

**2021/0540/P & 2021/0828/L: 47 Highgate West Hill: Application to erect a Gym in garden.**

**Appeal reference: APP/X5210/W/21/3287006**

**Lodged: 26.1.22**

Highgate Conservation Area Advisory Committee (HCAAC) wishes to bring to the attention of the Inspector the Appeals relating to 45 Highgate West Hill because we consider there are many issues which are common to both 45 and 47 Highgate West Hill Appeals.

The applications concerned are:

1. 2021/3067/P & 2021/3397/L: Application to erect a garage in the copse adjoining no. 47 Highgate West Hill. Lodged: 26.1.22
2. 2021/5960/P & 2021/5997/L: Application to erect storage outbuilding in the copse adjoining no. 47 Highgate West Hill. Lodged: 26.1.22

All of the above are being dealt with under [APP/X5210/W/21/3279616](#) and [APP/X5210/W/21/3279617](#) .

Our reason for suggesting all three applications are related is that the proposals affect nos. 45, 46, 46a and 47, a group of buildings, of which all except 46a are listed Grade II\*, and they are located in the historic centre of Highgate village. The proposed sites for the outbuildings proposed at each property are, in the case of no. 45 within a small copse in front of 45, 46 and 46a; and in the garden at the side of Apothecary House which adjoins the copse. All these historic buildings were encroachments onto Highgate Green. The garden to no. 47 to an extent, the copse and the listed Reservoir together with the large green space which is the remains of Highgate Green, bounded to the west by The Grove, form the green heart of Highgate Village.

Vicki Lee, the owner of Apothecary House, kindly invited members of HCAAC to her house and we made these observations to her at our visit:

- the impact of her proposal on the setting and significance of nos. 45 and 46 would need to be assessed
- the Clematis Armandii on the railings above the low wall on the street frontage is prone to die-back (one small section has suffered die-back); and the abundant ivy on the brick boundary between her garden and the copse which extends above that wall by approximately 600mm would need to be trimmed back to maintain the wall in good condition. We also pointed out to her that a couple of self-seeded ash trees immediately next to the foundations on the copse side of the wall would cause damage to the boundary wall so it would be advisable to remove them
- it was evident that the proposed Gym would be higher than the boundary wall by around 600mm. The Non-Verified images on which the Applicant heavily relies, do not show the Gym but instead shows the ivy. We suggested to Ms Lee that Verified images showing the views from the points provided but without the

'greenery' would be helpful. These have not been provided and the Heritage Statement suggests in clause 1.13 that it would be inappropriate to do so.

1.13 It has been found in case law that in decision making, it is the existing character and appearance of the conservation area, as it is, that must be considered, not its character and appearance as it might be. As will be shown below, this is important as third party objections and the council say that existing planting should be 'ignored' or 'cannot be given significant weight' in considering the effect of the appeal scheme on the local townscape. The planting in question (around boundaries and throughout the garden) is existing and forms part of what the council acknowledges is the 'verdant' character of the existing site. It forms part of character and appearance and cannot be ignored or not given weight.

We are not in a position to take legal advice on this point but a great deal appears to turn on Case Law. However HCAAC considers the setting and significance of the proposals on 45, 46 and 47 Highgate West Hill, all Grade II\*, must be assessed. Neither the Heritage Statement nor the Statement of Case assesses the 'setting' (and therefore the issue of 'significance') correctly in relation to planting as set out in Historic England's Good Practice Advice Note No. 3.

The Note requires consideration of the impact of changes on views, changes in land cover, tree cover at each Step:

4.7 **Step 1** para 22, the Impact Assessment should consider:

*"For developments that are not likely to be prominent or intrusive, the assessment of effects on setting may often be limited to the immediate surroundings, while taking account of the possibility that the setting may change as a result of removal of impermanent landscape or townscape features, such as hoardings or planting."*

**Step 2** (para 30) provides a Checklist which requires consideration of:

*Assets' physical surroundings*

- *Definition, scale, 'grain' of surrounding streetscape, landscape and spaces*
- *Green space, trees and vegetation*
- *Openness, enclosure and boundaries*

*Experience of Assets*

- *Surrounding landscape or townscape character*
- *Tranquillity.....*
- *Sense of enclosure, seclusion, intimacy, privacy*

- *(para 31): Impact of seasonal.....changes on view.....needs to be considered*

**Step 3** (para 32) Checklist includes:

*Form and appearance of development:*

- *Competition, distraction from asset*
- *Introduction of movement or activity*
- *Seasonal change*

*Wider effects of development:*

- *Change to built surroundings and spaces*
- *Change to general character*
- *Changes to land use, land cover, tree cover*

**Step 4:** Explore ways to maximise enhancement and avoid or minimise harm

*For some developments affecting setting, the design of the development may not be capable of sufficient adjustment to avoid or significantly reduce harm eg where impacts are caused by fundamental issues such as proximity, location, scale....*

Screening (Para 40) states:

*Screening may have as intrusive an effect on the setting as the development it seeks to mitigate, so where it is necessary, it too merits careful design. This should take account of local landscape character and seasonal and diurnal effects, such as changes to foliage and lighting. The permanence or longevity of screening in relation to the effect on the setting also requires consideration. Ephemeral features, such as hoardings, may be removed or changed during the duration of the development, as may woodland or hedgerows, unless they enjoy statutory protection. Management measures secured by legal agreements may be helpful in securing the long-term effect of screening.*

We conclude that the Heritage Statement is incorrect on the following counts:

- the impact of the proposal on setting and therefore significance of the Listed Building (no. 47, Apothecary House) need not be considered; and that the Listed Building application is not relevant to the Appeal
- it fails to address the impact of the proposal on the group 45, 46 & 46a Highgate West Hill

- it draws the wrong conclusions on the impact on the Conservation Area

The Heritage Statement states that historically the garden to Apothecary House was added to its plot at an unknown date, to one side of the house as seen from the street. It tells us that the low brick wall and railings on the street frontage were rebuilt in 1987. As these railings extend along the whole Highgate West Hill frontage we can therefore safely presume this arrangement, presumably of some age, was replicated in 1987. It suggests that in previous decades and probably longer the garden, located to the south of Apothecary House, would have been visible from the street.

It is necessary to examine the wording describing the setting of the proposed Gym very closely. The author of the Heritage Statement gradually shifts the description of the garden (and the setting of the proposed Gym) to the point where, at para. 2.33, the garden layout is the same as the normal layout of a house facing the street with a front garden and a private garden at the rear which it very clearly is not. This erroneous conclusion is reached by the author in a series of statements:

*1.16 The garden is divided into areas of character with a more formal area (a forecourt of sorts) adjacent to the listed building, addressing its principal elevation, and an informal area **that has more of the character of a rear garden with a lawn***

*1.17 The **informal garden area is set well back from Highgate West Hill and the principal listed building and in terms of its relationship to the public realm, fulfils the role of a 'back garden.'** In terms of its relationship to the street and the public realm, the proposed location of the appeal building is located at the back of the site as a whole. The 'back garden' is considerably more private and enclosed and the council agrees on this point (Delegated Report 3.14).*

*1.19 .....The location of the outbuilding would be within the more **informal/back garden area set well away from Highgate West Hill, backing onto a private access road.***

*1.20 As such, there is considerable physical and visual separation between the appeal building and the principal listed house given the distance between them, the separation into '**front' and 'rear' garden zones** and substantial intervening planting*

*2.22 In most cases, private gardens are enclosed but, **above well-defined boundaries and planting, there is a degree of openness, space and separation between houses and other development that reflects the low-density pattern of the built environment. This is certainly the case of the garden at Apothecary House. There is no suggestion that the specific layout or detail of what is the private garden to no. 47 contributes to the character and appearance of the conservation area.***

*2.23 Local policy is in line with the statutory provision in that development should preserve the character or appearance of a conservation area. It is acknowledged that Apothecary House and its garden contribute positively to local character and*

*appearance and have townscape value for reasons described in 2.21 above. **It fits the pattern of a large house within a large plot seen elsewhere in the conservation area***

*2.28 The accompanying text to the policy at 6.37 states that 'Development within **rear gardens and other undeveloped areas** can have a significant impact upon the amenity and character of the area... We will resist development that occupies an excessive part of the garden and the loss of garden space which contributes to the character of the townscape.'*

*2.29 The appeal building would form part of a residential garden. The garden is enclosed by clear boundaries with a brick wall and railings to the east, a solid brick wall to the south and a brick wall to the west.*

*3.11 In terms of the garden's relationship to the street and the public realm, the **proposed building is located at the back of the garden**, with a much reduced townscape contribution and associated affect. In this context, the location, size and design of the building result in a contemporary but modest and ancillary structure on the site that would not encroach upon the wider garden of the listed building or on the character and appearance of the conservation area.*

*2.32 Therefore, those aspects of the appeal site that contribute to local character would be preserved. The appeal site would continue to read as a large planted garden that contributes to the local verdant character and appearance as per the existing arrangement. **A timber garden building of the type proposed that is ancillary to residential use would not be atypical in this domestic context.***

We wish the Inspector to note that the proposed Gym is located only around 4m inside the low wall with railings above it on the Highgate West Hill street curtilage.

For the record our objection to the planning application, with typographical errors corrected, was as follows:

"Highgate CAAC wishes to object to this application for an ancillary timber building in the garden of the Grade II\* listed Apothecary's House. We dispute the assertion made in the heritage statement that the building would only be 'very marginally visible' from the street and would have no deleterious effects on the setting on the adjacent 44 and 45 West Hill also listed. It is an unnecessary and damaging intrusion in the curtilage of one excellent listed building and in the setting of two others. This group of buildings is of outstanding quality and must be fully protected."

Highgate Conservation Area Advisory Committee respectfully suggests that this Appeal must be dismissed.

2nd February 2022