



Appeal Decisions

Hearings held on 15 March 2022, and 6 September 2022

Site visits made on 21, 22, 23 March 2022, and 8 September 2022

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2022

Appeal A Ref: APP/K3605/W/21/3275789

Esher Place, 30 Esher Place Avenue, Esher KT10 8PZ

- 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 Birchwood Homes Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2020/0437, dated 12 February 2020, was refused by notice dated 26 November 2020.
 - The development proposed is the change of use from conference centre (D2) to residential (C3) to provide 21 flats with associated single and two-storey extensions to east wing, parking, bin and cycle stores, landscaping and alterations to fenestration following removal of existing external staircase.
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Appeal B Ref: APP/K3605/Y/21/3275801

Esher Place, 30 Esher Place Avenue, Esher KT10 8PZ

- 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 Birchwood Homes Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2020/0567, dated 12 February 2020, was refused by notice dated 26 November 2020.
 - The works proposed are the change of use from conference centre (D2) to residential (C3) to provide 21 flats with associated single and two-storey extensions to east wing, parking, bin and cycle stores, landscaping and alterations to fenestration following removal of existing external staircase.
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Decisions

Appeal A Ref: APP/K3605/W/21/3275789

1. The appeal is dismissed.

Appeal B Ref: APP/K3605/Y/21/3275801

2. The appeal is dismissed.

Preliminary matters

3. The descriptions of the proposals in these appeals have been taken from the appeal forms and decision notices as these reflect what was determined by the Council.
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4. This appeal was made alongside appeals¹ against the refusal of planning permission and listed building consent for four developments at Esher Place or within its grounds. Each application for permission, alongside any parallel application for consent, was made by a different applicant, and concerned a different site within the house or its grounds. I have considered each appeal on its own merits.
5. Evidence concerning the issue of affordable housing common to all the appeals was heard at a Hearing. In reaching agreement on one aspect of this issue, detailed evidence on viability was exchanged between the appellant and the Council, before the Hearing. However, as this was only submitted shortly before the Hearing, the Hearing was adjourned to allow time for its proper consideration. A further round of evidence was exchanged between the main parties before the Hearing resumed.
6. At the resumed Hearing, the appellant mentioned that, because of the increase in building cost indexes and the Bank of England base rate since agreement was reached in the statement of common ground on the residual land value (RLV), the RLV might no longer be accurate. They requested that the main parties be allowed to reconsider the agreed RLV together, and to make a simple adjustment to it, during a brief adjournment during the Hearing.
7. The Council, however, refused to reconsider the agreed RLV in a brief adjournment. Its concern was that the RLV was properly agreed by quantity surveyors, with many of its assumptions not index-based but specific to the developments, and agreed through compromise. An updating exercise, it said, would require full and proper re-examination of all the assumptions rather than the application of a notional allowance; a far longer exercise than could be carried out in a brief adjournment. Moreover, it also identified the risk that if the cost allowances in the agreed RLV were to increase, then so may the other assumptions in it, such as capital values. This may balance out any index adjustments.
8. The appellant also remarked that, though this was not a position advanced by them in their statement of case nor in their financial viability appraisal, that credit should be given against the vacancy of the existing building (VBC). The

¹ Appeal Refs: APP/K3605/W/21/3275789+APP/K3605/Y/21/3275801 Conversion of the house
APP/K3605/W/21/3275803+APP/K3605/Y/21/3275807 Extension to the house
APP/K3605/W/21/3275808 3 houses
APP/K3605/W/21/3275811 4 houses

National Planning Policy Framework (the Framework) supports the re-use of brownfield land, where vacant buildings are being reused or redeveloped. It indicates that any affordable housing contribution due should be reduced by a proportionate amount.

9. The Council was unable, at such short notice given it at the resumed Hearing, to agree that VBC should be applied. Without substantive evidence on the vacancy of the building, it was unable to properly consider whether VBC would apply, and if it did, what proportion may apply. I saw at my site visits that some of the building appeared to be occupied. In these circumstances, without details of what precisely is being claimed, and without the evidence to support that, the weight I can give this is very limited.
10. In the event, no evidence on these late matters was advanced, nor was any adjustment to the agreed RLV or to the appellant's financial viability appraisal pursued by the appellant. Moreover, there is no allowance for VBC in the appellant's FVA, neither against the proposal in the existing building, nor against the aggregate of the four developments.
11. Other matters were considered under written representations. I visited the site and neighbouring land over three days after the adjourned Hearing; the first and second days in the company of the appellant, the Council, and interested parties, to the building, grounds and neighbouring land; the third day, to the grounds, on my own. I also revisited the building and grounds, alone, after the close of the resumed Hearing.
12. As the proposal concerns a listed building, I have had special regard to sections 16(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Application for costs

13. An application for costs was made by Elmbridge Borough Council against Birchwood Homes Ltd. This application is the subject of a separate decision.

Main issues

14. From everything I have read, seen and heard, the main issues are:
 - A. Whether the proposal would preserve the grade II listed building Esher Place, 30 Esher Place Avenue, and any of the features of special architectural or historic interest that it possesses;
 - B. The effect of the proposal on the setting of the listed building; and,

- C. Whether the proposal should make a financial contribution to affordable housing.

Reasons

The significance of the listed building and its setting

15. There is broad agreement between the parties on the historical development of Esher Place. Most of what is visible today of this grand country house and grounds is the remodelling work of architect George Robinson and landscape architect Achille Duchêne at the end of the C19, for Lord Vincent, the first Viscount d'Abernon. He altered and extended the core of this house which was originally built by Edward Lapidge in the early C19, for stockbroker John Spicer.
16. However, this was not the first development here. Henry Pelham, the third prime minister of Great Britain, acquired the site in the early C18 and commissioned William Kent to remodel the C15 house and grounds built for Bishop Wayneflete including its gate house, the Wayneflete Tower. The Tower survives, and is a grade I listed building.
17. Robinson re-orientated the house and he upgraded its classical villa appearance to follow an altogether grander, more formal, French influence. As well as altering its frontage, he extended the house, with a wing to the north, and he added a building for real tennis, linked to the north wing by a long, curving gallery. The architect Sir Edwin Lutyens added a sunken theatre and a sunken garden in around 1905. The house was given to the Ragged School Union in 1930. The children's home continued until 1952 when it was sold to the Unite Trade Union.
18. There is thus historical, associative and some communal, social value in the development of the building and its landscape, much of which survives today. Reflecting the architectural taste at the end of the C19, the historical value that can be attributed to the French formal style by the considerable efforts and costs to change the building is substantial.
19. The special architectural interest in the building, described by Pevsner as a very large, Frenchy mansion, is apparent in the French design influence. Externally, this has been achieved by the formal arrangement of classical elements in the facades and the forms of the buildings. This includes, for instance, the raised roof and projecting elements of the central section; the

vertical ascendancy in the order and pairing of pilasters; the modulation and layering of the different textured panels of stone and brick; the semi-circular headed openings; the stone balustrading, including at parapet level; the mansard roofs; and the oeil-de-boeuf windows. These highly crafted, expressive elements in the language of its architecture give the listed building a very high degree of historic and architectural significance.

20. Inside the building, and despite the challenge of having to alter existing work, the interiors successfully continue the French influence, notably, the grand, stair-hall with chequerboard marble floor and elegantly curving stair leading to the light upper gallery with additional lighting through the windows of the curved ceiling. The spatial arrangement of the sequence of rooms in the central and north sections of the main building reveal how the house was used. The discrete secondary stairways leading to the south wing also indicate something of the social hierarchy of the time.
21. Many of the rooms have been sumptuously decorated with highly ornate plaster work and joinery, with different themes. The former gallery, the former theatre which was a gift from King Edward VIII, and the library in the north wing are acknowledged by the appellant as being architecturally sophisticated with a high level of craftsmanship and decorative detail. Despite the later partitioning of the gallery and theatre they retain a high level of historic and architectural interest.
22. The library is historically and architecturally significant for its fabric of intricate, carved wood panelling and silk wallpaper giving the room a sombre character. The captivating portrait of Lady d'Abernon by renowned artist Benjamin-Constant, over its fireplace, commands the room which was the location of the drafting of the Treaty of Locarno in the 1920s. The library thus also has artistic and historical associative value too.
23. The bedrooms in the north wing have survived largely intact with a high degree of historic and architectural interest in their fabric. While the other bedrooms have undergone alteration they retain substantial elements of historic decorative schemes and features including door fittings and windows.
24. In short, the central section of the house, including the halls, and on the ground floor the dining room, and the north wing, have a very high degree of

historic, artistic, and architectural significance. They are particularly sensitive to change. The bedrooms in the central section and the north wing share a high degree of historic, artistic and architectural significance. The less important spaces in terms of the hierarchy of spaces in the house, including the secondary stairways and the spaces in the south wing, including the remnants of C19 fabric, still have considerable historic and architectural interest.

25. As well as the development of this country house having associative and artistic value, its design and detailing also reveal the social preoccupations of its various occupiers, the architectural aspirations at the end of the C19, and the highly skilled, enduring work of the craftsmen or craftswomen who achieved them. While the more modern interventions have less interest today, the surviving historic elements of the layout, design and fabric, both inside and outside the building, have a high and a very high degree of historic and architectural significance.
26. Despite the development of much of the original grounds for housing in the C20, views from the house towards the River Mole reveal the logic of siting the original house here on a promontory, commanding the approach from the river through the gatehouse. While most of the Picturesque landscape devices are only visible in historical documents now, the siting of the house, the sheer modelling of the ground behind it, and the location of surviving trees, suggest the hand of William Kent. The Crouching Venus, attributed to him, survives from this phase. It presently stands close to Lutyens' sunken theatre. The mid C18 Pelham Vase, its plinth inscribed with beautiful relief panels, listed grade II, remains close to the modern boundary of the garden.
27. There is something of a geometric character to the layout, often symmetrical, and the detailing of the terraces, the formal lawns, and the paths which connect them, to both the front and back of the house reflecting the French landscape tradition. Especially notable are Lutyens' sunken garden and sunken theatre of around 1905, which as outside 'rooms' with different characters, extend that C19 French influence into the landscape setting of the building.

A. Whether the proposal would preserve the listed building

28. Subdivision: While the present use of this former country house as a residential conference and training centre may be less than its optimum use as a house, the use has at least ensured that the spaces generally connect following the logic of the architects' layouts. The spatial experience of the house, as a sequence of interconnected rooms, with distinctive circulation spaces, a critical element of the building's authenticity and integrity, have generally been retained.
29. I understand the challenge in dividing an historic house into flats. I recognise the effort made to follow the twists and turns of the building to guide the subdivision. I acknowledge too that there is much very modern work which would not be affected by these proposals. I also appreciate the effort, though I consider it unsuccessful, that has been made to retain the significance of the principal rooms and spaces.
30. Notwithstanding this, the internal subdivision necessary to change the use of the building into flats as proposed would undermine the integrity of that spatial character. Aside from being unable to appreciate, in the core of the building, the sequential and hierarchical effect of linked rooms, with their intentionally different characters reflecting their different functions, the essence of the building would become constrained by the fragmenting and sterilising effect of subdivision. For instance, the architectural device of grand doorways, highly decorated features here which signal connection and which invite movement, could, in many instances, no longer be passed through; the library would become a living room; and the discrete connections of the more utilitarian stairs and narrow passages from the south wing into the main section of the house would be lost.
31. Of course, these proposals must be considered in the light of the effects of the changes which the building has already undergone. Some of its significance has already been lost, particularly inside the former tennis court building. However, it is necessary to recognise at the outset, before looking in detail at the particular mechanics of how the proposed subdivision would be achieved, the considerable harm to the internal, spatial significance of the building and its historical value which would arise from this change of use as a result of the proposed subdivision. This weighs against the proposal.

32. Former theatre: The spatial character of the former theatre as a single space has changed since its partition in the C20. Given that partition, and what appear as changes in level in the historic photographs of when it was a billiard room, I can see no harm, in principle, from the reversible intervention of raising the ground floor in part of the space. I saw little of particular significance in the short steps into the space through the existing partition, either spatially or in terms of historic fabric. Their replacement by a safer arrangement of short stair would reduce the risk of injury without harm to the significance of the space. However, the obscuring of the window which looks directly out onto the grounds with views to the sunken theatre, would contradict part of the architectural purpose of the window.
33. More significantly, and while I appreciate that the C20 partition has changed the proportions of the room, and disconnected some of its symmetry, the removal of part of the first floor over it and the formation of a new stair through it would unbalance the remaining symmetry of the smaller room, much of which survives at around ceiling level with the highly embellished cornices and decorative figures, and in the pairing of the window openings. I appreciate that the stair opening would be set off from the main walls. However, while this would lessen the loss of historic fabric, it would not alleviate the intrusive effect of the stair, and the unbalancing of the space and architecture of the room on the ground floor. This would cause considerable and irreversible harm to the architectural and historic significance of the building.
34. Former library: The portrait and the fireplace are the focal point of the room. They have been set in an intricate, symmetrical arrangement of timber panelling with continuous mouldings, including, beside the portrait, decorated shafts and capitals in carved timber. Apart from the proposed 6-panel door having nothing in common with the order in the existing timber panel work, the formation of a new door opening here would result in the loss of high-quality crafted timber work. It would undermine the symmetry in this wall and disrupt the balance of the room in which the fireplace and portrait are its focal point. This room has a very high degree of historical, artistic, and architectural significance. These proposals would deplete the building of significant historic fabric and diminish its architectural significance.

35. Former tennis court building: I acknowledge that the building which enclosed the tennis court has been substantially altered inside to form bedrooms. However, its tall, broad elevations are important elements in the ensemble of the buildings enclosing the frontage of the house, in which it reads as a secondary element in the hierarchy of the whole building. Aside from the loss of historic fabric, the formation of a new entrance in the centre of the front elevation would give it a conspicuous, independent identity. This would fragment the architectural hierarchy of the whole house, as a single complex, undermining its historic and architectural integrity.
36. It is not clear when the tall windows were formed in the former tennis court building. Nonetheless, their heads remain within the decorative, projecting brick panels which modulate the space between the stonework. Aside from changing the head and cill heights in the elevations of the existing openings, altering their height, width, and proportions, as well as the pattern of glazing within them, the new work would extend the heads of the openings out of the projecting brick panels and across the recessed brick panels, to engage directly and crudely with the higher band of the encapsulating stonework. This would undermine the architectural order as it survives in the elevations, and remove now historically significant fabric.
37. I note that there was a hedge some distance to the front of the main elevation of the tennis court building in 1928, which the appellant speculates was to screen its functional appearance. However, in my view, the height of the tennis court building, its height, its width, its position in the main elevations of the whole house, and the attention in its detailing suggest it is far from utilitarian, but intended to continue, albeit to a lesser degree, the refinement in the detailing of the central sections of the house.
38. Whatever its purpose, the screen has gone. The former tennis court building is once again a prominent and elegant element in the whole building. The proposals for the external walls of the tennis court building would undermine its historic integrity, and its architectural significance as a secondary space to the main section of the house.

39. Extensions: The rearmost extension would project less than the extension in the consented scheme², the extant status of which the Council considers to be likely, though undemonstrated. Notwithstanding this, the extensions to the side of the south wing would extend considerably the amount of building on that side. There is a delicate balance between the two wings of the house, and within the south wing itself, particularly given the historic uses and materials in part of the south wing. The additional volume proposed on this side would, in my view, unbalance the equilibrium between the proportions of the south wing and the rest of the house, and the character of served and servant space, diminishing the historic significance of the listed building.
40. South wing: Being next to the central, front section of the house, the section with five, almost full storey-height, curved-headed window openings is an important part of the architectural arrangement and balance in the front elevation of the house. Infilling one of these openings and installing a door in the lower section would be a crude, utilitarian interruption in the rhythm of openings which reads across the whole elevation of the house. I appreciate that there is a door opening in the front elevation, further towards the far end. However, that belongs in a different section. The architectural integrity of this section, which is differentiated from that further section by the rusticated pilaster, would be undermined. This harm would further diminish the historic and architectural significance of the listed building.
41. Services: Numerous extract and flue terminals have been indicated on the elevations of the proposal, including beside the entrance to the house. The intrusive effect of these on the architecture and fabric of the listed building would diminish its architectural integrity. In the absence of a comprehensive services strategy, I am not convinced that there are not more sensitive options or layouts to deal with services that would not have the harmful effect on the architectural significance of the elevations as these proposals.
42. I conclude on this issue that, overall, the harm I have identified from these proposals to the historic and architectural significance of the listed building would be very considerable. They would not preserve the grade II listed building. They would diminish many of its features of special architectural and

² Appeal Refs: APP/K3605/A/10/2315373 & APP/K3605/E/10/2135377 of 4 February 2011

historic interest. They would be contrary to the clear expectations of the Act, and the objectives of policies DM2 and DM12 of the Development Management Plan 2015 (DMP), which require the character and features of special architectural or historic interest of a listed building to be preserved.

B. The effect of the proposal on the setting of the listed building

43. The forecourt of the house forms an important part of its landscape. It marks an important phase in the development of the house. The formality of its layout, the colours and textures of its lawns and terraces, and the changes in level, reflect the late C19 geometry of the house and its spatial order, as well as directing movement and establishing a foreground architectural character to the building.
44. The stone balustrade enclosing the east boundary, and the changes in level with steps up to the higher-level, flanking lawns and terraces are important landscape devices attributed to Duchêne. The loss of balustrade in the southern section, the alterations to the level changes, and the formation of a turning-head and access road on this side would diminish the symmetry of the front landscape and its enclosure.
45. In the elaborate architectural context surrounding the forecourt and its point of focus at the entrance of the house, the utilitarian appearance of the large bin store and its conspicuous, asymmetrical siting to the right-hand side would intrude in the formal, elaborate setting of the listed building. So too would the other large bin store and bike store beside the southern balustrade to be retained, and what appear to be other, smaller bin stores, in front of the south wing, and beside the former tennis court building, though to a lesser degree.
46. The enclosed, forecourt of this house is not the place to stand bin and bike stores. There is an architecturally more servant section of the building and landscape which is set off from the principal sections of the house and its more prominent landscape, which may be able to more sensitively accommodate bins and bikes.
47. The existing balance of lawns and terraces in front of the house, given the estate of houses which has curtailed any processional element, appears proportionate to the scale of the enclosure of the front of the house and the surviving extent of its curtilage to the front. I note that the space immediately

in front of the house entrance would be retained clear of parking. However, there would be too many parking spaces in the forecourt in these proposals, at the expense of the integrity of the lawns and terraces as landscape devices and their contribution to the historic and architectural significance of the whole listed building.

48. I also question the sensitivity of planting what appear as specimen trees, and in a quasi-formal arrangement integrated with the alignment of parking spaces. Introducing another, different geometry in the front forecourt would risk undermining the continuity of the architectural order between the building and its designed landscape.
49. The external works in these proposals would undermine the synergy between the house and its landscape, a critically important and interdependent principle of the French tradition. The harm they would cause to the setting of the listed building would diminish its historic and architectural significance very considerably.
50. I conclude on this issue that the proposed development would harm very considerably the setting of the listed building, contrary to the Act, which requires special regard to be had to the desirability of preserving the setting of a listed building. It would result in very considerable harm to the historic and architectural significance of the listed building. It would conflict with DMP policies DM2, DM7, and DM12 where they require proposals to take account of the historic environment, require car parking design to respect the character of the area, for the siting of accesses to be acceptable in visual terms, and to preserve or enhance the setting of listed buildings. It would also conflict with the Framework, which in paragraph 200, identifies the potential for harm to the significance of a designated heritage asset including from development within its setting, and which in paragraph 206 encourages development within the setting of heritage assets to look for opportunities to better reveal their significance.

C. Whether the proposal should make a financial contribution to affordable housing

51. The Council has set out in policy CS21 of the Elmbridge Core Strategy 2011 (CS) its aim to provide 1,150 affordable homes between 2011 and 2026. On sites of 15 homes or more, it requires 40% of them to be affordable. The sub-text to the policy indicates that where the delivery of affordable housing is

unviable, this must be demonstrated through the submission of a financial appraisal alongside a planning application.

52. The appellant has not objected to the application of CS policy CS21. Indeed, it has submitted a Financial Viability Appraisal (FVA) to justify the lack of any provision or contribution to affordable housing. On this basis, I can see no reason why CS policy CS21 should not apply to the development in this proposal.
53. In the planning application the subject of this appeal, the appellant indicated³ that 40% of the dwellings would be for affordable housing which would be secured by a planning obligation. However, when the Council determined the application, no obligation had been provided, the lack of which prompted one of the reasons for refusal.
54. The appellant has submitted with the appeal a financial viability appraisal (FVA). This has assessed the aggregate viability across all four developments. It acknowledges that CS policy CS21, which would require, across all the developments together, 14 homes as affordable housing, but concludes that the aggregate proposal would be unable to provide any affordable dwellings or contributions to affordable housing.
55. The parties agree that the aggregate residual land value (RLV) of the four developments would be £7,916,989. They disagree however, on the benchmark land value.
56. Benchmark land value (BLV) based on the existing use value (EUV): In calculating the EUV the appellant values the existing buildings at £8,100,000 to which they add £900,000 as a special assumption for the value of an unbuilt extension. This makes their EUV £9,000,000. The Council, on the other hand, values the existing use at £4,320,000; the difference between the parties is more than 100%.
57. The appellant's value of the existing use is based on the agreed nett internal area of the building, 36,000ft², and a capital value of £225/ft², wherein the difference lies. This capital value was based initially on a schedule⁴ of sales transactions of sites in the area. However, whereas the Planning Practice

³ Application covering letter, 12 February 2020 ref: SB/JS/7974 & appellant's email to Council 7 October 2020

⁴ Section 18, Valuation Report by Perry Hill, 19 May 2021

Guidance (PPG) advises that EUV is the value of the land in its existing use, and the last use of the building was as a residential training centre, the appellant's schedule of transactions has no similar reference but instead includes transactions for sites with uses as diverse as skilled nursing facilities, care facilities, hotels, and schools.

58. I appreciate that the location of the appellant's comparables are close to the appeal site, but the schedule is not comparing like use with like use. This makes the accuracy of the £225/ft² valuation uncertain. Moreover, notwithstanding that the uses are incomparable, it is not clear how the collection of rates in the schedule, which vary from £76/ft² to £508/ft², has led to the valuation of £225/ft².
59. In support of their EUV, the appellant submitted further comparables⁵ of sites sold within a radius of 7.5 miles. However those examples vary substantially in size and use ranging from a former police station to a church, a day nursery, surgeries, care homes, schools, hotels, a meeting hall and a riding centre. Again, this is not comparing like with like, and, as before, it is unclear how the rates which vary from £233/ft² to £1,089/ft² have led to a valuation at the appeal site of £225/ft². That the appellant's valuation is neither as high nor as low as the comparables they present does not give me confidence in the valuation.
60. The Council's valuation⁶ of EUV on the other hand, at £120/ft², or £4,320,000, included an example of a training centre, Alvescot Lodge, in Oxford. Though the floor area of that training centre was around half that of Esher Place, the area of its grounds was similar. It sold at £104/ft². Applying the same £/ft² rate, £/acre rate or a room rate of that sale, would give an EUV of less than £4,000,000 for Esher Place.
61. I recognise that as a location, Oxford may have less land value than Esher. It may be further from London and from Heathrow Airport. However, the catchment area of a conference centre is far broader than that of a house, a nursing home, or a school. Indeed, I heard that delegates from across the world have attended conferences at Esher Place. Oxford is a well-connected city. Moreover, for the purposes of a residential training course or conference,

⁵ Supplementary evidence by Perry Hill, 15 March 2022

⁶ Appendix 3, Review of Benchmark Land Value, 2 March 2022, by Dixon Searle Partnership

the land value of the location is, I consider, of less relevance than the character of the place, the quality of the conference space and accommodation, and how easy it is to reach.

62. A second example from the Council, of a language centre in St. Albans, with around three times the floor area and ten times the land area of Esher Place, sold for £66/ft². Setting aside the acreage rate because it would result in a very low value at the smaller Esher Place, and applying the Council's uplifted rate of £100/ft² would, like the other training centre example, result in an EUV at Esher Place of less than £4,000,000. Given the smaller size of Esher Place, the Council's estimate allowing some uplift, seems fair.
63. On this basis therefore, and given all the evidence before me, the appellant's valuation of £8,100,000 appears a substantial over-estimate of EUV for the existing building. The EUV of the existing building is more likely to be at or very close to the Council's estimate of £4,320,000.
64. Special assumption in the EUV: The appellant has added £900,000 to the EUV of the site for the value of the unbuilt extension to the main building. However, the PPG is explicit⁷ in defining EUV as the value of the land in its existing use, and that it should disregard hope value. It states⁸ that alternative use value (AUV) refers to the value of land for uses other than its existing use, and that where it is assumed that an existing use will be refurbished or redeveloped this will be considered as an AUV when establishing BLV.
65. The area of land for the extension is part of the grounds of the house. The whole site was marketed in 2017, well after the planning permission for the extension was received, but received no interest in the continued use. Moreover, the appellant's own valuation⁹, albeit with reference to market conditions after the Covid-19 pandemic, considered that it would be 'unlikely that demand will fill the existing building', let alone the building extended. I appreciate that this referred to booking anxiety in the aftermath of the pandemic, which may now have subsided. But equally, during the pandemic, online conference calls and online meetings became commonplace. It is

⁷ Planning Practice Guidance, paragraph 10-015

⁸ Planning Practice Guidance, paragraph 10-017

⁹ Valuation Note 3, Valuation Report by Perry Hill, 19 May 2021

unclear how, since the pandemic, this technology has affected the expectations of potential conference delegates and the demand for residential conference and training centres.

66. In these circumstances, I am not convinced that to add £900,000 to the EUV for an unbuilt extension to a building for whose use there is no evidence of demand, is justified. Moreover, the appellant's nominal value of the extension at £900,000 is based on an allowance of £100,000 for each of its 36 rooms, giving a gross development value (GDV) of £3,600,000. However, it is not clear how that value was reached, nor the reason why it should switch from the area rate used for the existing building to a room rate for an extension to it. Its value lies in being part of the rest of the building whose facilities it would share. This suggests it should be valued on an area basis.
67. Notwithstanding this, and even incorporating the £900,000 value for the unbuilt extension, for the reasons already given, the appellant's position remains a substantial over-estimate of EUV.
68. Conclusion BLV based on EUV: The parties agree that a 10% premium over the EUV should be included as a reasonable incentive for the landowner to sell. Using the agreed RLV of £7,916,989 and the appellant's EUV of £9,000,000 indicates that there would be no surplus for affordable housing.
69. However, for the reasons above, I cannot agree with the appellant's valuation of the EUV which the evidence and the application of the PPG suggests is an over-estimate. Using the Council's more accurate EUV of £4,320,000 and adding a 10% premium of £432,000 would result in a BLV of £4,752,000. This suggests that there would be sufficient headroom in the aggregate scheme for more than a nil contribution to affordable housing, as required by the development plan.
70. Even if I agreed with the appellant that the unbuilt extension should be part of the EUV, which I do not, this would make an EUV, based on the Council's rate for the existing building but with the appellant's value of the extension, of £5,220,000. Adding to this a 10% incentive would make a BLV of £5,742,000; still sufficient margin for some contribution to affordable housing.
71. Benchmark land value based on an alternative use value (AUV): The PPG recognises that an AUV may be informative in establishing BLV. It is, however,

limited to those uses which would fully comply with up-to-date development plan policies. Where it indicates that plan makers can set out the circumstances in which AUVs can be used it includes where the alternative use could be implemented; where it can be demonstrated that there is market demand for that use; and if there is an explanation as to why the alternative use has not been pursued. It also indicates that the AUV should be supported by evidence of costs and values and that the AUV already includes the premium to the landowner.

72. AUV as a hotel: The appellant has proposed that an alternative use for the building might be as a hotel, with 52 rooms. With a capital value of £8,100,000 for the building, the room rate would need to achieve £155,769.
73. By comparison, they refer to two, local hotels with capital values, by room, of £162,463 and £193,000. However, the higher value is for a hotel in a more prestigious location than Esher Place, being alongside the Thames and with Hampton Court Palace in sight.
74. The Council has also submitted examples of comparable hotels. Most of these I find incomparable, because of size, or facilities, or location, or a combination of these factors. However, its example of the Warren House Hotel in Kingston, surrounded by large properties, a private estate, similar in the area of its grounds, similar in the number of bedrooms, and not least its location, has much in common with Esher Place. I appreciate that Esher Place does not have a pool or spa, but it has compensating factors, not least its splendid interior and its spatial setting. The room rate that the Warren House Hotel achieved, of £165,217, suggests that the appellant's room rate of £155,769 to achieve the £8,100,000 valuation of the building would not be an unrealistic aspiration at Esher Place.
75. Another example, the 3* Kingston Lodge Hotel, a 67-room hotel with conference facilities, sold at a rate of £162,687/room. Given the similarity of its location and size, this example too suggests that the appellant's target room rate of £155,769 is not unrealistic.
76. Notwithstanding this, the compared hotels had been trading, whereas the existing building was last used as a residential training centre, and would require works to convert it to a hotel. From my own inspection, save for a very few, the bedrooms in Esher Place would require modernisation to bring them up to the standard of a modern hotel like those in the comparisons. Moreover,

- the other, non-bedroom spaces are important in a hotel. These spaces would also require some work and hence cost. This is a listed building where internal works to change it to a hotel would present opportunities, but also extra-over costs.
77. The appellant insisted that the building is ready-to-trade, whereas the Council estimated that the cost of converting the building to a hotel would be around £100/ft², or £3,600,000. The Council does not set-out the assumptions it used in selecting that cost. Equally, and despite the clear guidance in the PPG that an AUV should be supported by evidence of costs, in the face of that estimate, an estimate which changes decisively the valuation, the appellant does not set-out how changing the use could be totally cost-free, which I saw could not realistically be the case. I cannot therefore rely on the appellant's valuation.
78. Assuming that the appellant's aspirational room rate is achievable, the conversion works suggested by the Council would result in an AUV as a hotel of £4,500,000. This too would suggest that with an alternative use as a hotel, there may be sufficient headroom for more than a nil contribution to affordable housing, as required by the development plan.
79. However, as well as there being no substantive evidence from either side on the cost of conversion, neither is there any evidence of market demand for a hotel here. This introduces even more uncertainty to the value of this alternative use. Moreover, while the Council could not point out any obvious conflicts with the development plan from a change of use to a hotel during the Hearing, the lack of evidence of the use fully complying with the development plan also casts doubt. While AUV may be informative in establishing BLV, the factors above make any reliance on an alternative use as a hotel a precarious assumption. This limits the weight I can give this speculative AUV.
80. AUV as a care home: The examples of care homes and skilled nursing facilities from the appellant range in value from £75.81/ft² to £507.72/ft². However, the size of most of them, which range from around 4,000ft² to around 11,000ft² are too small to compare to Esher Place, which is £36,000ft². At the other extreme, the St. John's Wood care home, at 60,000ft² and £108.21/ft², which is far larger than Esher Place, is equally an outlier. However, the homes in Hayes and Dorking which have areas of around 29,000ft² and 21,000ft² are more comparable to Esher Place, at least in size. They sold for £152.64/ft² and

£150.17/ft². This suggests that the appellant's value of £225/ft² may be slightly over the mark.

81. More significantly, there is no evidence of demand for a care home here, and no indication of the costs for the works which would be necessary to convert it from its present use. This limits the weight I can give this speculative AUV too.
82. AUV as a day school: I discount most of the Council's examples of day school transactions, located in the shires, or a considerable distance from London, as being incomparable geographically. The appellant's examples of schools, except for one which is less than half the size of Esher House which limits its relevance, have values substantially less than £225/ft². However, there is no evidence of any demand for a day school here, no indication of the costs required for conversion of the building to that use, and no evidence that the use would fully comply with the development plan. This limits the weight I can give this speculative AUV too.
83. AUV as a boarding school: I have also considered the examples of boarding schools given by the appellant, the most comparable of which, Hampton Court House, is a period building of 30,000ft², with a value of £463/ft². While this suggests that the appellant's rate of £225/ft² may be reasonable, there is no evidence that there is demand for a boarding school here, and no indication of the costs to convert the building from its present use. Again, this limits the weight I can give to the claimed value of such an alternative use.
84. Conclusion on BLV: For the reasons above, none of the alternative use values are sufficiently reliable to inform the benchmark land value to any significant degree. Returning to the BLV above, based on the existing use, it is clear that there is sufficient headroom for some contribution to affordable housing.
85. Overall Conclusion on affordable housing issue: Notwithstanding my findings above, the assumptions in the appraisals of both parties, particularly the RLV and BLV, relate to the aggregate of four developments on four sites, rather than this singular development on this particular site. The calculations and conclusions in the FVA do not separate the development in this appeal from the developments in the other appeals. There is no means to disaggregate the elements in the FVA relevant to this proposal from the other proposals. There is also no certainty that all the developments included in the FVA will gain the necessary planning permissions and listed building consents. Nor is there any

certainty that they would be implemented, and no mechanism to secure an adjustment in the event that they were not.

86. In other words, whereas the applications concern four separate proposals, the financial calculations are based on the collective value. This flies in the face of DMP policy DM4 which encourages developers of adjoining sites to work together to deliver comprehensive development. It means that the success of each appeal on this issue, is dependent on the success of each of the other appeals, or as the appellant put it during the Hearing; it's either all of them or its none of them.

87. In these circumstances, it is not possible to conclude that the proposal should not make a financial contribution to affordable housing. In fact, the evidence suggests that it should. In the absence of any contribution, the development would be in conflict with CS policy CS21. This weighs against the proposal.

Other matters

88. I appreciate that the scheme that was allowed at appeal¹⁰, the extant status of which the Council considers to be likely though undemonstrated, included an extension in connection with the existing use then. However, eleven years have elapsed since those appeals were allowed and there is no sign of the extension building rising from the ground, nor the forecourt works being implemented. The appellant's own evidence¹¹ indicates that the property is no longer viable for its existing use or for any other social or community use that could be achieved through conversion or redevelopment; hence the applications the subject of these appeals. The likelihood of that development being implemented is, in my view, no more than a theoretical possibility.

89. Moreover, the forecourt proposals in the two schemes are different. Implementing the consented arrangement of parking spaces may conflict with the use of the building as flats, for instance the proximity of parking spaces to habitable rooms, parking in front of the entrance of the building, and the inclusion of overlapping parking. In other words, I am not certain the allowed parking layout would suit the scheme in this proposal.

¹⁰ Appeal Refs: APP/K3605/A/10/2315373 & APP/K3605/E/10/2135377 of 4 February 2011

¹¹ CBRE Marketing Report of 10 February 2020

90. More decisively, and noting that unlike in the allowed case, the Council in this case objected strongly to the landscape alterations, the forecourt changes in the allowed appeals would not be more harmful than the alterations proposed in these. For instance, the allowed scheme retained the terrace steps and much of the banked lawns beside them; important elements of Duchêne's design. Nor did it include a freestanding storage building so conspicuously in the front forecourt of the listed building, as the proposal in these appeals.
91. Another important distinction between the two schemes is that in the allowed scheme the Inspector found no harm, whereas in this case, both the Council and the appellant¹² consider that the proposal would result in less than substantial harm to the significance of the listed building. In my view, for the reasons already given, I do not find the allowed scheme more harmful than this proposal. All these factors limit the weight I can give to the fallback position claimed by the appellant.
92. The Planning Practice Guidance indicates that when assessing the setting of a heritage asset it may be necessary to consider the implications of cumulative change. I have considered this proposal on its own merits, and found very considerable harm to the significance of the listed building from development within its setting. The same is true of the appeals for the other three projects which I have dismissed with similar conclusions.
93. The collective harm to significance from the four sets of harms considered together would be greater than the harm to significance from the harm I have identified in each singular case, though still, in my view, amounting collectively to no greater than less than substantial harm to significance. As I am dismissing these appeals on their own merits in each individual case, I have not pursued the matter of cumulative change any further.
94. I acknowledge the Council's concern about the level of detail in the application being insufficient to understand the effect of the proposals on the significance of the listed building. However, the statement of significance of the building amply identified its significance, and the drawings indicated with sufficient clarity the intentions of the proposals and their implications proportionate to

¹² Paragraph 8.8, Built Heritage Appeal Statement, May 2021, & page 19, Heritage Statement, December 2019

the assets' significance, as required by the Framework in paragraph 194, and sufficient for me to reach my conclusions on these proposals.

95. Because of the distance of the house from Wayneflete Tower, the extent and nature of any external alterations on the Tower side of the house and its grounds, as well as the development between them, the setting of Wayneflete Tower would not be affected by these proposals.
96. So too the Pelham Vase. There are no physical alterations proposed that would affect its setting. Planning conditions and a management plan for the grounds and their maintenance could secure the integrity of its setting from any potential ill-effect from the change of use.
97. The settings of these listed buildings would therefore be preserved in accordance with the expectations of the Act, and the objectives of the Framework which recognise the potential for harm to the significance of a designated heritage asset from development within its setting.
98. I have taken into account the other matters raised by local residents, including traffic and road safety, trees and drainage. However, as I am dismissing the appeal on the main issues and they could not alter my conclusions, I have not considered them further.

Planning balance

99. The proposals would preserve neither the special historic and architectural interest of the listed building, nor its setting. I give this harm considerable importance and weight in the planning balance of these appeals.
100. Paragraph 199 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 its conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of the asset or development within its setting, and that any harm to the significance of a designated heritage asset should require clear and convincing justification.
101. The degree of harm to the historic and architectural significance of the listed building and its setting that I have identified would be very considerable. Though this would, in the language of the Framework be less than substantial, a conclusion shared by the appellant¹³, this does not equate to a less than

¹³ Paras 8.8 & 8.12 Built Heritage Appeal Statement, May 2021; para 7.12 Statement of Case, May 2021

substantial planning objection, especially where the statutory tests are not met. In these circumstances, paragraph 202 of the Framework anticipates that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this should be weighed against the public benefits of the proposal.

102. The proposals include the removal of various metal fire escape stairs and railings which are prominent on the building and detract from the unity of its architecture. This would be a modest heritage benefit to the significance of the building. The use would secure the long-term occupation and maintenance of the building and its setting and hence its long-term conservation. This is another heritage benefit, however, given that the marketing of the building revealed interest in an alternative use less likely to result in the harm from fragmentation, I can give this only moderate weight.
103. There is no dispute that the Council cannot demonstrate a five-year supply of deliverable housing sites. The appellant's claim that the Housing Delivery Test indicates that the delivery of housing has been substantially below the housing requirement over the last three years, and their estimate of a supply of around 3.9 years, has not been refuted. Appeal 'A' therefore falls to be determined in accordance with paragraph 11d) of the Framework.
104. Designated heritage assets are protected by policies in the Framework. In applying its policies concerning designated heritage assets, I have found clear reason for refusing the development. Accordingly, in appeal 'A' the tilted balance does not apply, and the Framework is not a material consideration in this context to indicate a decision other than in accordance with the development plan.
105. Notwithstanding this, the proposals would bring new dwellings, in a range of sizes, in a location with good access to services and facilities and in an area which suffers from a shortfall of housing. In the context of the Government's objective to significantly boost the supply of homes, this attracts significant weight. Construction would bring economic benefits too, from employment, the commissioning of services, and the retention of building craft skills which attract moderate weight. Future occupiers would bring local economic benefits from using facilities, additional spending and commissioning local services.

106. However, the heritage benefits and the other public benefits in the proposals would not outweigh the less than substantial harm to the significance of the listed building and its setting, to which I attribute considerable importance and weight, and to the conservation of which the Framework indicates that great weight should be given.

Conclusion

107. The proposal would result in very considerable harm to the significance of the listed building and to its setting. It would fail to satisfy the requirements of the Act, paragraph 197 of the Framework, and it would not be in accordance with the development plan. Moreover, while the development plan requires the development to include affordable housing, it has not been possible to conclude that the proposal should not make a financial contribution to affordable housing. In the absence of any contribution, this too puts the proposal in conflict with the development plan.

108. Notwithstanding all the benefits of the proposal, which attract significant weight, they would not outweigh the very considerable harm to the significance of the listed building and its setting, and the conflict with the development plan, when read as a whole.

109. There are no other material considerations which suggest that the decisions should be taken other than in accordance with the development plan, insofar as relevant. Having taken into account all matters raised, and for the reasons above, the appeals are therefore dismissed.

Patrick Whelan
INSPECTOR

Appearances

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Ross Minerva

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Appellant

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