC 3217 (Admin)*) affirms that the

NPPF does not seek to prescribe how this balance should be undertaken, or what weight should be given to any particular matter. An objection 'in principle' to the demolition of the NDHA is therefore not in line with local or national policy.

"The proposals would be contrary to Local Plan policies LP1, LP3 and LP4, as well as relevant sections of the NPPF."

For the reasons set out above it is demonstrable that the proposals are not contrary to Local Plan policies LP1, LP3 and LP4 or the relevant sections of the NPPF.

Design of proposed replacement dwelling

The conservation response states:

"I disagree with justification provided by the applicant that the new build would mitigate any harm caused by the demolition of the existing building."

Historic England affirm in GPA3 that good design is capable of minimising harm to heritage significance. It clearly does in this instance and there is also the possibility of enhancement.³

"The proposed design, although low in height, would be a contemporary design using contemporary materials, and although the scale and siting would integrate into the streetscene, the insertion of a sharply contemporary dwelling would jar with the overall aesthetic of the road, as has been the case with no.4 on the opposite side of the road. The odd number side has not yet been affected in this way but the current application could set an unwelcome precedent, leading to eventual erosion of the character of the CA and its reason for designation in the first instance."

³ The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning Note 3 (Second Edition), at paragraph 39 states, "In other cases, good design may reduce or remove the harm, or provide enhancement. Here the design quality may be an important consideration in determining the balance of harm and benefit."

The notion of 'an unwelcome precedent' is not a valid heritage reason to object to the design of the proposed replacement dwelling. The question is, in view of the statutory duty under section 72(1), what is the effect of this specific replacement house design on the significance of the Conservation Area?

"It is worth pointing out that we have recently negotiated several successful alterations and additions to other houses of a similar age in the CA, where the houses have been updated within [sic] losing their original character and integrity."

Though not an exclusively heritage justification, it appears to be the case that those other examples cited by the conservation officer did not involve a house with significant accessibility issues that needed to be made DDA compliant. Individual circumstances need to be taken into account, also in the case of statutorily listed buildings and where development might affect a conservation area. Furthermore, the success of other alterations and additions to houses of a similar age in Ham Farm Road is a matter of some debate. One example is a substantial addition in the form a whole additional storey, and another amounts to substantial demolition and apparent rebuilding. The 'Integrity' of these proposals from a heritage perspective is therefore questioned.

"I therefore have an objection to the proposed design of the replacement building, although this could be regarded as secondary to the objection to the demolition of the existing house on the site."

The conservation officer has, in our view, failed to consider the replacement house holistically and instead focussed on the replacement of a Lyons designed bungalow as unacceptable in principle. The officer is therefore resistant to any kind of change, seemingly at the behest of the Twentieth Century Society. This approach is unsound and overlooks other aspects of the application, such as the credibility of the design of the new house, architectural integrity, sustainability, energy efficiency and the possibility of a different building also making a positive contribution in line with paragraph 197 of the NPPF.

HCUK consider that the new house is a positive and intelligent response to the designated asset's special character and appearance. As described in the heritage statement the proposed material finishes combine structural timber frame, steelwork, metal and slatted timber cladding and large expanses of glazing, commensurate with the character and appearance of the conservation area and in sympathy with the prevailing design philosophy of the existing house. Homage to the Lyons design is paid by way of the innovative use of mono-pitch clerestory lights, dominance of glazing to the rear and flank elevations, and the inclusion of an elegant courtyard garden to the centre of the building.

While there are similarities, the proposed composition is considered to be more successful in architectural terms than the existing house, which is not spared criticism by Historic England who state in their assessment:

*"there is an inconsistency in its architectural vision and in the refinement of its execution and these factors undermine the more interesting aspects of the building's design. Furthermore, the understated elegance which characterises Lyons' work is not best represented in this building and the rarity of its survival is not sufficient to override its shortcomings."*⁴

Overall, the new house would introduce a highly attractive new dwelling that makes a very positive contribution to local character and distinctiveness in line with paragraph 197 of the NPPF. Furthermore, the improved values of sustainability and accessibility embedded within the design of the replacement dwelling should be weighed favourably in the balance of a justifiable need for change.

Thus section 72 (1), applied correctly, is capable of being satisfied on the basis that there would not be any residual harm to the conservation area, and thus there is preservation for the purpose of the decision maker's duty. As such the requirement for public benefits to outweigh heritage harm does not arise. However, it seems the scheme does have some element of public benefit in any case because of the enhanced green credentials and sustainability of the replacement dwelling.

⁴ Historic England letter of 16th December 2021, ref: 1476038

"The replacement building would be aesthetically at odds with the predominant character, aesthetic and age of building in the conservation area, and as such would cause harm which would be contrary to Local Plan policies LP1, LP3 and LP4, as well as relevant sections of the NPPF."

This assessment by the conservation officer is strongly rejected. The design and appearance of the replacement dwelling is closely aligned with the prevailing character and aesthetic of the conservation area without reverting to type as a slavish copy. It provides innovation and positive change without undermining the established character of Ham Farm Road. The Planning Case Officer / Head of Planning must form their own judgement on this, perhaps with the benefit of independent advice from a design consultant or architect to help determine the suitability of the replacement building in a holistic manner.

"The degree of harm, while considerable but possibly not substantial, is still harm and as a private house would not be outweighed by any public benefit."

This is not accepted. The replacement building will reinforce the special character of the conservation area, providing an instance of intelligently managed change which takes cues from the existing building whilst adding to its inherent qualities, for the reasons set out above.

"Recommend refusal."

The application is commended for approval on heritage grounds.

Conclusion

In response to the Conservation Officer's consultation comments the conclusions of the heritage statement set out at paragraphs 6.1-6.12 of the Heritage Statement are reaffirmed.

Accordingly, it is submitted that there are no heritage grounds on which to object to the application scheme and we find the proposal compliant with local and national policy relating to the historic environment. The application scheme is thus commended for approval.

Yours sincerely,

Chris Griffiths LLB (Hons), MA, IHBC
Associate Director