



## Appeal Decision

Hearing held on 5 March 2024

Site visits made on the 4 & 5 March 2024

**by L Fleming BSc (Hons) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 March 2024**

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**Appeal Ref: APP/H5960/W/23/3314125**

**8 Victoria Drive, Wandsworth, London, SW19 6AE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Lonsdale Property Development Ltd against the decision of London Borough of Wandsworth.
  - The application Ref is 2022/3799.
  - The development proposed is excavation of part of the site and the restoration of the historic cascade and the erection of 2 no. dwellings with a basement and associated hard and soft landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Wandsworth Local Plan 2023-2038 (2023) (LP) was adopted in July 2023. The revised National Planning Policy Framework (the Framework) was published in December 2023, both after the Council's decision. I am required to have regard to the development plan at the time of my determination and the revised Framework. The LP supersedes the Policies referred to in the Council's decision notice. The LP and the Framework were discussed at the hearing.

### Main Issues

3. The main issues are:
  - The effect of the proposal on the character and appearance of the area, bearing in mind it would be within the Fairlawn locally listed park, within the setting of the grade II listed Fairlawn and within the setting of the Putney Heath Conservation Area.
  - Whether the proposal would result in the unjustified loss of open space.

### Reasons

#### Character, appearance and heritage

#### *Context*

4. The appeal site is an area of undeveloped land between a modern health centre and modern dwellings adjacent to Victoria Drive. It also forms part of Fairlawn, a locally listed park and garden as identified on the Council's local list as a non-designated heritage asset (Fairlawn Park).
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5. Fairlawn Park is located between Victoria Drive and the private grounds of a large, detached property known as the grade II listed Fairlawn (Fairlawn House). Fairlawn House is within the Putney Heath Conservation Area (CA). For the avoidance of any doubt the appeal site and the wider Fairlawn Park are not within the CA.

### *Significance*

6. Fairlawn House is an early Victorian villa, which was originally built as the home of Edwin Saunders, dentist to Queen Victoria. It is in the classical style, rendered, two-storey with attics, cambered-arch windows, pediments, large chimney stacks, two advanced wings and steps up to its centre and colonnade. Although set within a spacious plot, its plot originally included all the land which now comprises Fairlawn Park. Edwin Saunders commissioned Robert Marnock to design and layout the substantial grounds of Fairlawn House as formal pleasure gardens which included, lawns, walkways, specimen trees, rose gardens and water features including a lake and a cascading waterfall.
7. Following subdivision and changes in ownership, Fairlawn Park is now separated from Fairlawn House by hedging and fencing. It is a publicly accessible green space with trees, open lawn areas, a lake, the remains of the cascading waterfall, public walkways providing a formal circular route and connections through it between Wimbledon Parkside, Victoria Drive and surrounding modern residential development. Its formal layout and features which once formed part of formal pleasure gardens remain identifiable.
8. The CA comprises three detached built-up mainly residential areas which include Wimbledon Parkside. The built-up areas of the CA are all closely related to Wimbledon Common and Putney Heath and include listed buildings of a variety of ages and architectural styles, many with high quality architectural detailing.
9. Insofar as is relevant to this appeal the significance of the grade II listed Fairlawn House is founded on its cultural significance as the former home of Edwin Saunders, its formal classical traditional architectural detailing and its spacious positioning in relation to Fairlawn Park and Wimbledon Common. The significance of Fairlawn Park, insofar as is relevant to this case is derived from its relationship with Fairlawn House and its cultural significance as former private formal pleasure gardens. Insofar as is relevant to this appeal, I find the significance of the CA is based on the relationship between the traditional built form within it and the open and rural character of Wimbledon Common and Putney Heath.

### *Effect on significance*

10. The appeal proposal would involve the erection of two modern dwellings on part of Fairlawn Park adjacent to Victoria Drive. The remains of the cascading waterfall would be restored and incorporated into the scheme as part of the private outdoor space for the proposed dwellings.
11. Although currently separated from Fairlawn Park by low railings and a timber hoarding, the appeal site rises up towards its boundary with Victoria Drive. Within the site, water related to the lake is noticeable and Pulhamite rocks which originally formed part of the waterfall are also evident. Whilst there are no significant trees or shrubs on the appeal site, it very much appears as an

undeveloped green space which is related to the wider Fairlawn Park, but enclosed by a hoarding, boundary walls and railings.

12. I note when compared to other buildings nearby, the proposed building would be relatively small with its built footprint occupying approximately 45% of the appeal site area. I accept that any occupiers of the proposed dwellings would be likely to maintain their private gardens which would be visible from Fairlawn Park.
13. However, the proposed dwellings, positioned on land higher than the road would be prominent at the entrance to Fairlawn Park from Victoria Drive. Furthermore, elevated from the rest of Fairlawn Park, opposite the lake, open green areas and with a public walkway passing directly by it, views of the proposed development from within Fairlawn Park would be wide ranging.
14. I accept the proposed boundary treatments and landscaping within the appeal site and Fairlawn Park would offer some screening, softening the scheme whilst allowing the restored cascading waterfall to be appreciated. However, the proposed boundary treatment would also allow views into the private dwellings and private domestic outdoor spaces from Fairlawn Park. In my view, intentional or not, the proposed dwellings would become the most noticeable visual feature of Fairlawn Park.
15. The proposed development would therefore fill a green space with a prominently sited building. This would reduce the ability to appreciate the presence of Fairlawn Park from Victoria Drive and reduce the overall feeling of entering a tranquil green space from that entry point. When experienced within Fairlawn Park, the restored waterfall would appear as a domestic garden feature within the gardens of two highly prominent modern dwellings which would have a dominating effect on the wider Fairlawn Park.
16. Consequently, these effects combined, would harm the character and appearance of Fairlawn Park and reduce the ability to appreciate Fairlawn Park was once part of the formal pleasure grounds associated with Fairlawn House. This would harm the significance of the non-designated heritage asset.
17. However, the appeal site would be some distance away from Fairlawn House and the CA. There are also a variety of intervening features, such as mature trees, other vegetation and the plot boundary treatments of the grade II listed building. Based on the evidence before me, I concur with the main parties that there would be no harm to the setting or significance of either the grade II listed Fairlawn House or the CA as a whole.
18. Paragraph 209 of the Framework states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. Furthermore, it says in weighing applications that directly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. I will return to this in my planning and heritage balance below.

#### Open space

19. Criteria D and E of Policy LP53 of the LP make clear, in summary, that new development on or affecting open space will only be permitted where it does not harm the character, appearance or function of the green and blue

infrastructure or open space. It says development which results in a reduction of open space will not be supported, if exceptional circumstances exist, compensatory provision has to be made. In determining the amount, form and accessibility of open space provided for within a new development scheme, account will not be taken of the proximity and adequacy of existing open space.

20. The LP glossary defines open space as "all land in Wandsworth that is predominantly undeveloped other than by buildings or structures that are ancillary to the open space use". It states "the definition covers the broad range of types of open space in Wandsworth, whether in public or private ownership and whether public access is unrestricted, limited or restricted. It includes land designated as open spaces, such as Metropolitan Open Land, as well as non-designated land."
21. The appeal site is undeveloped, even if the remains of the waterfall was regarded as a structure, it is ancillary to Fairlawn Park. Even though the public are unable to access the appeal site, in my view, based on my findings above, the appeal site clearly falls within the LP glossary definition of open space.
22. Turning my attention to the Framework's definition of open space. The definition in the glossary is "open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity". Paragraph 103 of the Framework makes clear that open space should not be built on unless, in summary, an assessment has been undertaken which has clearly shown it to be surplus to requirements or it would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.
23. I have considered the comments with regard to how the appellant acquired the appeal site and noted the comments with regard to it being inaccessible, unmanaged and of poor visual appearance. I note the appellant's comments that the removal of trees and shrubs was not unlawful and vegetation will not be allowed to reestablish. However, the appeal site is still an undeveloped green space and it is common for many parts of public parks to be inaccessible, particularly where water features are present. Many open spaces are also in private ownership.
24. I have also noted the appeal site is currently enclosed by a hoarding. However, both parties accept this in its current form requires planning permission. I note the comment that a boundary treatment could be erected under permitted development, but there are no clear agreed visually definitive details of such before me. However, with or without the hoarding or any other means of enclosure, the appeal site is still an undeveloped space which acts as a break in an otherwise relatively densely built-up urban environment. With public walkways passing directly by it and positioned at an entrance to Fairlawn Park, in my view, the appeal site acts as a visual amenity and this would be the case with or without the hoarding.
25. Given the number of representations received in response to the proposals, without detailed evidence to the contrary, in my view, the appeal site is also clearly valued by the public. Therefore, based on the evidence before me, I find the appeal site is also open space as defined in the glossary to the Framework.

26. Thus, without substantive evidence which assesses and demonstrates accordance with paragraph 103 of the Framework and criteria D and E of Policy LP53 of the LP, I am led to the conclusion, that the proposal would result in the unjustified loss of open space.
27. The proposal would therefore conflict with the aims of Policy LP53 of the LP and paragraph 103 of the Framework. These Policies, taken together aim to ensure new development resulting in the loss of open space does not take place unless the open space is demonstrated to be surplus to requirements or replaced by equivalent or better provision.

### Planning and heritage balance

28. I have found the proposed development would harm the character and appearance and significance of Fairlawn Park a non-designated heritage asset. A number of improvements to Fairlawn Park<sup>1</sup> outside the appeal site have been suggested in the evidence but supported by limited details. Even if I was satisfied, they could all be secured, based on the limited evidence and taking all these off-site improvements into account, I find the harm to the non-designated heritage asset would still be significant and of a medium level.
29. The details of the proposed restoration for the Pulhamite rocks and cascading waterfall on site are also relatively limited. However, the restored waterfall would be experienced in the immediate context of a modern housing development diminishing its relationship with Fairlawn Park as a whole. Therefore, based on the limited details before me, the restoration of the Pulhamite rocks and waterfall would have neutral weight in any balance.
30. I accept the proposed building would be of significant architectural merit and would add architectural interest to its immediate surroundings and that this would be a benefit. I accept that the development of the appeal site would increase surveillance and remove the risk of fly-tipping and anti-social behaviour occurring on the appeal site and the wider Fairlawn Park, which is also a benefit. There would also be the benefit of providing two new homes and the economic benefits associated with construction and local expenditure.
31. Furthermore, the flood risk and drainage evidence<sup>2</sup> shows that the proposed approach to managing surface water drainage on-site would be beneficial to surface water drainage off-site which is a benefit. However, the full extent of any significant improvement to drainage on the wider Fairlawn Park as result of the proposals is unclear.
32. The Sustainability and Energy Statement also shows the scheme would exceed minimum requirements, which is also a benefit. Moreover, ecological enhancements above minimum policy requirements would also be benefits. However, Community Infrastructure Levy payments would mitigate the impact of the proposal and would carry neutral weight in the balance.
33. Overall, based on the evidence before me, I find all of the benefits combined although significant are insufficient to outweigh the weight I attach to the harm I have identified to the non-designated heritage asset. The harm arising from the unjustified loss of open space only carries further weight against the

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<sup>1</sup> Off-site gateway improvements from Victoria Drive, lighting improvements, restoration of the niche or any other improvements to Fairlawn Park outside of the appeal site discussed at the hearing or cited in the evidence.

<sup>2</sup> Flood Risk Assessment & Drainage Strategy, KRS Enviro June 2022.

proposal. Thus, for the reasons given above, the scheme conflicts with Policies LP1, LP2, LP3 and LP53 of the LP and paragraphs 103 and 209 of the Framework, insofar as these policies taken together seek to safeguard the character and appearance of an area, heritage assets and open space.

### **Other Matters**

34. I have noted the comments that the opportunity to achieve a good design may be lost should the appeal not be allowed. I have also considered the comments with regard to what may happen to the appeal site should the appeal fail. I have also noted the comments with regard to the Council's handling of the proposals and the representations in support of the scheme. However, I confirm I have determined the appeal scheme before me on its merits at the time of my determination, and none of these other matters are sufficient to outweigh my earlier findings.

### **Conclusion**

35. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*L Fleming*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT**

|            |                                   |
|------------|-----------------------------------|
| D Lonsdale | Lonsdale Property Development Ltd |
| T Raffe    | Lonsdale Property Development Ltd |
| C Dyson    | Architect                         |
| M Kostov   | Building Engineer                 |

### **FOR THE COUNCIL**

|           |                                         |
|-----------|-----------------------------------------|
| B Haytor  | London Borough of Wandsworth            |
| T Light   | London Borough of Wandsworth            |
| D Andrews | London Borough of Wandsworth            |
| J Hill    | London Borough of Wandsworth            |
| D Rothero | Enable for London Borough of Wandsworth |
| R Master  | Enable for London Borough of Wandsworth |

### **THIRD PARTIES**

|           |          |
|-----------|----------|
| T Grice   | Resident |
| M Dickens | Resident |

## **DOCUMENTS SUBMITTED AFTER THE EVENT**

1. Updated Schedule of Agreed Conditions.
2. Email correspondence between D Lonsdale and B Haytor dated 6 March 2024  
Noting the felling of certain shrubs and trees on an adjoining site as observed at the site visit.