
Appeal Decision

Site visit made on 19 November 2019 by Ifeanyi Chukwujekwu BSc MSc MIEMA
CEnv AssocRTPI

Decision by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal Ref: APP/X5210/W/19/3237245 Flat 1 102 Fellows Road, London, NW3 3JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Cooke against the Council of London Borough of Camden.
 - The application Ref 2019/1297/P is dated 22 March 2019.
 - The development proposed is new garden room.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. This is an appeal against the Council's failure to make a timely determination. Following the appeal, the Council has now issued a notice of decision. The notice states that had an appeal not been made, the Council would have refused planning permission on matters relating to the harmful effect of the proposal on character and appearance.

Main Issue

4. The appeal property is located within the Belsize Conservation Area (the 'CA'). The main issue is whether the proposed new garden room would preserve or enhance the character or appearance of the CA.

Reasons for the Recommendation

5. No. 102 is a 19th Century dwelling which has been converted into flats. It is located on the corner of Fellows Road and Kings College Road, which is within Sub Area Three: The Eton Avenue Area of the CA. The Belsize Conservation Area Statement notes that the building makes a positive contribution to the CA. Flat 1 is on the ground floor of the host property which, being a corner building, benefits from front, side and rear garden areas which help define its' open setting. The surrounding area is predominantly residential. There are examples of modern buildings on Kings College Road. However, their number

is limited. Therefore, they are not sufficient to alter the significance of this section of the CA which is largely derived from the pattern of traditional buildings, together with their front and substantial rear garden space contributing to the verdant, open character and an appearance of a neat and unified street scene.

6. The new garden room would be in the rear garden of No. 102. Even taking into account the proposed green roof, the large size, bulk and massing of the proposed building would dominate the garden space, considerably eroding the open setting on No 102 and the spacious appearance of the streetscene when viewed from Kings College Road. Though the garden is below the level of the road and is separated from it by a wall, the proposed garden room would still be viewed from the street. The loss of this space would result in a cramped pattern of development, detrimental to the appearance of the street scene and to the significance of the CA.
7. The appellant contends that the loss of garden space should be contrasted with the small amount of usable garden space considered acceptable by the Council when giving planning permission for the new house at No 1 Kings College Road in 2012 under Application Ref:2012/5729/P, and by the Inspector by allowing the appeal at No 3 Kings College Road¹. In addition, the garden space available, even with the appeal building in place, would comply with the standards set out in the London Plan. However, the size of the garden in relation to resident's living conditions is not in dispute. Instead, it is the effect of a much reduced garden area would have on the character and appearance of the CA that is at issue.
8. No 3 King's College Road is constructed on a long thin strip of unoccupied scrub land to the rear of Nos 100A and 102 Fellows Road. As such, in contrast with the appeal before me it was not considered in the context of loss of rear garden space. Furthermore, it is sited a sufficient distance from No 102 to maintain the spacious character of the road. Moreover No 1 also maintains a significant distance from properties on Eton Avenue. Green and pleasant front and back gardens continue to define the quality of the CA, and these other examples do not justify harmful development. In any event, each application and appeal should be determined on its individual merits.
9. Taking all the above points together, I find that the detailed design, scale, bulk, massing, siting, and proportion of garden-space lost fails to preserve the character or appearance of the CA. Accordingly, there is conflict with the aims and objectives of Policies D1 and D2 of the London Borough of Camden Local Plan (2017). This require, amongst other things, that development respects local character and context and preserves or enhances heritage assets.
10. The harm caused is less than substantial. Nevertheless, it is of considerable importance and weight. The appellant suggest that the proposal would be beneficial by screening the side wall of No3 Kings College Road in the outlook from Flat 1. However, this is a private benefit. Furthermore, the view from Kings College Road would be harmful with the proposed building in place.
11. It is also argued that the new garden room which would serve as a studio for a local artist who has a disability. Not only would this be socially beneficial to the

¹ APP/X5210/W/14/3000546

local area, but would also provide private space for the artist. However, any benefits to the local area are not quantified and therefore I give this limited weight.

12. Therefore, in terms of paragraph 196 of the Framework I am firmly of the view that the limited public benefits do not outweigh the considerable harm to the heritage asset.
13. The Public Sector Equality Duty requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability. I do not doubt that the proposal would be beneficial for the artist, but it has not been demonstrated that the proposed space could not be provided in a manner that would be less harmful to the character and appearance of the area.
14. The Council has not refused the proposal because of any impact on residents living conditions. The lack of harm in this respect would be neutral in the planning balance.
15. Having carefully weighed the potential benefits of the scheme, I therefore consider that they are not sufficient to outweigh the harm caused by the development. Dismissal of the appeal is a proportionate and necessary response having regard to the legitimate and well established planning objective of preserving or enhancing the character or appearance of conservation areas.

Conclusion and Recommendation

16. For the reasons given above and having had regard to evidence before me, I recommend that the appeal should be dismissed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be dismissed.

Zoe Raygen

INSPECTOR