
Appeal Decision

Hearing Held on 15 October 2019

Site visit made on 15 October 2019

by Mr J P Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal Ref: APP/K5600/W/18/3210194
94-106 Cromwell Road, London SW7 4ER

- 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 The Crowne Plaza against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/17/07775, dated 14 December 2017, was refused by notice dated 6 June 2018.
 - The development proposed is the erection of a single storey rear extension for ancillary hotel space (Use Class C1), including associated landscaping and external alterations.
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Decision

1. The appeal is dismissed.

Procedural matters

2. It was contended by third parties that I should consider this proposal as if it were to be a restaurant, free-standing drinking establishment or similar. However, there is no evidence at all to indicate that would occur, and the development's layout does not, in my opinion, readily lend itself to such a use. Moreover, had I allowed the appeal a fresh planning permission would have been required to use it in a manner that was not ancillary to the hotel. I have therefore considered the proposal as described in the summary box above.

Main Issues

3. The main issues are
 - a) whether the proposal would preserve or enhance the character or appearance of the Cornwall Conservation Area, whether it would preserve the setting of the Grade II* listed St Stephen's church, and whether it would harm the significance of either of those 2 designated heritage assets;
 - b) its effect on the living conditions of neighbouring residents, and
 - c) if harm would be caused to the significance of either or both of the designated heritage assets, whether that harm would be outweighed by public benefits.

Reasons

a) The effect on the designated heritage assets

The Cornwall Conservation Area

4. The Cornwall Conservation Area covers an area of relatively rapid speculative suburban development from mainly the 1860s to 1880s. Its significance lies in the way the buildings and spaces in between still reflect that period of growth. It is characterised by tall terraced properties of a design and detail typical of the era, which are interspersed with squares and gardens.
5. The most dramatic garden is the large communal one on Cornwall Gardens, though a smaller one is found on Emperor's Gate. The garden subject of the appeal is another such example. It is some 0.17ha and contains mature trees and established planting. However, unlike the 2 gardens mentioned above, it is not highly prominent as it is not bounded by roads. Rather, it lies behind the buildings fronting onto Cromwell Road, Grenville Place, Southwell Gardens and Gloucester Road, and, although widely visible from the rear of those properties, there are only 2 or 3 limited views of the garden from the public domain.
6. Noting that the surrounding buildings have short back gardens and relatively ornate rear facades, it would appear the garden subject of the appeal was intended to be a communal area to serve those residents. As there has been relatively little change to the block over time, the strong historic link between the garden and those properties continues to be discernible. Moreover, the garden has a distinctive character, as the tall buildings around enclose it and give it a feeling of tranquillity, seclusion and secretiveness that contrasts with the bustling streets in which it sits. Overall, this rear communal garden arrangement is an unusual layout, especially as the composition is still so readily apparent, and it provides a valuable addition to understanding how the area evolved.
7. Therefore, even though it is now under the ownership of The Crowne Plaza Hotel rather than being communal, the garden makes a positive contribution to the character and appearance of the conservation area, and enhances its significance as a designated heritage asset. For some reason, the Council's *Cornwall Conservation Area Appraisal* does not refer to the role of this garden in the conservation area, but that to my mind does not diminish its value or the contribution it makes.
8. The proposal would be a single storey extension to the hotel and would be at the eastern end of the garden. It would be of an irregular form with a 'green' roof that would run down to the ground in one corner, and the aspect from its large glazed window would be westward along the garden.
9. When considered in isolation, the proposal is undoubtedly a commendable piece of architecture. However, looking at how it would relate to its context, I do not share the appellant's view that it would not affect the garden's sense of spaciousness. Rather, it would be a notable intrusion into this open area as a consequence of its size and design. Despite its roofing, it would still constitute a significant structure that, with its large window, would be clearly apparent. Furthermore, although located towards one end, the extension would nonetheless appreciably reduce the apparent extent of the garden. This is not only as a result of the 10% or so of the garden its footprint would cover but

also by the way it would separate off the area behind and so diminish the contribution that part of the garden could make to the enjoyment of the rest. Moreover, it would act as a barrier to the property facing Gloucester Road, so breaking the connection that it has enjoyed with the garden over time and eroding the composition of the block. To my mind, when seen from within the remaining garden or from the buildings around, the extension would therefore notably and unacceptably diminish the extent of the garden and an understanding of its role. As such, it would adversely affect the contribution the garden makes to the conservation area. Indeed, this harm would be further compounded by the proposal strengthening the links of the garden to the hotel, at the expense of any historic communal relationship the area maintains with the properties around.

10. If suitably conditioned the scheme would not cause harm to any important trees on site. It was said that light emissions and noise would adversely affect the tranquillity and peacefulness of the garden. However, whilst there may be some light spillage and additional noise, for the reasons discussed below in relation to living conditions these impacts would not be so great as to harm the conservation area.
11. In assessing this issue, I appreciate that the 'green' roof would assist in integrating the extension into the garden's landscaping, but this would not be sufficient to overcome the concerns about its bulk and presence.
12. I am also aware that views of the extension from the public domain would be extremely limited, and at most it could be glimpsed from very short lengths of Gloucester Road and Southwell Gardens through narrow gaps between the buildings. However, limited visibility from the public realm is not determinative when considering impact on a conservation area, especially as the works would be apparent to the many residents of the buildings around the garden and the guests of the hotel. In this regard the Council cited a conflict with Policy CL11 of *The Royal Borough of Kensington and Chelsea Consolidated Local Plan 2015* (the Local Plan). Whilst this policy seeks to protect views, the views to which it refers must be more than merely being able to see a development, as that concern is adequately addressed in other policies. Therefore, although I maintain my opinion that it would be harmful when seen from many properties, I consider it would not conflict with Local Plan Policy CL11.
13. The appellant also considered the proposal's effect would be less than that of the existing canopy in the garden, which is a sizeable structure that the Council said did not require planning permission. However, this is smaller than the proposal and, for all its design limitations, its open-sided nature and its general form and materials mean this canopy is perceived as a temporary, light-weight addition to the area. Similarly, I was told the dining pods that are currently scattered across the garden did not constitute development, but again they are much smaller than the intended extension and are glazed. As a result, neither the pods nor the canopy has a comparable impact to that of the proposal and so their presence does not outweigh the harm I have identified. In any event, if they do not constitute development they could be put elsewhere, or similar features could be placed in the remaining area of the garden.
14. Therefore, I conclude that the works would fail to preserve the character or appearance of the conservation area and would cause harm, albeit less than substantial, to its significance.

The setting of St Stephen's church

15. St Stephen's church sits to the north-east of the garden, and dates from the 1860s. Being Grade II* listed it is a heritage asset of the highest significance. Its significance lies, in part, in its role in the evolution of the area. Historically, it appears that this was the first building built on this block, with the construction of the adjacent terraces and the laying out of the garden following soon after. It therefore plays a key role in understanding how the locality was developed. However, a further architectural dimension to its significance is how it is one of the best examples of the work of architect Joseph Peacock, and when seen from the outside its elevational detailing is striking and noticeable.
16. On its north and east sides, the church has a very enclosed setting. Sitting on the corner of Gloucester Road and Southwell Gardens it is seen very much in those 2 streetscapes, with their tall buildings close to the pavement. Its setting on these sides would be unaffected by the proposal, as what is now before me could not be seen and would not affect how the church is experienced when looking from those directions.
17. However, the setting of the church from the south and south-west is very different. St Stephen's has no graveyard around, but rather the church virtually abuts the garden area, with (at the time of my visit) little planting and no boundary fencing or similar in between. Consequently, this arrangement means the garden allows clear views of its southern and (to a slightly lesser degree) its western elevations. In these views, and in contrast to its north and east sides, the church stands in a relatively open, pastoral context that is unfettered by fencing or similar when seen across the landscaped garden. This also allows its elevational detailing and its proportions to be readily appreciated. Moreover, the garden enables the church to be seen as part of the overall surrounding composition, despite the fact that its ecclesiastical style and form are clearly in contrast with the other residential buildings. Indeed, this contrasting style and form draws the eye to St Stephen's church and highlights its presence in these views. As such, I consider the garden makes a positive contribution to the church's setting and how it is experienced.
18. Whether or not the beneficial effects of the garden on this setting were the intention when it was originally built is not necessarily determinative. Despite that, on the evidence before me it is reasonable to conclude it was always an expectation that the southern and western elevations would be seen over an open area, whether it be a single garden such as now or subdivided into a number of gardens for various surrounding properties. This is partly shown by the key position the church forms within this block of development, partly by the building being angled slightly to allow improved views of its western end, and partly by the way the rest of the block was constructed so soon after St Stephen's.
19. The proposal would be projecting from the hotel across nearly two-thirds of the garden towards the southern elevation of the church, leaving a gap of some 10 or 12m to the side wall of St Stephen's. Moreover, although 'green' roofing and a landscape sweep is proposed, and although the treed setting is to remain substantially unaffected, it would nonetheless be apparent as built form in the garden due to its bulk, size and window treatment. Taking these points together, I consider that what is before me would, to a degree, encroach into the setting of the church when looking from the western end of the garden. It

would also block views of the church when looking from places on the southern side, thereby harming an appreciation of its setting. As a result, the open, pastoral context in which the church is now experienced would be diminished, an understanding of its role in the development of the area would be reduced, and opportunity to appreciate its external elevations would be lessened. This failure to preserve the setting of the building would cause harm to its significance as a designated heritage asset.

20. Making this assessment I realise that the proposal is of a very different appearance and form to the church, but that does not overcome my concerns about the effect of its presence. I have noted the appellant's contention that the scheme better reveals the church and its setting. While the works may result in the landscaping of the garden being refreshed the existing landscaping does not, at the moment, appear unattractive or impact negatively on the church. When the application was submitted there was, I understand, a fence with planting running along the boundary of the church that I accept would have concealed it to some degree. However, that had been removed by the date of the Hearing and so is not a matter to which I can attach an appreciable amount of weight in my reasoning. Accordingly, I find the proposal would not better reveal the church.
21. The Council also contended the proposal would affect the setting by changing the character of the area through increased noise. However, for reasons I discuss below in relation to living conditions, I consider the impact in this regard would not be significant. I also see no reason why there should be a material increase in activity in the garden when compared to what happens there now.
22. In considering the level of this harm, the consultant acting on behalf of the residents suggested it would be substantial. However, substantial harm is a high test. As the fabric of the building, the appreciation of the internal detailing and the setting when seen from the north and east are unaffected by the works, then even accepting the building's Grade II* listing I consider the harm caused would be less than substantial.

b) Living conditions

23. The rear aspect of the residential properties around the garden is, for much of the time, a tranquil and peaceful one. On occasions though there is a certain amount of noise generated by hotel guests and events in the garden, and I have no reason to consider activities in the garden ancillary to the hotel use would not continue irrespective of the outcome of this appeal. As such, they have little bearing on my reasoning. Moreover, I have noted the measures the hotel takes to minimise noise, but they are not subject to any planning control and appear to be, to a great extent, discretionary.
24. The proposal would create a single large function room. While this could be used for relatively quiet day-time events such as fayres and training sessions, it could also be used for evening functions and parties. Soundproofing measures could ensure noise within the building was contained and so should not cause nuisance to those living around.
25. Conditions could limit the possibility of noise break-out as external doors were opened and closed, but there would inevitably be some noise nuisance from such activities. Similarly, even if doors out of the extension were kept closed,

planning controls could not prevent those using the function room from accessing the garden through the existing hotel, thereby resulting in a certain amount of disturbance relating from their boisterous behaviour or loud talking.

26. However, on balance, and mindful of what could occur in the garden in any event, I consider that neither the scale nor regularity of these sources of noise and disturbance are likely to be sufficient to affect the living conditions of those around unreasonably.
27. With regard to light, whilst there is likely to be some spillage out of the proposal's large west-facing window, there is no reason to consider the wider garden would be illuminated as part of this scheme, or that directional light will be shining from the proposal at the windows of the neighbouring residents.
28. Accordingly, I conclude the development would not adversely affect the living conditions of neighbouring residents, and so would not conflict with Local Plan Policies CL5 or CF8, which seek to ensure, among other things, that new developments and hotel extensions do not harm residential amenity.

c) Public benefits

29. I have identified less than substantial harm to the significance of both the conservation area and the church. The *National Planning Policy Framework* (the Framework) says that any harm to the significance of a designated heritage asset (presumably whether substantial or less than substantial) should require clear and convincing justification. Great weight should be given to the asset's conservation, and the more important the asset the greater the weight. In this regard as the church is Grade II* it is an asset of greater importance than Grade II listed buildings, and this should be reflected in the weight accorded to the harm.
30. The Framework adds that where less than substantial harm would be caused to a designated heritage asset this harm should be weighed against the public benefits. At the Hearing 7 such benefits were highlighted, which shall be examined in turn.
31. For the reasons given above, I consider that the scheme would not enhance the conservation area or better reveal the church, and so those cannot be benefits to which I afford weight.
32. It was also stated that it would enhance the tranquillity of the garden as a result of removing the open canopy. However, insufficient evidence has been submitted to show this would be an appreciable benefit, or that noise now generated under that canopy would be notably greater than that connected with the scheme.
33. A fourth area of benefit was given as the improvements to landscaping, ecology, drainage and air quality. I consider the existing landscaping and ecology is satisfactory, and it has not been shown that any benefit above this would be significant. Similarly, any benefit to air quality and drainage, although welcomed, is likely to be minor.
34. It was said the development and garden could be used by the church, by a near-by nursery and by local residents, but I understand this happens at present to a certain extent. In any event there was no mechanism before me to ensure this continued to occur, or to define its regularity or terms.

35. A sixth benefit pointed to the environmental credentials of the extension. I accept these are high and exceed what is required, although I appreciate such measures are designed to address the building's impact and so have only arisen because of its presence. Nonetheless, I afford this moderate weight.
36. Finally, it was noted the scheme demonstrated investment in the hotel. Such investment is encouraged both nationally and locally. However, the effect of this on the hotel has not been stated, and so I am unaware as to whether or not it is a financial necessity. Furthermore, this contention could be used to support any extension, no matter how harmful to heritage assets. Therefore, it is again something to which I attach moderate weight.
37. I am aware of no other public benefits to which I should attach significant weight.

Conclusions

38. Accordingly, I have found that the scheme would fail to preserve or enhance the character or appearance of the Cornwall Conservation Area, and would also adversely affect the setting of the Grade II* listed St Stephen's church, causing less than substantial harm to the significance of these assets. Even taking the above public benefits together, I consider they do not outweigh the great weight I attach to this harm. I therefore conclude the scheme would conflict with Local Plan Policies CL1, CL2 and CL3, which seek to ensure new development respects its context and does not harm the historic environment or private open space. It would also conflict with the guidance in the Framework. I therefore conclude the appeal should be dismissed.

J P Sargent

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr E Bracken	General Manager, The Crowne Plaza
Dr A Brady OBE	Director, Brady Mallalieu
Mr A Carr	Senior Architect, Brady Mallalieu
Ms E Conwell	Senior Planner, Icen Projects
Mr K Hodgson	Icen Projects
Ms A Killilea	Associate Heritage & Townscape Consultant, Icen Projects

FOR THE LOCAL PLANNING AUTHORITY:

Ms S Buckingham	Conservation & Design Team Leader. RBKC
Mr J Whitworth	Senior Planner, RBKC

INTERESTED PERSONS:

Ms L Burge	Local resident
Mr P Gumuchdjan	Local resident
Mr C Hiller	Local resident and Chair of GHAL
Cllr J Husband	Chair of Planning Committee
Mr P Pugh	Agent for local residents, Conservation Planning
Mr P Thompson	Local resident

DOCUMENTS

Submitted by the appellant

- A1 Details of the scheme refused planning permission in 2012
- A2 *Townscape & Heritage Impact Assessment* (dated October 2017)
- A3 Email to the Planning Inspectorate concerning submitted documents (dated 16 October 2019)
- A4 Email to the Planning Inspectorate concerning submitted documents (dated 30 October 2019)
- A5 Email to the Planning Inspectorate concerning suggested conditions (dated 1 November 2019)

Submitted by the Local Planning Authority

- C1 Letter of notification of Hearing
- C2 Policies CF8, CL5 & CE6
- C3 *Crowne Plaza, Cromwell Road – New Garden Room Noise Assessment* submitted by the appellant in connection with the original application (dated 12 October 2017)
- C4 *Planning Statement* submitted by the appellant in connection with the original application (dated December 2017)
- C5 *Design and Access Statement* submitted by the appellant in connection with the original application (dated 8 December 2017)
- C6 Email to the Planning Inspectorate concerning submitted documents (dated 22 October 2019)
- C7 Email to the Planning Inspectorate concerning submitted conditions (dated 22 October 2019)

