



Appeal Decision

Site visit made on 25 April 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2024

Appeal Ref: APP/B1605/D/24/3337583

Harwood House, 87 The Park, Cheltenham, Gloucestershire, GL20 2RW

- 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 Mr Daniel Gubbins against the decision of Cheltenham Borough Council.
 - The application Ref. 23/00929/FUL, dated 31 May 2023, was refused by notice dated 3 November 2023.
 - The development proposed is replacement of brick boundary wall with an overlap wooden feather-edge fence.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the description of development as it appears on the decision notice as this is more concise but deleted the reference to 'retrospective' as this is superfluous and not an act of development.
3. Since planning permission was refused a revised version of the National Planning Policy Framework (Framework) was published in December 2023. However, the relevant design and heritage policies of the Framework largely remain unchanged, albeit some of the paragraph numbering has changed.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the appeal sites location within a conservation area.

Reasons

5. The appeal site lies within The Park Character Area of Cheltenham's Central Conservation Area (CCA). Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. Similar advice is to be found in the Framework and in policies SD4 and SD8 of the Gloucester, Cheltenham & Tewkesbury Joint Core Strategy (December 2017) (JCS) and policy D1 of the Cheltenham Plan (July 2020) (CP).
6. The appeal site also lies within the setting of a Grade II Listed Building, with listed gate piers, 85 The Park (No.85) and to the north of this a pair of Listed

Buildings, which I believe are 59 and 61 St Stephen's Road, one with listed gate piers. Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 also requires, therefore, that special regard must be had to the desirability of preserving these buildings setting. Similar advice is again to be found in the Framework, JCS and CP.

7. The Park Character Area Appraisal & Management Plan (July 2008) (TPCAA) states that the special interest of the area derives from a number of key characteristics, including: the tear drop shaped plan form of The Park; the pattern and layout of well-established tree lined streets; the large number of Georgian and early Victorian formally laid out villas and terraces; the large number of surviving gate piers fronting the Georgian and Victorian villas; and the extensive green space within The Park and mature trees throughout.
8. The TPCAA states that one of the problems of the area is poor boundary treatments and the impact of new development on the setting of buildings and key views/vistas. The Townscape Analysis Map identifies a key view being, in both directions, from the corner of The Park immediately south of No.85. The Map also identifies the appeal site, as well as the terrace it forms part of, as a 'Significant negative building/space'. Sections 4 and 5 of the TPCAA further emphasise the impact that poor quality fencing has had on the appearance of the CAA. Section 6 of Part 2, 'Development Control Proposals', also states that the increased use of railings or trees/hedgerows as a 'soft' boundary treatment would enhance the character and appearance of the area. Consequently, that the Council will seek, through 'Action TP6', to reinstate traditional and historic boundary treatments so as to enhance the special interest of the area. Section 7 continues by also stating that new development will be expected to respect important views from inappropriate development.
9. Within the above context, the proposal involves replacing a brick boundary wall with an overlap wooden feather-edge fence. The fence, which is already in place, extends along the southern and western boundaries of the appeal site. As it is existing, planning permission is sought retrospectively for its retention. Part of the fence extends in front of the host property and it is also sited close to a Chestnut tree (west of the paved parking area) which is covered by a Tree Preservation Order (TPO).
10. As I observed on site ,the new fence occupies a visually prominent location on the corner of The Park and St Stephen's Road. I understand it replaced a low brick wall, albeit no images of the latter have been provided. The submitted plans indicate that the fence comprises slats of 1.65 metres high and posts of 1.9 metres high. The design and appearance of the fence is, in my view, poor and it has a negative impact on the character and appearance of the CCA. The poor quality of the fence also harms the setting of the Listed Buildings to the west and northwest of the appeal site, as well as a key view within the CAA. Overall, the proposal represents a discordant and visually dominant feature that accentuates the negative impact that the building/space has on the CAA, as identified on the Townscape Analysis Map to the TPCAA.
11. The new fence results in a harsh boundary to the public footpath and its overall height and extent is excessive. I note that the Council contend that it has eroded the open character of the corner plot, but as I have not been provided with any images of the previous enclosure it's not possible for me to comment, other than to say that if the proposal has replaced a low brick wall, then the

- openness of this part of the site is likely to have been harmed. The fence also obscures views of part of the TPO tree, which is a tree that makes a significant contribution to the character of the area.
12. For the reasons set out above, I find that the proposed fence results in harm to the character and appearance of the CCA and as such it does not preserve or enhance its character or appearance. I also find that the new fencing results in harm to the setting of No.85, and to a lesser extent the setting of 59 and 61 St Stephens Road. The Framework requires considerable importance and weight to be attached to the harm to these heritage assets. The proposal leads, in my view, to less than substantial harm to the significance of these heritage assets which must be weighed against the public benefits of the development.
 13. The Appellants GOA contend that the new fence provides a screen to an unmaintained area used for dumping. There is no evidence before me to support that statement and on the understanding that all the land within the appeal site is owned by the Appellant, then the maintenance of that area is a matter that is entirely within their control. The Appellant also contends that the safety and concern of school children (one of which is vulnerable) should be a priority. However, there is no explanation as to what this statement means and neither is there any corroborating or substantive evidence that would allow me to reach an understanding or a finding on this specific issue.
 14. Based, therefore, on the evidence before me I find that there are no public benefits delivering either economic or social or environmental objectives sufficient to outweigh the harm, I have identified to the significance of the heritage assets.
 15. Reference has been made to other timber fencing in the area, albeit no specific examples have been drawn to my attention, nor have I been provided with any relevant planning background. As the TPCAA states a large amount of timber fencing in the area is of a poor quality and contrasts with the more traditional and historic boundary treatments that contribute positively to the special interest of the CAA. Even so, the existence of these other boundary treatments does not provide any justification for the appeal proposal.
 16. The Appellant has referred to an approval for a replacement brick wall on the appeal site, granted in January 2018. However, I have not been provided with any details of this proposal. I also note that the Delegated Report indicates that this approval related to a more appropriate design, was lower and did not wrap around the host building. For all the above reasons, the existence of this approval does not affect my findings on this issue.
 17. Accordingly, I find that the retention of the overlap wooden feather-edge fence is contrary to policies SD4 and SD8 of the JCS, policy D1 of the CP and paragraphs 195, 203, 205 - 206 and 208 of the Framework.

Conclusion

18. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR