



Appeal Decision

Site visit made on 2 April 2019

by S A Whitehead LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2019

Appeal Ref: APP/K5600/D/18/3214446

2 Cheyne Gardens, London SW3 5QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Amy Gardner against the decision of The Council of The Royal Borough of Kensington and Chelsea.
 - The application Ref PP/18/03791, dated 29 June 2018, was refused by notice dated 24 August 2018.
 - The application sought planning permission for the creation of extension at lower ground and ground floor levels, formation of closet wing extension at third floor level, including windows to closet wing and raising centre portion of main roof without complying with a condition attached to planning permission Ref PP/18/00418, dated 19 March 2018.
 - The condition in dispute is No. 2 which states that: *Compliance with approved drawings. The development shall not be carried out except in complete accordance with the details shown on submitted plans 1779B-PO1, 1779B-PO2, 1779B-PO3, 1779B-PO4, 1779B-PO5, 1779B-PO6, 1779B-PO7, 1779B-PO8, 1779B-PO9, 1779B-P10, 1779B-P11.*
 - The reason given for the condition is: The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.
-

Decision

1. The appeal is allowed and planning permission is granted for the creation of extension at lower ground and ground floor levels, formation of closet wing extension at third floor level, including windows to closet wing and raising centre portion of main roof at 2 Cheyne Gardens, London SW3 5QU in accordance with the application Ref PP/18/03791 dated 29 June 2018, without compliance with condition number 5 previously imposed on planning permission Ref PP/18/00418 dated 19 March 2018 and subject to the following conditions:
 - 1) Time Limit: The development hereby permitted shall be begun before the expiration of three years from the date of the original permission (17 July 2017).
 - 2) Compliance with approved drawings: The development shall not be carried out except in complete accordance with the details shown on submitted plans 1779B-PO1, 1779B-PO2, 1779B-PO3, 1779B-PO4, 1779B-PO5, 1779B-PO6, 1779B-PO7, 1779B-PO8, 1779B-PO9, 1779B-P10, 1779B-P11.
 - 3) Roof Terrace – Black painted railings: The railings to the roof terraces shall be painted black, and so maintained.

- 4) Materials – To match existing: All work and work of making good shall be finished to match the existing exterior of the building in respect of materials, colour, texture, profile and, in the case of brickwork, facebond and pointing, and shall be so maintained.
- 5) Windows and doors: The external windows and doors hereby permitted shall be painted metal frames and shall thereafter be so maintained.

Procedural Matters

2. Planning permission has been granted for an extension to the rear of the property. The appeal seeks permission to carry out the development with metal window frames instead of the permitted timber window frames. Therefore, although I have taken the description of the proposal in the banner heading above from the application form, it is in fact condition No. 5 that would need to be varied for the purpose of changing the windows from painted timber frames to painted metal frames. Condition No. 2 relates to the approved Drawings and as the revised Drawing (Proposed Front and Rear Elevations 1779B P08B) does not show the window materials nothing would be gained by substituting it for Drawing 1779B P08. The condition which would need to be varied in order to achieve the desired outcome is therefore condition No. 5. This condition states that: *Windows and doors in painted timber: The external windows and doors hereby permitted shall be timber framed and painted, and so maintained.* The reason given for condition no. 5 is: *To preserve or enhance the appearance of the building and the character of the area, in accordance with policies of the development plan in particular policies CL1, and CL2 of the Consolidated Local Plan.* I have considered the appeal accordingly.
3. I have had regard to the revised National Planning Policy Framework (NPPF) issued in February 2019 in reaching my decision. With regard to the main issue below, the revised Framework has not changed national policy.

Main Issue

4. The main issue is the effect that replacing the timber frames with metal frames would have on the character and appearance of the appeal property and whether they would preserve or enhance the character or appearance of the Cheyne Conservation Area (the Conservation Area).

Reasons

5. The appeal property is a late 19th century five storey terraced house (plus basement) located within the Conservation Area.
6. The Cheyne Conservation Area Appraisal 2017 (CCAA) describes the frontage of the terrace as being in the late Victorian Queen Anne idiom of red brick with multi-paned upper sashes and contrasting stucco dressings. The appeal property shares these common characteristics and thus makes a positive contribution to the architectural and historic significance of the Conservation Area.
7. The CCAA also acknowledges that the rear elevations of properties make an important contribution to the historic and architectural character and appearance of the Conservation Area. It particularly references rear elevations with closet wings which usually follow a pattern across the terrace; and highlights the uniformity and rhythm of rear elevations.

8. However, due to alterations and extensions that have taken place along Cheyne Gardens, the rear elevation of this terrace lacks uniformity and rhythm, as noted in the Council's Delegated Report (Ref: PP/18/00418).
9. The windows to the rear of the appeal property currently consist of traditional white painted timber sliding sash windows, which are cited in the CCAA as being the most characteristic window type in the Conservation Area. The original planning permission (Ref: PP/18/00418) approved the removal of these windows and their replacement with windows of an alternative design, described as being 'Crittall' style windows with square panes. Besides being of a different style, the approved replacement windows would also be of different shapes and sizes to the existing windows and utilise a different window pattern.
10. I am conscious that other than the change of material, the metal windows now proposed would be identical to those already approved by the Council. I am also conscious that, given the earlier planning permission, the proposal before me would not in itself result in the loss of historic fabric.
11. Whilst the proposed replacement frames would be of a different material from the other windows and doors in this elevation, this would not, in my view, be apparent or, therefore, make the windows appear mismatched. Taking account of the above, I am satisfied that the proposed replacement windows would be in keeping with the variation in style that has already been approved.
12. Furthermore, the rear of the appeal property is only partially visible in views from neighbouring properties and from the end of Cheyne Mews. Such views are gained over some distance and, again, I am satisfied that the frames' material of construction would not be incongruous, or, indeed readily discernible. I have also taken into account the fact that the rear elevation of this particular terrace lacks uniformity and rhythm, due to other alterations and extensions along its length.
13. For these reasons I find that the proposal would preserve the character and appearance of the appeal property and the Conservation Area. In making this finding, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in accordance with s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
14. For the reasons given above I find that the proposed replacement windows to the rear closet wing extension would accord with the design and conservation aims of policies CL1, CL2 CL3 CL6 and CL11 of The Royal Borough of Kensington and Chelsea Consolidated Local Plan 2015.

Conclusion

15. Having had regard to all other matters raised I conclude that the appeal should be allowed. I will grant a new planning permission replacing condition No. 5 with a new condition and retaining those non-disputed conditions from the previous permission that appear to still be relevant and necessary in the interests of certainty.

Sandra Whitehead

INSPECTOR