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# Appeal Decision

Site visit made on 17 April 2012

**by P J Asquith MA(Hons) MA MRTPI**

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

**Decision date: 29 May 2012**

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**Appeal Ref: APP/Z4310/A/11/2165452**

**All Saints Church, Childwall Lane, Childwall, Liverpool, L16 0JW**

- 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 All Saints Church Parochial Church Council against the decision of Liverpool City Council.
  - The application Ref. 10F/1530, dated 30 June 2010, was refused by notice dated 13 September 2011.
  - The development proposed is described as a new single-storey extension to existing church building; new extension to provide meeting rooms, vestry and WCs will stand off the main church and connect by a glazed link. A new doorway to be formed beneath existing church window. Create new burial ground within Blood-stained Acre.
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## Decision

1. The appeal is allowed and planning permission is granted for a new single-storey extension to existing church building; new extension to provide meeting rooms, vestry and WCs off the main church and connected by a glazed link with a new doorway to be formed beneath existing church window and the creation of a new burial ground within Bloody Acre at All Saints Church, Childwall Lane, Childwall, Liverpool, L16 0JW in accordance with the terms of the application, Ref 10F/1530, dated 30 June 2010, subject to the conditions set out in the attached schedule to this decision.

## Application for costs

2. An application for costs was made by All Saints Church Parochial Church Council against Liverpool City Council. This application is the subject of a separate Decision.

## General background and context

3. All Saints Church is a grade I listed building, a church having been present on the site since at least Norman times. However, the listing description of the building indicates the earliest part of the present church is the chancel, which dates from the 14<sup>th</sup> century, and further changes and additions since then are catalogued. The last major works occurred in 1905-6 when the north aisle was taken down and rebuilt. All Saints is the only remaining medieval church remaining within the city boundary, by virtue of its listing status is clearly of considerable national importance and is a heritage asset of great significance. Also within the churchyard, and adjacent to its boundary with Score Lane, is the grade II listed Hearse House, now in use for church storage.

4. The church and churchyard lie within the Childwall Abbey Conservation Area. This is a compact designation encompassing the adjacent residential property of Elm House, the nearby church hall and vicarage and the Childwall Abbey public house. Also included is land, currently somewhat overgrown, bordering the churchyard known as Bloody Acre<sup>1</sup>. This land was in the past bequeathed to the church for future use as a graveyard. Together with the churchyard and an area of public parkland further to the north-west this is designated as green space within the City of Liverpool Unitary Development Plan (2002) (UDP).
5. In considering whether to grant planning permission for a development which affects a listed building, or its setting, special regard has to be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, as set out in section 66 of the Listed Buildings and Conservation Areas Act 1990. Because the appeal site is within a conservation area section 72 of this Act also requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. Separate listed building consent for the proposal is not required since the church is in active use and is covered by the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010.

### **Main Issues**

6. From the foregoing and all I have read and seen, I consider the main issues in this case to be: first, the impact of the proposal on the listed church and its setting; and, secondly, its effect on the appearance and character of the Childwall Abbey Conservation Area.

### **Reasons**

#### *Listed building and its setting*

7. The proposed extension would be located to the northern side of the church, attached to it by a lightweight glazed link and would include toilet facilities, a vestry and multi-use space. It would provide more convenient toilet arrangements, the church itself currently lacking them thereby necessitating the use of those within the church hall situated across Childwall Lane or, on occasion, those within the Childwall Abbey public house. Better access to the church for the less able would be incorporated and space provided for church meetings and ministry.
8. The extension would be circular in form, of a robust appearance deriving from its stone construction, windows within deep reveals and sparing use of glazed openings. The narrow glazed link would allow the building to be read as a separate but complementary addition to the church whilst necessitating relatively minor alteration to the fabric of the existing church itself. The extension's height has been kept deliberately low, with a sedum-covered flat roof and central glazed lantern, and this would allow the traceried north window of the church to remain largely un-obscured.
9. The Council accepts that the building in itself would be sited to have the least physical and visual impact on the special architectural and historic qualities of

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<sup>1</sup> Within the application this land is described as the Blood-stained Acre. However, many representations suggest that it is more accurately known locally as Bloody Acre, probably so named after a minor skirmish during The Pilgrimage of Grace in the 16<sup>th</sup> century. For consistency I have adopted this latter title.

the church given that it would be appended to its northern side which, with its rebuilding in the early 20<sup>th</sup> century, is the most recent substantive alteration to the church fabric. Nonetheless, it considers the scale of the extension is such that, being over half the width of the church itself, this would be a significant and dominant feature. I disagree. The extension's positioning in relation to the church and the slope of the land away from Score Lane/Childwall Lane, together with its height relative to the main body of the church (with its western tower surmounted by a spire, nave and the northern aisle), would prevent the extension appearing as a dominant element that would visually compete with the existing structure. Its successful assimilation would be aided by the fact that from what relatively limited views there would be from Score Lane - in part because of the screening resulting from the location of the Hearse House - would mean that the structure would not be readily visually read with the totality of the building.

10. From within parts of the lower eastern graveyard the extension's relationship with more of the entirety of the church would be apparent. However, from here the projection of the church's chancel, chancel aisle and vestry beyond the line of the extension, together with the rotunda's subservient height, would ensure that it remained deferential to the main body of the church. It would not appear bulky or overly massive and would not, to use the Council's word, 'overwhelm' the existing church.
11. I have noted views expressed that the circular nature of the proposal would be at odds with the rectilinear and right-angled configuration of the church. Certainly it would provide a contrast, as would its generally understated lack of adornment that would distinguish it from the more embellished gothic elements of the northern aisle to which it would be appended. Nonetheless, I do not consider it would be harmful to the overall appearance or character of the church; it would be clearly seen as an addition to the building but would not compete with the more formal older elements of the church; and it would permit better use of the immediately surrounding land than might a more rectilinear approach. The proposal would not be visually incongruous. The concept of a detached building with a lightweight glazed link, designed in a way that would be subservient to the church and using appropriate materials, is one accepted by English Heritage, the Government's advisor on heritage matters. Overall, I consider there would be no material conflict with Policy HD18 of the UDP, which seeks to ensure a high quality of design.
12. I have carefully noted comments made that there could be alternatives available to provide the facilities sought and which could either obviate the need for an extension or result in a much smaller one. These suggestions include the use of the church hall, for which there is a scheme of improvement, the possible provision of toilet facilities within the church itself, or a separate building within Bloody Acre. It is apparent that options have been carefully assessed over a lengthy period of time. The present proposal is the one the appellant considers is needed, realistic and beneficial, particularly at a time when the congregation can number some 300. This is supported by the views of English Heritage. It suggests that: it would be unrealistic to expect the congregation to have to walk to nearest toilets in the church hall on the other side of Childwall Lane, especially the young and elderly; the incorporation of facilities within the church would inevitably have a harmful effect on its splendid interior and fittings; and that it would be difficult to extend directly onto the church without causing harm to the external appearance of the

building. The provision of the facilities as envisaged would help to ensure the long-term future use of the church as a place of worship. Despite the views to the contrary, I am satisfied that the proposal offers a practical and rational solution to the church's modern-day needs and that alternative solutions have been reasonably considered and rejected.

13. Having regard to the setting of the church, this derives in part from its surrounding graveyard, said to be one of the oldest in the city. The extension would be to the northern side of the church where the graveyard is relatively narrow, the more expansive areas being to the south and stretching down the slope to the east. In my view, these latter areas are more important in providing the green and open setting of the church, particularly when seen from within Childwall Lane and from within the churchyard itself.
14. Views of the Church in the near approach down Childwall Abbey Road would not be materially altered as a result of the positioning of the extension. As already noted above, views from Score Lane down the northern side of the church are relatively restricted by the presence of the Hearse House. I accept that the extension would effectively result in the graveyard on the northern side of the church being split and the building and surrounding access would necessitate the removal of grave markings. Nonetheless, these would not be lost but would be repositioned and a new area of burial ground created in part of Bloody Acre. They would therefore remain part of the setting of the church. Only one holly tree would need to be removed, to which the Council does not object.
15. The creation of an additional area of burial ground would in its own right help create a physical link between elements of the present graveyard on the northern side of the church, would result in an enlargement of the graveyard and provide an additional public area from which the church could be viewed. Only a relatively limited area of the large churchyard would be affected by the proposed extension. Having regard to the foregoing, and my views on the benign design of the proposal and its relationship with the church, I conclude that the scheme would serve to preserve the setting of the listed church and important views of it. As such, it would not be contrary to UDP Policy HD5, which seeks to protect these.

#### *Conservation area*

16. In light of my conclusions relating to the design of the proposed extension, the building in its own right would be a fitting addition to the conservation area. However, the Council and other interested parties are also concerned about the impact of the necessary removal of headstones and grave markers, reduction in openness of the conservation area and views into and out of the area.
17. The proposals would introduce change to the graveyard, and the need for re-siting grave markers. Nonetheless, an enlargement of the graveyard is envisaged by using part of Bloody Acre, an area of land within the conservation area which is not currently publicly accessible. It is untended and overgrown and there would be an opportunity for improvement and to effectively enhance an area that would become more accessible open space. This would offset any loss of openness of the present graveyard by reason of the presence of the proposed extension. As a consequence, and given that the proposal would result in an area of land being effectively opened up for public access, there

would be no significant conflict with UDP Policy OE11, which seeks to protect the recreational function of areas of designated green space.

18. Views into and out of a conservation area can be important aspects in defining such an area's character and appearance. The proposal would cut off views of the lower eastern graveyard, its trees and modern housing beyond when seen from Score Lane and the western section of the graveyard to the church's northern side. However, because of its restrained height, more distant views from these elevated positions across to Knowsley would still be possible. Again, as already noted, the views from Score Lane alongside the northern elevation of the church are limited in any event.
19. Similarly, concerns have been expressed about loss of views from the lower graveyard up the slope towards the Childwall Abbey public house. I noted on my visit that because of the extension's height and land slope there would continue to be views of this gothic-designed building and parts of the Hearse House above the extension. Overall, the scheme would serve to preserve the appearance and character of the conservation area and would not conflict with UDP Policy HD11 that requires this. Nor would it offend against the thrust of UDP Policy HD8 which is effectively a statement that the Council will take positive action to secure the preservation or enhancement of conservation areas.

#### *Other Matters*

20. The proposals would involve the extension and surrounding accessway being built over an area of graveyard where there are marked graves, in the order of over 70 such graves being involved. Whilst most of the burials in this part of the graveyard are of long-standing, interments as recent as 2008 would be affected also. In addition to obscuring these graves, foundation and drainage works connected with the construction could have scope for directly affecting the interments and archaeological remains. This is clearly a matter of considerable expressed concern for a number of relatives of those buried in the affected area, and others, and I am conscious of the sensitive and emotive issues involved.
21. It had been indicated that the affected grave markers would be repositioned elsewhere in the churchyard and that if remains required to be exhumed then they could be re-interred in the extended graveyard in Bloody Acre. The raising of the floor level of the extension above ground level would allow many of the identified graves to remain intact wherever possible.
22. The use of the graveyard would continue although I recognise that there may be some disconnection between buried remains and grave markers that some might find distressing. However, matters relating to the consecrated churchyard, including the question of impact on buried human remains, are covered by other legislation<sup>2</sup> and fall within the jurisdiction of the Consistory Court of the Diocese of Liverpool and not under the planning acts. It is probable that should the scheme progress to be considered on the present basis the issue of continued access to graves or grave markers, even if in alternative positions within the churchyard, would be taken into account. Therefore, whilst I am sympathetic to the clearly understandable concerns

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<sup>2</sup> Care of Churches and Ecclesiastical Jurisdiction Measure 1991

expressed, this matter is not a determinative one or one to which I attach any significant weight in my consideration of the totality of the proposals.

### *Conclusions*

23. It is therefore my overall conclusion that the proposal would help to preserve the special architectural and historic interest of the church and its setting together with the appearance and character of the Childwall Abbey Conservation Area. It would not materially conflict with development plan policies aimed at protecting these designated heritage assets. Having regard to advice within the National Planning Policy Framework, which has replaced former guidance such as that within Planning Policy Statement 5, any harm to the significance of the designated heritage assets resulting from the proposal would be less than substantial. Any harm arising would be outweighed by the public benefit of helping to sustain the church as a continuing place of worship and wider community activities.
24. I have taken account of all other matters raised and have noted the considerable body of objections to the proposal. Nonetheless, and subject to the imposition of conditions which are considered below, these are not sufficient to outweigh these conclusions, which are also bolstered by a large volume of expressed support for the proposals.

### *Conditions*

25. I have considered the suggested conditions in the light of advice in Circular 11/95 *The Use of Conditions in Planning Permissions*. A condition is necessary specifying the plans to which the permission relates, for the avoidance of doubt and in the interests of proper planning. To ensure a satisfactory appearance conditions are required relating to the agreement of external materials, window detailing and landscaping. A condition is necessary requiring archaeological investigation in order to ensure the protection and/or recording of archaeological remains. Conditions are required to ensure any demolition works are not undertaken prematurely in advance of a contract being let for the proposed works and an opportunity given for the recording of the church and graveyard before work starts. Conditions are necessary to ensure satisfactory drainage and details of a construction method statement are needed to protect residential amenity whilst works take place. The proposal also includes the use of Bloody Acre and no details have been provided of its means of enclosure. A condition relating to this would therefore be reasonable and necessary particularly having regard to the deterrence of anti-social behaviour.
26. I consider it unnecessary and unduly onerous for a contamination survey to be required especially given the requirement for a detailed archaeological survey to be completed. As no trees would be affected by the proposed extension except for the removal of one holly tree, a condition requiring the protection of trees during construction is unnecessary and neither is a condition requiring its replacement. Furthermore, a condition is unnecessary relating to the removal and repositioning of gravestones since this matter is covered by other legislation. Similarly, I am not convinced of the need for, or reasonableness of, the submission and agreement of a scheme for ecological enhancement given the location of the extension.

*P J Asquith* INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - 2060 01, All Saints Church
  - 2060 02 Rev A Proposed site layout
  - 2060 03 Rev A Proposed site plan
  - 2060 04 Rev B Existing and proposed elevations
  - 2060 05 Rev A Principal elevations
  - 2060 06 Roof plan
  - 2060 07 Area of land/graves affected by extension
  - CW/6147-P2 Tree constraints plan
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building and surrounding access hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to commencement of development a detailed construction method statement shall be submitted to and approved in writing by the local planning authority. The statement shall include:
  - (i) hours of operation of construction work;
  - (ii) measures to control noise and dust;
  - (iii) details of site compounds, storage of plant and materials;
  - (iv) temporary highway works or closures;
  - (v) access for construction traffic;
  - (vi) parking of site operatives and visitors;
  - (vii) wheel washing facilities;
  - (viii) a scheme for the recycling/disposing of waste resulting from demolition and construction works.

The scheme shall be implemented in accordance with the approved construction method statement.
- 5) Prior to the commencement of development full details of the number, size, species and root treatment or container type and location of any trees and shrubs to be planted, and the treatment of all ground surfaces, shall be submitted to and approved in writing by the local planning authority. The approved landscaping scheme shall be completed either not later than the first planting season following completion of the development or during the appropriate planting season progressively as the development proceeds in accordance with a programme to be agreed in writing by the local planning authority. Any trees or shrubs which die,

become diseased, damaged or are removed within three years of planting shall be replaced with trees and shrubs of similar size and species or as may otherwise be agreed with the local planning authority in the first available planting season thereafter.

- 6) Prior to commencement of development a scheme for the disposal of foul and surface water shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in full in accordance with the approved details.
- 7) Prior to commencement of development details of all new windows, which shall include sectional and working drawings at a scale of 1:5 or similar, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No demolition works shall commence before a contract for the proposed development has been made and a copy submitted to and agreed in writing by the local planning authority.
- 9) The developer shall give the local planning authority at least 14 days advance notice of the start of any works and, for a period of 14 days before any work begins, reasonable access to the church and churchyard shall be given to a person/body nominated by the local planning authority for the purpose of recording the building and churchyard by making measured drawings or taking photographs.
- 10) Prior to commencement of development a detailed scheme for the provision of any means of enclosure for the proposed graveyard extension shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the agreed details.
- 11) No development shall commence within the site other than in accordance with a programme of archaeological work outlined within the Archaeological Desk-based Assessment of October 2010 submitted with the application and a written scheme of investigation by a suitably qualified investigating body which shall have the prior written approval of the local planning authority. The approved programme shall be implemented subsequently and completed by a suitably qualified investigating body and shall include:
  - (i) initial archaeological investigation;
  - (ii) identification of appropriate measures to be taken before, during and after construction should any significant archaeological remains be found;
  - (iii) where appropriate, an archaeological recording programme;
  - (iv) a programme of post-investigation assessment; and
  - (v) provision for the analysis, publication, dissemination and deposition of the archive of site investigations and records.