



Appeal Decision

Site visit made on 10 October 2023

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th January 2024

Appeal Ref: APP/A5270/W/22/3313028

Allotments, East Churchfield Road, Acton, Ealing W3 7LP

- 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 Crendain Developments Ltd against the decision of London Borough of Ealing.
 - The application Ref 221759FUL, dated 20 April 2022, was refused by notice dated 9 August 2022.
 - The development proposed is described as: 'Installation of a gate into the wall to the rear of Perryn Road'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located in the Acton Park Conservation Area (the CA). It also lies adjacent to the Goldsmith's Almshouses, a Grade II* listed building¹.
3. As the appeal site is located adjacent to a listed building and within a conservation area, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. I have taken into account the revised National Planning Policy Framework (the Framework) as published on 19 December 2023. Any reference to the Framework below is consequently a reference to this latest revised version.
5. This appeal follows an appeal dismissal in 2018² against the failure of the Council to determine a planning application to demolish the wall (that is the subject of this appeal) within the prescribed period of time. I have been provided with extracts of the Inspector's decision letter.

Main Issues

6. The main issues are:
 - the effect of the proposal on designated heritage assets, including whether the proposal would preserve or enhance the character or appearance of the CA, and the effect of the proposal on the setting of the Goldsmith's Almshouses; and
 - the effect of the proposal on the living conditions of the occupiers of neighbouring properties.

¹ List Entry Number: 1358762.

² Ref: APP/A5270/W/17/319429.

Reasons

Heritage Assets

Special Interest and Significance

7. The Acton Park Conservation Area (the CA) is concentrated around Acton Park and the leafy streets that lie adjacent to it. The built form is characterised by attractively detailed Victorian and Edwardian buildings. The earlier buildings here are indicative of a period when Ealing began to expand and flourish as a desirable suburb. The 1870 Ordnance Survey (OS) Map included within the Acton Park Conservation Area Appraisal (2009) (the APCAA), shows that much of the existing development along East Churchfield Road and Shaa Road to the north had already been carried out at this time. The Goldsmith's Almshouses, a principal architectural landmark of the CA, and the enclosed area to the north, now comprising the allotments, are also situated in their present positions on the 1870 map.
8. Brick is the dominant building material within the CA and the area is characterised by a network of historic brick boundary walls that are likely to be indicative of former divisions in tenure and land use. The gardens to the rear of Goldsmith's Almshouses backing onto the allotments are enclosed by a tall brick wall, whilst a similar brick wall forms the boundary to the opposite side of the allotments with the rear of properties on Shaa Road.
9. From the limited information provided and pertinent to the appeal, the character and appearance and thus special interest and significance of the CA derives, in part, from the prevalence of Victorian and Edwardian development, the open green spaces and leafy character, the consistency of the building materials and the historic value of the network of brick boundary walls.
10. Based on the evidence before me, the brick wall that is the subject of this appeal likely defines a historic boundary, as shown on the 1870 OS Map. The wall is similar in terms of height, composition and brick bond as the adjoining wall which forms the rear and side boundary of Goldsmith's Almshouses. There are also similarities with the wall defining the boundary between the rear of properties on Shaa Road and the allotments site. It is understood that the appeal wall was recently rebuilt using the recovered bricks. This was the subject of a grant of planning permission in 2019³. Nevertheless, as a brick boundary wall incorporating historic fabric along a historic boundary line, it contributes to the historic value of the CA, aiding the legibility of the historic division of land and networks of access in the locality. In that regard it reinforces the historic significance of the CA as a designated heritage asset.
11. The brick wall is located at the end of a long strip of land that lies between the Goldsmith's Almshouses and the side boundary of 23 East Churchfield Road and the rear boundaries of residential properties along Perryn Road. I have been provided with very little detail of the historic function of this strip of land, however its boundaries appear to have been subject to little change since the publication of the 1870 OS Map. Given the lack of information to indicate otherwise, and having regard to my above assessment, it may have been formed at a similar time to the construction of the Goldsmith's Almshouses in 1811.

³ Ref 194105FUL.

12. Although the Goldsmiths Company's estate in Acton dates from the mid seventeenth century, the Goldsmith's Almshouses was built in 1811 by Charles Beazley, as a benefaction of the Perryn Trust. The Almshouses comprises of three ranges of two storey buildings arranged around an open court. The buildings are faced with brick with stucco to the central projecting feature and the porticoes of the two wings that project towards the street frontage. Spear finialled railings on a low brick wall front the street. A high brick wall encloses the walled garden to the rear of the buildings.
13. The appellant has provided very little information with regard to the significance of the listed building. Nevertheless, based on my own assessment, I find the special interest and significance of the listed building, insofar as it relates to this appeal, arises from the architectural and historic interest as a high quality example of early nineteenth century almshouse buildings within a planned setting. Important contributors in this regard are the formal architectural detailing, the clearly defined courtyard to the front, formal gardens to the rear and their walled boundaries.
14. It is accepted by both parties that, by virtue of its location within the curtilage of the listed building, the rear boundary wall is part of the listed building. Whilst I am not provided with details of the precise date of the wall, there is nothing before me to suggest a more recent construction and this is likely to be pre-1948. On this basis, the rear boundary walls of the Goldsmith's Almshouses walls fall within the curtilage of the listed building and they therefore carry the same statutory protection as that building.
15. Both parties are in agreement that the appeal wall lies within the setting of the listed building. Given that the wall that is the subject of this appeal adjoins the curtilage listed wall, and that the two walls are seen alongside each other, I see no reason to disagree.
16. The main public views of the listed building are from the street frontage. However, pertinent to the appeal, the land immediately adjacent, including the surrounding allotments and the strip of land immediately to the west of the boundary wall provide an immediate setting within which the listed building can be appreciated. The appellant states that the strip of land is disused and in general poor repair which detracts from the significance of the setting of the listed building.
17. Nevertheless, the boundary wall that is the subject of this appeal evidences the historic division between the strip of land and the allotments. As set out above, it is possible that the original provision of this boundary wall could date to a similar time period as the construction of the almshouses. As such, being of a similar style and composition to the listed boundary walls, and forming part of its historic surroundings, the appeal wall makes a positive contribution to the special interest and significance of the Goldsmith's Almshouses.

Proposal and Effects

18. It is proposed to remove the central portion of the wall in order to insert a pedestrian gate that would measure 1200 millimetres wide. The proposal would result in the loss of the historic bricks and a section of wall. It would introduce a gate and pedestrian access in a position where, on the basis of what is before me, there was previously none. This would, albeit in a small way, disrupt the historic network of brick walls to the detriment of the special interest and

significance of the CA. Notwithstanding the lack of detail provided in relation to the strip of land, the facilitation of access across a historic boundary would also erode the legibility of the historic divisions of land and networks of access in the locality, to the detriment of the historic significance of the CA.

19. The loss of boundary walls has been identified as a threat to the CA in the APCA. The harm identified above would be evident from both the allotment site as well as from neighbouring properties. Whilst I acknowledge that the proposal would not be widely visible, the removal of part of a wall defining a historic boundary would, for the reasons set out above, incrementally erode the character of the CA. Whilst the magnitude of this harm would be modest, in the context of the CA as a whole, it would nevertheless fail to preserve or enhance its identified character and appearance.
20. The appellant states that the gate would match an existing gate onto the strip of land from the Goldsmith's Almshouses site. However, this gate is set in an opening within a detailed projecting brick surround rather than being located in a break in the wall. I am therefore not convinced that it would represent a parallel with what is proposed.
21. Notwithstanding that it has been rebuilt, the appeal wall defines a historic boundary and forms part of the historic setting of the Goldsmith's Almshouses, potentially dating to a similar time period. Its removal and provision of access from the strip of land to the allotments would erode the historic surroundings of the Goldsmith's Almshouses to the detriment of its setting and thus the special interest and significance of this listed building. The appellant has not provided any detailed assessment of the significance of the Goldsmith's Almshouses or the contribution the wall, within its setting, makes to its significance, which may have led me to conclude differently. Whilst the previous proposal was to demolish the wall, my findings here are consistent with those of the Inspector at the 2018 appeal.
22. The appellant has referred to a grant of planning permission nearby for a complete boundary wall replacement⁴, however I have not been provided with any detail of this proposal including plans or location, which limits the weight I can attribute to this decision. Reference has also been made to a grant of planning permission for a neighbouring property⁵ and a new development of 5no. properties at 2 Shaa Road. Similar to above, I have little detail and therefore I cannot ascertain their relevance to the appeal proposal before me.
23. Reference is also made to a grant of planning permission for 'significant extensions to a property bordering the listed building boundary'⁶. Whilst I am not provided with the address of this property or specific details of the proposal, the appellant describes the latter as 'highly unsympathetic to the setting of the Almshouses due to its scale, design and massing in proximity to the heritage asset'. The appellant argues that the current proposal does not cause any greater harm to the setting of the listed building. However, without any detail it is difficult to assess the parallels between the two proposals. Furthermore, evidence of existing harm to a listed building is rarely justification for additional harm.

⁴ Ref 202286HH.

⁵ Ref 201317FUL.

⁶ Ref 194224HH.

24. As such, for the above reasons, I conclude that the proposal would fail to preserve or enhance the character or appearance of the CA. In addition, it would result in harm to the special interest of the adjacent Grade II* listed building, through harm to its setting. This would be contrary to the requirements of sections 66(1) and 72(1) of the Act. On this basis the proposal would cause harm to the significance of these heritage assets.

Public Benefits and Balance

25. With reference to Paragraphs 207 and 208 of the Framework, in finding harm to a designated heritage asset, the magnitude of that harm should be assessed.
26. Given the extent and nature of the proposal, I find that the harm in this instance would be less than substantial but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 208 advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimum viable use.
27. The appellant argues that public benefits would arise as it would allow for improved access to the allotment site for which a future re-use is envisaged. The appellant argues that this would amount to a heritage benefit as the allotments site and strip of land are currently under-used and detract negatively from the heritage assets. However, the appellant has not alluded to what this future use would be, which limits my ability to ascertain the level of public benefit that could arise. This limits the weight I can attribute to this matter.
28. In terms of the use as allotments, a main access to the allotment site already exists from Goldsmiths Close. The appellant has not provided details of any benefits that an additional access from East Churchfield Road would provide to the use of the site as allotments. As such, in the absence of information that would lead me to conclude otherwise, any public benefits in that regard would likely be limited.
29. Paragraph 206 of the Framework is explicit in its requirement that any harm to the significance of designated heritage assets should require clear and convincing justification, which, in all of the respects outlined above, I find not to be the case in the appeal before me.
30. Cumulatively the limited public benefits identified are not sufficient to outweigh the considerable importance and weight I attach to the identified harm to the significance of the designated heritage assets.
31. In the absence of sufficient public benefits that would outweigh the harm that I have found, I conclude that the proposal would fail to preserve or enhance the character or appearance of the CA. In addition, it would result in harm to the special interest of the adjacent Grade II* listed building, through harm to its setting. Overall, the proposal would be contrary to the clear expectations of sections 66(1) and 72(1) of the Act and the provisions within the Framework which seek to conserve and enhance heritage assets.
32. The harmful impact would also be contrary to Policies 7.4 and 7C of the Ealing Development Management Development Plan Document (2013) (the EDMDPD), Policies D4 and HC1 of the London Plan (2021), and the provisions of the Framework insofar as they seek to ensure proposals constitute high quality

design that conserves and enhances heritage assets in a manner appropriate to their significance.

33. There would also be conflict with the guidance contained within the APCA and the Acton Park Conservation Area Management Plan which, amongst other things, seek to preserve historic boundary walls within the CA.

Living Conditions

34. The proposed creation of a break in the wall and insertion of a gate would facilitate access between the allotment site and the strip of land to the west of the Goldsmith's Almshouses and east of 23 East Churchfield Road. The rear garden of No 23 is relatively private and is predominantly enclosed by a brick wall with some timber fencing. The strip of land is located at a higher level than the garden of No 23 and as such it is possible to look into the rear windows of the dwelling and into the garden itself, over the boundary wall. Given that there is no access into the allotment site from the strip of land at present, and, having regard to the number of neighbour representations on this matter, it is likely that the strip of land is accessed infrequently and therefore privacy levels within the garden of No 23 are likely to be reasonably high.
35. As set out above, very little detail has been supplied as to the purpose of the proposed gate, how it would be used, or its likely frequency of use. However, given the lack of access at present, it is likely that the installation of the proposed gate would lead to an increase in pedestrians using the strip of land to access the gate. An increase in pedestrians accessing the land would likely result in an increase in overlooking of the rear windows and garden of No 23, to the detriment of the existing privacy levels. On the basis of the limited information that is before me, I am therefore not convinced that the proposal would preserve the living conditions of the occupiers of No 23.
36. I therefore conclude that the proposal would have a harmful effect on the living conditions of the occupiers of 23 East Churchfield Road. The proposal would therefore conflict with Policy 7B of the EDMDPD and paragraph 135 of the Framework which together seek to ensure new developments provide a high standard of amenity for existing and future users.
37. Reference is also made to Policy 7A which primarily relates to emissions from proposed development. Based on the Council's delegated report and reasons for refusal, this policy has limited relevance to the proposed development, the creation of a gate in a wall, and does not add anything that is not covered by the above policies.

Conclusion

38. The proposed development would conflict with the development plan. There are no material considerations that indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR