

Appeal Decisions

Site visit made on 24 March 2017

by Jonathan Hockley BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 May 2017

Appeal A: APP/X5210/W/16/3162987

Land on Chester Gate adjacent to Nos 6-10 Cambridge Terrace, London NW1 4JL

- 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 and Mrs Candy against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/1479/P, dated 16 March 2016, was refused by notice dated 14 September 2016.
 - The development proposed is the reinstatement of a historic garden at Chester Gate adjacent to Nos. 6-10 Cambridge Terrace.
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Appeal B: APP/X5210/Y/16/3162988

Land on Chester Gate adjacent to Nos 6-10 Cambridge Terrace, London NW1 4JL

- 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 Mr and Mrs Candy against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/1776/L, dated 16 March 2016, was refused by notice dated 14 September 2016.
 - The works proposed are the reinstatement of a historic garden at Chester Gate adjacent to Nos. 6-10 Cambridge Terrace.
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These decisions are issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersede those issued on 4 May 2017.

Decisions

1. Appeal A is allowed and planning permission is granted for the reinstatement of a historic garden at Chester Gate adjacent to Nos. 6-10 Cambridge Terrace at Land on Chester Gate adjacent to Nos 6-10 Cambridge Terrace, London NW1 4JL in accordance with the terms of the application, Ref 2016/1479/P, dated 16 March 2016, subject to the conditions set out at the end of my decision.
 2. Appeal B is allowed and listed building consent is granted for the reinstatement of a historic garden at Chester Gate adjacent to Nos. 6-10 Cambridge Terrace at Land on Chester Gate adjacent to Nos 6-10 Cambridge Terrace, London NW1
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4JL in accordance with the terms of the application Ref 2016/1776/L dated 16 March 2016 subject to the conditions set out at the end of my decision.

Main Issues

3. A main issue in both appeals is whether the proposed reinstatement of historic garden would preserve the special architectural and historical interest of the Grade I listed building, its setting, and whether the proposal would preserve or enhance the character or appearance of the Regent's Park Conservation Area.
4. An additional main issue for appeal A is the effect of the proposal on highway safety.

Reasons

5. Regents Park is an early 19th century landscaped park designed by John Nash. The Grade I listed Historic Park and Garden is sprinkled with villas and surrounded by grand terraces and crescents of houses, enclosed by the road of Outer Circle. The eastern side of the Outer Circle is fronted by various grand terraces, including Cambridge Terrace. Nash is often described as the greatest architect of the Picturesque movement, with the picturesque combination of freedom and formality applied to the layout of Regent's Park, a conception foreshadowing the garden city of the future.
6. Regents Park Conservation Area covers the eastern part of the Park which lies within the boundaries of the Borough, and includes the appeal site, as well as Cambridge and Chester Terrace and the entirety of Chester Gate. The Conservation Area appraisal¹ (the CA appraisal) notes that the significance of Regent's Park is of national and international importance, comprising a unique planned composition of landscape and buildings both classical and picturesque. The comprehensive masterplanning that the parks, terraces, villas and wider area form were an unprecedented scale of urban design for London. The appraisal notes that when approaching the area from the park the terraces emerge over the trees, demonstrating the city in the country.
7. Numbers 1-10 Cambridge Terrace are Grade I listed. The listing notes that the northern half of the terrace, by John Nash, was rebuilt in 1986 as a facsimile. The 4 storey building with attics and basements is constructed in stucco with a rusticated ground floor, and has a mansard slate roof with dormer windows. The end bays slightly project; these projecting bays have pilaster strips through the 1st and 2nd floor and at the third floor, along with noticeable differing round arched 1st floor windows. Attached cast iron railings are included in the listing. The left hand return has a double Doric portico with blocks at interval supporting an entablature and balustrade above. This fronts onto Chester Gate, a short one way street which connects the busier streets of Albany Street and Outer Circle.
8. The proposal seeks to create a linear garden along Chester Gate, which would be accessed via the entrance to Nos 6-10, along with a pedestrian gate on the east side. The design presents a symmetrical ordered garden, bordered with cast iron railings to match the existing railings, which would run along the entire left return of the listed building, terminating at the boundary with 1-2 Chester Gate. A pedestrian footpath would track around the garden to connect the Chester Gate footway to the Outer Circle. The site includes some listed

¹ Regent's Park Conservation Area Appraisal and Management Strategy, Camden, July 2011

- structures, including the entrance to Nos 6-10 and attached railings, Grade II listed railings to the forecourt that run parallel to Chester Gate, and one of four Grade II listed lampposts outside Nos 6-10.
9. Numbers 1-4 Chester Gate are two pairs of semi-detached Grade II listed properties. Nos 1 & 2 are four storey buildings with a stuccoed façade. The slightly recessed doorways are set in shallow segmental arched recesses on the flanks of the building. Nos 3 and 4 have an irregular shaped plan, with number 4 having a prostyle portico on its northern elevation, facing onto the narrower eastern end of Chester Gate.
 10. The proposal would involve construction upon the existing highway footpath and part of Chester Gate itself, and would necessarily involve the narrowing of this street to a width where reasonably only one vehicle could access the Outer Circle, as opposed to the situation currently where the road is wide enough to allow two vehicles to exit side by side, depending on whether they are heading north or south. This narrowing of the road would to a large degree mirror the existing arrangement at the east end of the road adjacent to No 4 Chester Gate, where the access from Albany Street is only wide enough for one vehicle to enter.
 11. Numbers 1-42 Chester Terrace lie to the north of the site, fronting the Outer Circle with its right return on the opposite side of Chester Gate. The Grade I listed stuccoed and slate roofed grand terrace has an unbroken façade of some 280m. Projecting pavilion blocks are located at either end of the Terrace; these are connected to the main façade by triumphal arches; Nos 41& 42 and the connecting southern arch lie opposite to the proposed garden. This pavilion block has a substantial planted garden on its southern side softening the edge of the block from Chester Gate, the Outer Circle and the Park.
 12. Section 72(1) of the Planning (Listed Building and Conservation Areas Act) 1990 states that special attention must be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Section 66 (1) of the same act states that, when considering whether to grant planning permission for development which affects the setting of a listed building, special regard should be had to the desirability of preserving this setting.
 13. Paragraph 132 of the National Planning Policy Framework (the Framework) says when considering the impact of a proposed development on the significance of a designated heritage asset (including conservation areas), great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of a heritage asset, or by development within its setting. The Framework defines setting as the surroundings in which the asset is experienced. Elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral.
 14. Policies CS14 of the Core Strategy² and DP24 & DP25 of the Development Policies³ together state that the Council will require all developments to be of the highest standard of design, considering the character, setting, context and form and scale of neighbouring buildings, only permit development in conservation areas that preserves and enhance the character and appearance

² Camden Core Strategy 2010-2025 Local Development Framework

³ Camden Development Policies 2010-2025 Local Development Framework

- of the area, not permit development which would cause harm to the setting of a listed building and protect other heritage assets including Parks and Gardens of Special Historic Interest.
15. Evidence submitted indicates that a sketch layout plan from 1825 for Cambridge Terrace intended to flank both ends of the Terrace with plantations. A more detailed plan from 1826 shows a garden along the northern flank of the terrace, stretching from the Outer Circle to the boundary of the terrace with No 1 Chester Gate. Whilst the Council note that the garden was not in place when the Terrace was completed, it appears in evidence to be in place on a survey plan from 1834/35 and an Ordnance Survey (OS) map from 1870 shows the garden, with the distinctive shape of Chester Gate with bottlenecks at either end. A photograph dated 1870-1900 shows the garden in situ by the Terrace. By the time of the production of an OS map in 1895 the garden has been removed and the road widened. It is clear therefore that the proposed garden, at least in principle and generally in proportion terms, could legitimately be called a reinstatement of a garden.
 16. The CA appraisal sets as a recommendation for action that the reinstatement of missing features and rectifying alterations will be promoted. Concern is raised that there is no definitive evidence that Nash, or his office, designed the garden, and it is noted that the garden was not laid out until after Nash's death. However, the plan from 1826 is detailed as being from John Nash's office and it is clear that a garden in more or less the same place was in position for a considerable number of years.
 17. Whilst the garden has been missing from the street scene since at least 1895, the proposal, subject to conditions concerning detailed design would be rectifying an alteration. I do not consider therefore that the proposal would detract from Regents Park or the surrounding neighbouring terraces by imposing a spurious version of a garden upon a historic urban landscape, and whilst I agree with the comments of the eminent Dr Geoffrey Tyack that interference with the terraces and their immediate surroundings should be kept to a minimum, the proposal would be reinstating a missing feature. Furthermore, and fundamentally, whilst the current paved area at the front of the terrace is not unattractive, the provision of a well-planned garden flanking the terrace would undoubtedly enhance both the character and appearance of the conservation area and the setting of the listed buildings; most obviously 6-10 Cambridge Terrace, but also 1-4 Chester Gate and 1-42 Chester Terrace.
 18. Views from Albany Street at the entrance to Chester Gate, from Chester Terrace looking south through the triumphal arch and from the Outer Circle itself would be softened and enhanced by the additional planting area. Concern is raised that the narrowing of Chester Gate at its western end would destroy the vista from Albany Street, significantly denigrating the first vision of Regent's Park from this area and destroying the sense of release that such a vista provides. However, whilst the width of this view of the Park would be reduced from such an angle, the effect of the garden once matured would be to blend into the Park behind, acting to visually bring the green area closer to the viewpoint. From the edges of the Park itself the garden, once established would to a certain extent mirror the area flanking Chester Terrace, softening views of the city, and blending and connecting the city edges and park edges together, having a positive effect on Nos 6-10 Cambridge Terrace and its setting, as well as on the setting of 1-42 Chester Terrace, 1-4 Chester Gate.

19. Concern is also raised over the proposed details of the garden and proposed new railings. However, whilst I agree that larger trees would more fully frame views from the Park of the terraces behind and further ensure seamless connectivity between the parkland and surrounding properties, such details can be reasonably conditioned.
20. I therefore conclude that the proposed reinstatement of historic garden would preserve the special architectural and historical interest of the Grade I listed building, its setting, and would enhance the character and appearance of the Regent's Park Conservation Area. The proposal would comply with policies CS14 of the Core Strategy and DP24 & DP25 of the Development Policies, as well as with the Framework.

Appeal A – Highway Safety

21. As described above, the proposal would have the effect of narrowing Chester Gate to effectively a 1 lane exit onto the Outer Circle. The Council and residents raise strong concerns over the effect of the future Cycle Superhighway Route 11, which may involve the closure of some of the Park gates (not including Chester Gate) and could then lead to more traffic using the remaining open gates, including Chester Gate. Concern is also raised over possible displaced traffic from the construction of HS2, which again could potentially increase the levels of traffic using Chester Gate. Such a situation could lead to queueing traffic, with a risk of increased air pollution.
22. However, I consider that even if traffic levels do increase on Chester Gate through the impact of other schemes, the design of the proposal would not lead to a risk to highway safety. Traffic on the street is already restricted due to the one lane entrance from Albany Street, and on my visit I noted that even at the road width at the exit at present, which is reduced slightly by construction hoardings, but not as much as the proposal would cause, many cars chose to wait in a single line whether they were heading north or south on the Outer Circle. Furthermore, a single lane exit on a 1 way street eliminates potential risks on a two lane one way exit from vehicles inching out to see past the bonnet of a larger vehicle next to them at the exit. In relation to swept path analysis, the Council's transport officer has no objections with the proposal, including the change incorporated by including additional parking spaces.
23. Anecdotal evidence is submitted concerning a past accident involving a cyclist and a pedestrian, with concerns raised that the proposal could lead to more such incidents. However, this accident appeared to have been caused by a cyclist travelling down Chester Gate the wrong way and occurred at the Albany Street entrance. The proposal itself would not make such an incident more or less likely of happening again.
24. The width of the road would be reduced to 3.3m by Chester Close South and Chester Terrace. The Manual for Streets 2⁴ (MfS2) states that the minimum width for a car at 20mph passing a cyclist in comfort is 3.8m. However, the section of the road at this width is a short section; moreover the entire length of Chester Gate is fairly short and one where generally motorists would be content to remain behind cyclists, as they would need to do so at present at the entrance from Albany Street. Furthermore I also note that the MfS2 also

⁴ Manual for Streets 2, Chartered Institute of Highways & Transportation, September 2010

states that lanes wider than 3m are not generally necessary in most urban areas carrying mixed traffic.

25. I do not consider that the proposal would result in higher speeds of through traffic; whilst the Council note that the existing on-street parking spaces may reduce speed levels, the proposal, in partially narrowing the street, and retaining two 'lanes' of parking spaces closer to the Albany Street entrance of the Gate would have a similar effect on the speed levels of through traffic on the short road. I also note in this respect that the Council's Transport Officer is satisfied with the proposed parking spaces and road layout in terms of effects on highway safety.
26. The Council consider that the revised footpath tracking around the proposed garden would be less legible than currently is the case. Whilst the footpath would clearly be slightly longer, a legible path would still be provided and this would not create a danger to pedestrian safety.
27. Residents draw my attention to Policy 6.2(c) of the London Plan⁵ and supplementary planning guidance⁶. This states that boroughs should ensure that land and route alignments to implement transport proposals that have a reasonable prospect of provision should be identified and safeguarded in development plan documents. This includes HS2. However, this appears to seek to safeguard land that is required along the actual route of HS2, as opposed to routes which may or not see an increase in traffic as a result of HS2 construction traffic. I have also been forwarded an overall strategy plan from the Euston Area Plan⁷ which includes Chester Gate as a key east-west link from Euston Station to Regents Park. However, I note in this respect that Chester Gate itself falls outside the boundary of the plan, and that the proposal would retain the street as a link, albeit with a reduced width at its exit.
28. I therefore conclude that the proposal would not create a risk to highway safety. The proposal would comply with Policies CS11 of the Core Strategy and DP16 & DP17 of the Development Policies, which together state the Council will ensure that development is properly integrated with the transport network, does not cause harm to the management of the road network and will promote and make suitable and safe provision for pedestrians and cyclists.

Other Matters

29. Concern is raised over the privatisation of public land that would be caused by the proposal. However, I note in this respect that Chester Gate at present is a private road, a fact which is acknowledged by the Council. Furthermore, whilst the garden would be constructed over an existing public right of way used by the public to access the Park, this would be replaced by a new footway around the garden. The remainder of the garden would be over the highway, and not a public space used for recreation or which provides benefits in terms of biodiversity.
30. Whilst I can appreciate that the scheme would involve the construction of a private space partially over a public right of way, for the reasons given above the proposal would have a positive effect on the myriad of heritage assets in the area and the public right of way through the street to the park would be

⁵ The London Plan, March 2016, Mayor of London.

⁶ Land for Industry and Transport Supplementary Planning Guidance September 2012, Mayor of London

⁷ Euston Area Plan, January 2015, Transport for London, Mayor of London, London Borough of Camden

maintained, albeit in a narrower way. The proposal would provide benefits in terms of providing a pleasant outlook and I do not consider in this respect that the proposal would conflict with CS15 of the Core Strategy, which seeks to protect parks and open spaces.

31. I note the strong representations raised by local residents over the loss of parking spaces that the proposal would entail. However, and notwithstanding that Chester Gate is a private road, the scheme proposes replacing the number of spaces lost through provision in other areas associated with the scheme, including a number to the rear of Cambridge Terrace. I do not consider therefore that the effect of the proposal on car parking spaces would lead to issues of highway safety being caused.
32. The proposal was also refused due to the lack of a legal agreement to ensure that monies would be paid for a Stopping Up Order on the extent of the highway that would be covered by the scheme. During the process of this appeal a signed and dated Section 106 agreement between all parties has been received. The measures within this agreement are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development.

Conditions

33. On both appeals I have applied conditions specifying relevant drawings as this provides certainty. Conditions are also imposed concerning landscaping, as stated above, in the interest of the character and appearance of the conservation area and the setting of the surrounded listed buildings. For the same reason in both consents I have also imposed conditions requiring samples or detailed drawings of all proposed building materials and any new proposed railings. Such conditions are prefaced to ensure that details of landscaping and railing design that is included in the approved plans are separately approved.
34. Finally, for Appeal A I have imposed 2 additional conditions to ensure that car parking provision is provided for as shown in the submitted plans, prior to the commencement of works and for a contract to be entered into with the Crown Estate Paving Commission for the highway, pavement and parking layout prior to the commencement of the scheme. Both conditions are required in the interests of highway safety.

Conclusion

35. For the reasons given above, and having regard to all other matters raised, I conclude that the appeals should be allowed.

Jon Hockley

INSPECTOR

APPEAL A: SCHEDULE OF 7 CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Chester Gate Landscape Report: Garden Works (dated 02/03/2016); Transport Statement (dated March 2016); Heritage Statement (dated March 2016); Design & Access Statement (dated March 2016); 622.01 (PP) 001 Rev PP1; 622.01 (PP) 002 Rev PP1; 622.01 (MP) 001; 622.01 (CD) 001; 622.01 (SC) 001 Rev RJH; 622.02 (SC) 001 Rev P2; 622.02 (SC) 002 Rev P2; 622.02(SC) 003 Rev P2; 622.01 (RP) 006; 2013 TR008.
- 3) Notwithstanding condition (2), detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun:
 - a) Manufacturer's specification details of all building materials (to be submitted to the Local Planning Authority) and samples of those materials (to be provided on site).
 - b) Drawings at 1:10 of new railings.

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.
- 4) Notwithstanding condition (2), no development shall take place until full details of hard and soft landscaping have been submitted to and approved by the local planning authority in writing. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.
- 5) All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following the approval of details, unless otherwise agreed in writing with the local planning authority. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 6) No development shall commence before a contract has been entered into with the Local Highway Authority (Crown Estate Paving Commission) to secure the proposed works to the highway, footpath and parking layout.
- 7) The whole of the car parking provision shown on drawing number 622.01 (RP) 006 shall be provided prior to the commencement of works to create the garden. Thereafter the whole of the car parking provision shall be retained and used for no purpose other than for the parking of vehicles.

APPEAL B: SCHEDULE OF 5 CONDITIONS

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) The works hereby permitted shall be carried out in accordance with the following approved plans: Chester Gate Landscape Report: Garden Works (dated 02/03/2016); Transport Statement (dated March 2016); Heritage Statement (dated March 2016); Design & Access Statement (dated March 2016); 622.01 (PP) 001 Rev PP1; 622.01 (PP) 002 Rev PP1; 622.01 (MP) 001; 622.01 (CD) 001; 622.01 (SC) 001 Rev RJH; 622.02 (SC) 001 Rev P2; 622.02 (SC) 002 Rev P2; 622.02(SC) 003 Rev P2; 622.01 (RP) 006; 2013 TR008.
- 3) Notwithstanding condition (2), detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun:
 - a) Manufacturer's specification details of all building materials (to be submitted to the Local Planning Authority) and samples of those materials (to be provided on site).
 - b) Drawings at 1:10 of new railings.

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.
- 4) Notwithstanding condition (2), no works shall take place until full details of hard and soft landscaping have been submitted to and approved by the local planning authority in writing. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.
- 5) All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following the approval of details, unless otherwise agreed in writing with the local planning authority. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.