



Appeal Decision

Site visit made on 8 January 2019

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2020

Appeal Ref: APP/X5990/C/19/3230108

Chesham Place Gardens, Chesham Place, London SW1X 8HN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Sheena Fensom on behalf of Stamford Group Holdings Limited against an enforcement notice issued by City of Westminster Council.
 - The enforcement notice was issued on 30 April 2019.
 - The breach of planning control as alleged in the notice is without the requisite planning permission and within the last 4 years the unauthorised erection of a timber clad outbuilding with a lantern style rooflight, the installation of a timber-decked area and the erection of a trellis affixed to the top of a close board fence on the southern elevation of the Square.
 - The requirements of the notice are:
 - a) Remove the timber clad outbuilding with the lantern roof light outlined in red in Photograph Set A attached to this notice;
 - b) Remove the decking outlined in yellow in Photograph Set B attached to this notice;
 - c) Remove the trellis installed on top of the close board timber fence and reduce the height of the supporting stanchions to the height of the close board timber fence as outlined in blue in Photograph Set C attached to this notice; and
 - d) Upon completion of steps a) to c) remove from the garden square any resulting materials and debris associated with the remedial works.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177.

Application for costs

2. An application for costs was made by Ms Sheena Fensom on behalf of Stamford Group Holdings Limited against City of Westminster Council. This application is the subject of a separate Decision.

Preliminary Matter

3. During my site visit, I also visited Belgrave Square. I shall return to this matter later in my decision.

Ground (a) appeal and the Deemed Planning Application

Main Issue

4. The main issue is whether the unauthorised development preserves or enhances the character or appearance of the Belgravia Conservation Area (BCA)

Belgravia Conservation Area (BCA)

5. The appeal site relates to a triangular shaped garden surrounded on all sides by Chesham Place which is located within Belgravia. The garden lies within the BCA and is surrounded on all sides by Grade II listed buildings, together with a number of modern buildings. The Garden is also protected under the London Squares Preservation Act 1931.
6. With regards to the effect on designated heritage assets, Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
7. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 194 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
8. The Draft Belgravia Conservation Area Audit, 2013 (DBCAA) explains that Belgravia was developed by Thomas Cubitt for the Grosvenor Estate in the early to mid C19 century, and remains of historic significance as one of the City's best known, high class and most distinctive, planned aristocratic residential areas, which influenced other similar developments in Victorian London. The DBCAA further explains that the distinctive character of the BCA derives from the combination of opulent cream stucco terraces, spacious streets and the verdant garden squares on which these are set. The consistent use of materials and repetition of classical architectural detailing contributes to a high degree of townscape uniformity and coherence.
9. Open spaces / London Squares contribute significantly to the open and spacious character and appearance of the BCA, providing a soft edge within urban landscapes as well as bringing environmental benefits. The planting of trees in the majority of the BCA is restricted to the formal squares, which act as the green lungs for the area. It is therefore important to ensure that these historic parks and gardens are protected and enhanced.
10. I acknowledge that the unauthorised works occupy a relatively small proportion of the overall garden area and it is stated that the outbuilding, is constructed from recycled historic features of the area and durable materials. Notwithstanding these positive aspects, the height, scale and appearance of the unauthorised timber clad outbuilding contrasts unfavourably with the more

modest sized existing lawful shed adjacent to it. The design of the of outbuilding together with the French doors and roof lantern feature has the appearance of a 'summerhouse', rather than a standard garden shed used for storage and maintenance purposes.

11. Furthermore, the overall height and bulk of larger unauthorised outbuilding is greater than the existing lawful garden shed, and as such is visually more prominent in the streetscene. The excessive height and scale of the outbuilding which is further exacerbated by the roof lantern, rising proud above the existing building, erodes the sense of openness on this corner section of the garden, which contributes positively to the spaciousness of the BCA.
12. Both the timber decking and trellis are more associated with a residential back garden and are not a characteristic feature of a Garden Square. In this respect they appear in stark contrast to the materials typically found in a traditional London Square, and fails to contribute to the open character of the area. Additionally, the decking, raised above the existing ground is visually more prominent, and covers a larger area, than the hardstanding area beneath it.
13. The unauthorised works are all located close to the pavement edge and are highly visible from public vantage points around Chesham Gardens Square. As a result, the development results in additional visual clutter to this section of the garden, in a highly prominent location of Chesham Garden Square. Consequently, the development is not in keeping with the open character and appearance of the BCA, and results in harm to its significance.
14. In support of the appeal, reference is made to the fact enforcement action was not taken against the pre-existing sheds together with the volume of these structures. However, the evidence indicates that the pre-existing sheds were removed some time before the current unauthorised outbuilding was erected. I also note that the new outbuilding appears considerably larger and of greater scale than either of the more typical modest sized garden sheds it replaced. In particular, its height is exacerbated by the installation of the lantern rooflight, rising well above the main roof. Therefore, the pre-existing sheds result in less harm to the character and appearance of the BCA and does not lend support for the current unauthorised development.
15. My attention has also been drawn to a number of recent planning permissions in Belgrave Square¹ in an attempt to support the current unauthorised works. However, whilst Belgrave Square is also within the BCA, it is a significantly larger Garden Square than Chesham Place Gardens, and therefore requires larger area dedicated to the maintenance and management of the Square. Secondly given its overall larger size, it can accommodate a significantly larger garden compound without causing harm to the character and appearance of the BCA. I also note from the approved plans that the approved scheme, and the existing garden compound, are set further away from public vantage points than the current unauthorised development which is immediately adjacent to the public highway. In this respect the existing garden compound and approved developments at Belgrave Square are well screened from public vantage points and the same cannot be said for the current unauthorised works. As such the developments at Belgrave Square are not directly comparable to the unauthorised developments in Chesham Place Gardens.

¹ Council References: 05/00506/FULL, 06/02821/FULL and 06/02827/FULL.

16. Furthermore, reference is also made to plaques, statues, sculptors, tennis courts in other London Squares and to extensions and alterations to a number of nearby buildings, including the modern roof extension on the German Embassy. However, I note that the plaques, sculptors and tennis courts etc all differ from the current unauthorised developments, and the extensions carried out to nearby buildings do not relate to similar types of development within a garden square. Again, these are also not directly comparable to the current unauthorised developments.
17. It is also suggested that the existing street sign, and a planting condition could be secured, to mitigate the harm to the character and appearance of the BCA. However, given the prominent location of the development, close to the public highway, I do not consider that either would be effective in screening the development.
18. I have also taken into account the fallback position referred to in the appellant's statement², which demonstrates what the garden looked like prior to the unauthorised works and what it would return to if the Enforcement Notice is upheld. However, these images confirm my findings that the unauthorised works have resulted in harm to the BCA.
19. In the terms of the Framework and paragraph 196, the harm that the unauthorised development has caused to the significance of the designated heritage asset, that is the BCA, would amount to less than substantial harm. Accordingly, this should be weighed against the public benefits of the development.
20. It is stated that the outbuilding is necessary for the maintenance of the garden square for the storage of equipment and furniture. The guidance within the Supplementary Planning Guidance (SPG) 'Historic Parks and Gardens in Westminster' (2004) states that "ancillary development in historic parks and gardens, such as garden sheds or kiosks, should be kept to a minimum, as visual clutter can significantly detract from the appearance of the landscape. If the structures are shown to be necessary, they should be designed and positioned to be appropriate for the character, appearance and historic importance of the landscape".
21. However, I observed that the outbuilding was also being used, amongst other things, for storage of rattan furniture and a barbecue, which goes beyond the scope of what is reasonably required for the management and enhancement of this London Garden. It follows that I am not convinced that the current unauthorised outbuilding, timber decking and trellis are essential to the management and enhancement of the Square.
22. I also note that the trellis was installed to help prevent litter from entering the garden, and that the outbuilding and decking encourages social interaction in the garden by the local community. However, these modest benefits are insufficient, in my view, to outweigh the harm I have identified to the BCA and to which I afford considerable importance and weight. I also note that the Council advise that traditional benches, similar to those found in Belgrave Square, could be installed to encourage social interaction and appreciation of the gardens by the local community. Furthermore, I also consider that there

² Photographs taken on 30 June 2015 and 1 July 2015, illustrated in Appendix 10 of the appellant's statement.

would be alternative measures that could be explored to prevent littering, without causing harm to the BCA.

23. I therefore conclude that the unauthorised works result in visually discordant and incongruous additions, which are harmful to the character and appearance of the BCA, as a whole. As such, it fails to preserve or enhance the character or appearance of the BCA, contrary to the Policies S25, S28 and S35 of the Westminster City Plan, 2016 (City Plan), Saved Policies ENV 15, DES 9 and DES 12 of the City of Westminster Unitary Development Plan, 2007 (UDP), and Policies 7.4 , 7.6 and 7.8 of the London Plan (2016). Amongst other things, these state that planning permission will not be granted for development on public or private open space of amenity, recreational or nature conservation value, unless the development is essential and ancillary to maintaining or enhancing that land as valuable open space; and that the Council will protect and enhance Westminster's open space network; and aims to preserve or enhance the character or appearance of conservation areas and their settings.
24. It would also conflict with the relevant requirement of the Framework which seeks to conserve and enhance the historic environment. Finally, it would not preserve or enhance the character or appearance of the conservation area as required by Section 72(1) of the Act. This carries considerable weight and importance to my decision.

Other Matters

25. The Council have also referred to Policies S29, and DES 5 of the UDP. However, as these relate to 'Health, Safety and Well-Being,' and 'Extensions and Alteration' they do not relate specifically to the current development of an outbuilding, decking and trellis. As such I find no conflict with these policies.
26. I have had regard to the appellant's statement which refers to the Council's description of the unauthorised timber clad outbuilding with lantern rooflight as a "verbose" way of describing what is quite simply a shed. However, given the overall design of the outbuilding with larger areas of glazing on the front elevation together with the lantern style rooflight, I consider the Council's description of the development is perfectly adequate and therefore it is not necessary for me to correct the enforcement notice.
27. With regards to the effect of the development on the Grade II listed buildings on Chesham Place, given the separation distances of the unauthorised works from these listed buildings, I am satisfied that the development does not harm the setting of these listed buildings.
28. Comments made by third parties, in support and against the unauthorised works have been taken into account but do not alter the conclusions reached in this decision.

Conclusion

29. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan INSPECTOR