
Appeal Decisions

Site visit made on 17 December 2019

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 27th January 2020

Appeal A

Appeal Ref: APP/X5210/W/19/3234948

27-44 Cartwright Gardens, London, WC1H 9EH

- 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 Kelmscott Services SARL against the decision of the Council of the London Borough of Camden.
 - The application Ref 018/6102/P is dated 12 December 2018.
 - The development proposed is erection of garden pavilion to rear.
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Appeal B

Appeal Ref: APP/X5210/Y/19/3234949

27-44 Cartwright Gardens, London, WC1H 9EH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Kelmscott Services SARL against the decision of the Council of the London Borough of Camden.
 - The application Ref 018/0494/L is dated 12 December 2018.
 - The works proposed are erection of garden pavilion to rear.
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Decision

1. The appeals are dismissed and planning permission is refused.

Procedural Matters

2. The appeal site lies within the curtilage of the grade II listed building known as "National Westminster Bank Hall of Residence (27-43), Jenkins Hotel (44 and 45) and railings 27-45, Cartwright Gardens". It also lies within the Cartwright Gardens/Argyle Street sub-area of the Bloomsbury Conservation Area.
3. At the time the appellant submitted the appeal, the Council had not reached a decision on the application. Subsequently the Council issued a report setting out that had a decision been issued, the application would have been refused due to concerns in relation to the effect of the proposal on heritage assets, the effect of the proposal on existing trees and the effect of the proposal on the living conditions of adjoining occupiers.

Main Issues

4. Accordingly, the main issues for the appeal are:
 - The impact of the proposals on the special architectural and historic interest of this Grade II listed building known as 27-43 Cartwright Gardens

and the impact of the proposal on the character and appearance of the Bloomsbury Conservation Area;

- The effect of the proposal on the living conditions of nearby residential occupiers;
- The effect of the proposal on trees within the site.

Reasons

The effect of the proposal on the significance of heritage assets

5. The appeal property is a terrace of residential dwellings, later used as halls of residence, and now in use as a hostel. It is a Grade II listed which forms the northern half of a crescent which faces onto Cartwright Gardens, a formal garden. The curved frontage provides a pleasingly proportioned composition which contributes to the historic character of this part of the Bloomsbury Conservation Area. In contrast with the elegant and largely uniform frontage, the rear elevation of the building is more functional in appearance, and the many windows in the rear facade, in conjunction with the enclosed garden to the rear, gives a more intimate character to the space. The significance of the asset is largely derived from the contribution of the elegant façade and its interplay with Cartwright Gardens makes to the streetscene, in its group value, and as a surviving example of the work of the James Burton.
6. The proposal comprises the erection of a timber structure, described as a "pavilion", in the rear garden which serves the hostel. The original space has been separated into two parts by the construction of a modern extension to the rear of the building. The southern section, in which the proposal would sit, contains mature landscaping, including some mature trees, and provides an informal space to serve the residential function of the building behind.
7. The pavilion would be relatively large for a domestic structure, but its lightweight timber construction would render it readily discernible as an ancillary structure of a semi-permanent nature. In this regard it would not appear out of place within the garden setting, and would not detract from the intimate nature of the space. In views into the site from adjoining properties the structure would not obscure any features of note, and in views from the asset into the garden would not appear obtrusive or out of place.
8. I therefore conclude that the proposal would preserve the character and appearance of the Conservation Area, and would not harm the setting of the listed building. It therefore follows that the proposal would not harm the significance of heritage assets and would comply with policies D1 and D2 of the Camden Local Plan which together seek to preserve and where possible enhance Camden's heritage assets. It would also comply with the Framework which has similar aims.

Living Conditions

9. The residential properties on Burton Street to the south and Tiger House to the west sit immediately adjacent to the site. I noted during the site visit that windows serving rooms to properties to the rear of Burton Street faced onto the appeal site. Windows on the flank wall of Tiger House were filled with glazed brick and so were non-opening, although I also noted that properties on the upper floors had balconies at roof level directly above the appeal site.

10. The proposed pavilion would be used by residents in the hostel for outdoor recreation. It is relatively large in size and the submitted plans show it easily capable of providing seats and tables to accommodate 18 people. Given the proximity to the lounge it is likely to be used as an outdoor space for socialising by residents, and to provide shelter for residents wishing to smoke. In this regard, the pavilion would facilitate a more intensive use of the garden by residents, who would be able to sit outside during inclement weather. Taking into account the size and design of the pavilion, it would also provide an attractive environment for relatively large numbers of residents to linger.
11. The pavilion would be constructed in timber with large amounts of glazing and so from hostel residents using the pavilion would not be effectively attenuated by the structure. Taking into account the capacity of the structure and its proximity to nearby residential properties it is likely that noise from those using the pavilion would be heard in nearby residential properties and that this would be perceived as intrusive. This would be particularly so late in the evening and also in summer when nearby windows would be open and when residents above would be more likely to be using outdoor balconies.
12. I have considered whether a planning condition, limiting the hours of use of the pavilion, would mitigate the effects of any noise to an acceptable level. However, it seems to me that given the otherwise open nature of the garden, it would not be practical to restrict the use of the pavilion and its immediate setting without also limiting the use of the wider garden. This would not be desirable as it would reduce the amenity value of the existing space.
13. I am therefore of the view that although disturbance from the use of the pavilion would be likely to vary depending on how intensively the facility was used, and whether adjoining residents had their windows open, when disturbance did occur it would cause harm to the living conditions of residential occupiers who adjoin the site. It would therefore conflict with policy A1 of the Local Plan which seeks to ensure that the amenity of neighbours is protected, and with guidance in the Framework which has similar aims.

The effect of the proposal on trees within the site

14. As the site lies within the Bloomsbury Conservation Area the trees on site are protected by its designation. The appeal site has a number of mature trees and the proposed pavilion would be located within the crown spread of one of these, which appears to be a London Plane. The tree is a mature specimen which due to its height will be visible from both the appeal property and properties in Tiger House. In this regard it contributes to the character of that part of the Conservation Area, and the intimate domestic setting of the rear of Cartwright Gardens.
15. I noted on site that the tree sat very close to Tiger House but appears to be in good health. It is therefore likely that the root system of the tree has compensated and may consequently be more dependant upon the space to the south in which the appeal building is proposed. The close proximity of the pavilion to the tree therefore has the potential to damage its root system, and so would damage its prospects for long term retention.
16. The application is not supported by any assessment of the tree, and does not provide any construction details. The appellant considers that the lightweight nature of the structure, which I am advised would not require foundations,

could be put in place without damage to the tree. However, even if the proposal would not involve excavation, it has the potential to cause harm through soil compaction.

17. I accept that measures could potentially be employed to distribute the weight of the structure in a way which reduces soil compaction and root compression. However, in the absence of an informed assessment of the likely impact on this and other nearby trees within the garden, and details of measures to ensure any adverse impact would be avoided, I cannot be assured that the proposal would safeguard the tree or ensure its long term retention. I am therefore of the view that the proposal would not ensure the retention of the tree and would therefore be contrary to policy A3 of the Local Plan, which seeks to resist the loss of trees of significant amenity value or threaten the wellbeing of such trees.

Other matters

18. The Council have expressed concerns that the proposal would lead to a loss of garden space. As the pavilion would serve a recreational use I am not convinced that its provision would reduce the utility of the external space. Furthermore, adjoining occupiers have raised concerns regarding the effects of the proposal on local ecology. I noted on site that the garden was currently largely paved and that the scheme would require only limited reorganisation of the outdoor space. Therefore, notwithstanding my concerns regarding the potential loss of the tree, any further effect on local ecology would be likely to be limited and so this does not add to my concerns.

Conclusion

19. The proposal would provide enhanced accommodation for the hostel which would assist with the on-going success of the business. As I have no compelling evidence that the pavilion is an essential facility, I attribute these matters only limited weight. Although the pavilion itself would not cause harm to heritage assets, it would cause harm to a tree which contributes to the character of the conservation area and the setting of the listed building. It would also cause harm to the living conditions of nearby residential occupiers. As I attribute more weight to this collective harm than the identified benefits, they would be insufficient to outweigh the harm identified above.
20. Accordingly, having regard to all other matters raised, the appeals are dismissed.

Anne Jordan

INSPECTOR