
Appeal Decisions

Hearing held on 28 November 2016

Site visit made on 28 November 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 05 December 2016

Appeal A Ref: APP/K5600/W/16/3153329

**Sloane Building, Hortensia Road, Kensington & Chelsea,
London, SW10 0QS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (TCPA) against a refusal to grant planning permission.
 - The appeal is made by Hortensia Property Development LLP against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/16/01144, dated 18 December 2015, was refused by notice dated 26 May 2016.
 - The development proposed is described as '*Installation of two new crossovers, new boundary railings and gates and new landscaping scheme in connection with the provision of a vehicular drop off to the front of the Sloan School building.*'
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Appeal B Ref: APP/K5600/Y/16/3157188

**Sloane Building, Hortensia Road, Kensington & Chelsea,
London, SW10 0QS**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) against a refusal to grant listed building consent.
 - The appeal is made by Hortensia Property Development LLP against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref LB/16/01145, dated 18 December 2016, was refused by notice dated 26 May 2016.
 - The works proposed are described as '*Installation of two new crossovers, new boundary railings and gates and new landscaping scheme in connection with the provision of a vehicular drop off to the front of the Sloan School building.*'
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Decisions

1. The appeals are both dismissed.

Preliminary Matters

2. The Hearing was to be heard on 8 November 2016. The originally appointed Inspector was unable to open the Hearing on that date. Instead, I undertook the Hearing on 28 November 2016, following a further notification of interested parties. I am content that any interested parties have been notified of this change of date for the Hearing.
3. This decision deals with a planning appeal under S78 of the TCPA (Appeal A) and a listed building consent appeal under S20 of the PLBCA (Appeal B). Whilst both appeals are to be considered under these separate processes, to

avoid repetition and for the avoidance of doubt, I have dealt with both decisions within this single letter.

Main Issues

4. At the Hearing the Council confirmed that the conservation area referred to in its first reason for refusal was the Sloane Stanley Conservation Area and not the St John and St Mark Conservation Area as referred on page two of the local planning authority's (LPA) Statement dated 12 October 2016. The main issues are therefore:
 - Whether the proposed development would preserve the special architectural or historical interest of the Grade II listed building or its setting; and,
 - Whether the proposed development would preserve or enhance the character or appearance of the Sloane Stanley Conservation Area; and,
 - The effect of the proposed development on highway safety and operation.

Reasons

Listed building

5. The appeal site consists of the Sloane Building, which is a Grade II listed building dating from around 1906. The building was originally designed by TJ Bailey as a school for the London County Council Education Committee in the Edwardian Baroque style. The listing description provides further details of its architectural and historic features, but in particular I note that this indicates that the building was a response to the Education Act of 1902 making secondary education compulsory and is understood to be the first purpose built school within the capital, which closed in 1970, after which the first adult education college in the form of the Kensington and Chelsea College occupied the building. In 2014 permission was given for the conversion of the building into 18 flats; a conversion that I saw during my site inspection is currently under way.
6. The significance of the listed building derives from both its architectural interest and also its historical interest which not only stems from it being an early example of 20th Century education provision, but also in how the architecture and the space around the building was used to inform its function. In particular, to the front elevation one can see two separate entrances, which are likely to have been for boys and girls to enter the building separately.
7. What is more, the area between the railings and the front elevation of the building had an important functional role and purpose in terms of the physical operation of the building in getting children off the pavement and into the care of the school itself. The railings themselves are most likely to be post second world war replacements (the original ones having been used for the war effort), which are painted black and partially set within a low rendered plinth. Neither party is entirely sure as to age of the plinth nor whether under the render there is a significantly older plinth that the original railing would have been set in.
8. The proposal seeks the landscaping of the front apron of the building, and the creation of a swept drive with an entrance to the south and exit to the north. This would permit small delivery vans to pull off the highway to make

deliveries, and allow occupiers of the building to use a valet service for their cars to be parked in the parking spaces under Milliner House to the north. Access would be achieved through the two separate motorised gates, and a further pair of pedestrian gates would be provided towards the centre of these. In total, the proposal would see the three existing gates increased to six gates serving the front of the building. To facilitate this, the proposal seeks the removal of parts of the plinth and railings and the creation of two dropped kerbs.

9. The railings and parts of the plinth are unlikely to date from the original erection of the building. Nonetheless, together with the apron area in front of the building, they serve an important purpose in terms of understanding how the building functioned historically. Furthermore, the area to the front of the building was not designed for the use of motorised vehicles nor a sweeping driveway and it is therefore correspondingly relatively small compared to the size of the building.
10. The result of the proposed development would be the loss of parts of the plinth and railings and the introduction of further gates and a driveway into an area where these either do not exist or are limited to small pedestrian gate openings. There would also be the potential for vehicles to be stationed on the drive for periods of time, which would detract from the architectural interest of the front elevation through the obscuring of views. As a result, the proposal would strike at the heart of understanding the functionality of the space to the front of the building and would have a negative impact on the listed building and its setting. Accordingly, it would fail to preserve the special interest of the listed building. For similar reasons, it would also result in some harm to the character of the townscape through harm to the setting of the listed building.
11. In the main, the central building would be physically unaffected by this proposal and therefore in accordance with Paragraphs 132 to 134 of the *National Planning Policy Framework* (the Framework), the proposal would result in less than substantial harm to the significance of the listed building. Less than substantial harm does not equate to less than substantial planning objection, and under Sections 16(2) and 66(1) of the PLBCA, I give considerable importance and weight to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
12. Paragraph 134 of the Framework indicates that less than substantial harm should be weighed against the public benefits of the proposal. The public benefits suggested here amount to the ability of the appeal building being used for residential purposes and the driveway being a practical measure to help the building operate in this way. I also acknowledge the point made by the appellant's Heritage Consultant at the Hearing in that the use of the building is in the process of changing from an educational use to a residential use, and that this reduces the need for the front apron and railings to function in their historic manner.
13. However, if such an approach was adopted as a justification in dealing with such matters you might easily use it to justify the filling of the moat of a medieval castle, even though historically the moat was intrinsic to understanding how the building worked (the castle in that instance). A similar line of reasoning is applicable in this case, and I do not find that improving a

perceived 'impractical' access for deliveries or the dropping off of passengers, to be a public benefit in this case.

14. I am reinforced in this view by the fact that during my site inspection I saw a number of spaces on the public highway that delivery vehicles could utilise to make deliveries or the dropping off of passengers. What is more, the private parking area serving the appeal building, located under Milliner House, is located a short distance to the north of the appeal site and it is not unreasonable to think that most users of the gated car parking area could manage the short walk to the appeal building. As such, I do not find that these benefits suggested by the appellant are public benefits.
15. I therefore conclude that the proposed development would fail to preserve the listed building and its setting, and that no public benefits have been cited which would outweigh this identified harm. The proposal would therefore conflict with Policies CL1, CL2, CL4 and CR4 of the *Royal Borough of Kensington and Chelsea Consolidated Local Plan July 2015* (CLP), which, amongst other aims, seek to protect the heritage significance of listed buildings and resist pavement crossovers and forecourt parking. It would also be contrary to the policies of the Framework, which beyond those already cited, include conserving heritage assets in a manner appropriate to their significance.

Conservation Area

16. Section 72(1) of the PLBCA indicates that '*with respect to any buildings or land in a conservation area ... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*'. This test is echoed within Policy CL3 of the CLP. Policy CL11 of the CLP refers to the protection and enhancement of views. At the Hearing, the Council confirmed that the appeal site does not lie within a conservation area, and it is clear from the appellant's Heritage Appraisal, page 19, that the rear of the appeal site abuts the St John and St Mark conservation area (numbered 25) with the Sloane Stanley Conservation Area (numbered 16) located on the other side of the buildings on the eastern side of Hortensia Road. The main parties agreed that the proposal would not have an impact on the St John and St Mark Conservation Area, and given that the proposal is to the front of the appeal site I see no reason to disagree.
17. In terms of the Sloane Stanley Conservation Area (herein the conservation area), I heard from the Council that the proposed alterations would be visible from a 'few' windows within the conservation area. However, they were not able to identify these windows until the site visit. At the site visit the windows which the Council considered were within the conservation area were pointed out to me, but following reference to the conservation area maps, the main parties agreed that these windows were not within the conservation area. Indeed, the Council inferred at that point that the conservation area issue was included as an error, but it did not undermine the LPAs case overall.
18. Be that as it may, the test set out in S72(1) set out above relates to buildings or land in a conservation area. Neither the appeal site nor the buildings facing it on Hortensia Road are located within a conservation area. What is more, at no point during the site visit did the Council indicate to me where the proposal could be seen from the conservation area, or how this would result in harm to its character or appearance by failing to preserve or enhance it. Given these factors, the evidence only points to the logical conclusion that neither S72(1)

nor Policy CL3 of the CLP are reasons for withholding permission or consent in this case.

19. Accordingly, I do not find that the proposal would have any impact on the character or appearance of the conservation area. As such, the proposal does not conflict with Policy CL3 or Policy CL11 of the CLP insofar as they apply to conservation areas and views.

Highway safety

20. The appeal building benefits from 18 underground off-street parking spaces under Milliner House. I also understand that residents of the Sloane Building would not be able to apply for resident parking bay permits which, in other existing buildings residents could apply for, subject to meeting some simple criteria. I also understand that resident permits are issued on the basis of demand, rather than the number of spaces available.
21. Policy CT1 of the CLP seeks that the Council will manage traffic congestion and the supply of car parking and requires it to be demonstrated that development will not result in any material increase in traffic congestion or on-street parking pressure. The proposal in this case would require the relocation of on-street resident parking spaces on the highway. As a result two spaces would be relocated and a third parking space would be lost. The appellant has submitted a parking Technical Note (TN) undertaken by Peter Brett Associates (PBA), the data of which is based upon two days in May 2015.
22. Notwithstanding that this is a very limited dataset, it suggests that at the time of the survey that there is some limited capacity within the resident's parking bays. Indeed, occupancy of the resident's bays on this street was typically in the region of 70% to 80%. It is unclear as to whether the 5 suspended bays were or were not included within the percentages (see page 2 of 8) and it is also not clear as to how the total number of spaces in the green 'residential permit holders only' category is affected by the difference of 31 spaces listed within the various tables and the 32 spaces shown on drawing 29403/5501/001.¹
23. In any case, I heard from the Council's Transport Officer that the Borough has a single Controlled Parking Zone (CPZ), which covers around 38'000 spaces. Even though statistically the loss of one space is insignificant within the wider CPZ, the loss within an area of 31 residents bays, as identified within the PBA TN, would further increase the demand on remaining parking bays. What is more, one of the potential locations for a relocated bay would be directly outside of the entrance into Milliner House (labelled as space 'A' on submitted drawing 29403/55018/002 Revision A, attached to the TN). The re-locating of the bay to front entrance of this building would prevent the easy dropping off of visitors or quick deliveries to the occupants of that building. Moreover, though harder to quantify, any such activities are likely to have to take place in other areas of the highway, including the possible mounting of kerbs or the blocking of driveways; neither of which would assist in improving highway safety or operation for pedestrians, cyclists or motorists.
24. I therefore conclude that proposed development, through both the loss of a single on street resident parking bay and the relocation of others elsewhere

¹ From north to south the green bays are shown as 3+2+5+7+11+4 = 32

along Hortensia Road would have a materially harmful effect on the operation of the highway. Accordingly, the proposal would conflict with Policy CT1 of the CLP, the aims of which I have aforesaid.

Conclusion

25. Whilst I have not found harm in respect of the second main issue, this does not override my concerns relating to the harm to the listed building or to highway safety and operation. For the reasons given above, I conclude that both appeals should be dismissed.

Cullum J A Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Nick de Lotbiniere	Planning Consultant (Savills)
Charlotte Scotney	Planning Consultant (Savills)
Kevin Murphy	Heritage Consultant (KM Heritage)
Beata Kniec	Architect
Phil Brady	Transport Consultant (Peter Brett Associates)
Julian Symons	Client (Savills)

FOR THE LOCAL PLANNING AUTHORITY:

Stephanie Malik	Planning Officer
Richard Craig	Design Officer
Kieran Mackay	Transport Officer