

29 January 2020

Appeal Decisions

Site visit made on 8 January 2020

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal A - Ref: APP/K5600/W/19/3239295

52 Hogarth Road, London SW5 0PU

- 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 Mr Nabeel Khalid against the decision of the Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/18/07582, dated 21 November 2018, was refused by notice dated 18 April 2019.
 - The development proposed is 2 storey rear extension and infill extension.
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Appeal B - Ref: APP/K5600/W/19/3239296

52 Hogarth Road, London SW5 0PU

- 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 Mr Nabeel Khalid against the decision of the Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/18/07567, dated 21 November 2018, was refused by notice dated 18 April 2019.
 - The development proposed is 2 storey rear extension and infill extension.
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Decision

1. Appeal A and Appeal B are dismissed.

Main Issues

2. In the case of both appeals:
 - (a) Whether the appeal proposal would preserve or enhance the character or appearance of the Earl's Court Village Conservation Area (CA); and
 - (b) The effect of the appeal proposal on the living conditions of the occupants of Flats 4 and 7 at 54 Hogarth Road with regard to light, ventilation and sense of enclosure.

Reasons

Character and appearance

3. The CA is characterised by tightly grained late Georgian and Victorian terraced housing and commercial properties that form attractive streets of a modest and human scale.

4. The Royal Borough of Kensington and Chelsea Earl's Court Village Conservation Appraisal notes that, given the densely built up nature of the CA, 'even small spaces between and around buildings are extremely valuable creating a pleasant and comfortable environment.' Such gaps also allow the terraces 'to be read as one architectural composition as originally intended'.
5. The appeal property is a mid-terraced building in use as a hotel. The rear of the terrace has a pronounced and distinctive architectural form and rhythm created by a series of projecting closet wings separated by lightwells. Whilst many of these closet wings step back at third floor level, others have been extended to align with the rear elevation of the lower floors. This further emphasises the established solid-void pattern of development. Although there are some infill extensions within the lightwells, they are restricted to the lower floors and so do not disrupt the architectural composition of the terrace, which is visible in the public realm from both Knaresborough Place and Earls Court Gardens.
6. The appeals relate to two planning applications which were submitted at the same time. Both appeal schemes propose a third floor closet wing extension and a 2 storey infill extension in the lightwell at second and third floor level. The difference between the schemes is the proposed infill extension cladding; the scheme proposed in Appeal A specifies zinc, whereas the Appeal B scheme proposes Pilkington Profilit Glass.
7. In both cases, the proposed infill extension would effectively fill the lightwell at second and third floor level. Although it would be set back around 300mm from the rear elevation of the closet wing and finish slightly below the proposed closet wing extension, these measures would not preserve the characteristic alternating solid-void pattern of development along the rear of the terrace.
8. Whilst the gaps between the closet wings are often in shadow, the use of the zinc cladding proposed in Appeal A would not successfully achieve the visual effect of a shady recess, but rather would have a dark and solid appearance. This would accentuate the interruption in the built form which would arise from the development. The glass cladding proposed in Appeal B would give the extension a more lightweight appearance. However, it would not mitigate the harm that would be caused by infilling the lightwell with such a tall, deep and bulky structure.
9. I note that the appellant sought pre-application advice from the Council and that the schemes have been developed in an attempt to respond to that advice. However, the Council's letter states a lightweight single storey infill extension 'sufficiently set back from the rear building line' might be acceptable. What is proposed in both these appeals is a 2 storey extension with a minimal set back from the rear building line and, in the case of Appeal A, clad in zinc with a dark and heavy appearance. Moreover, it is clear in the Council's response that the advice is given without prejudice to any formal determination. In any event, these matters do not materially affect my consideration of the planning merits of the appeal proposals.
10. For the reasons set out above I conclude that the infill extension proposed in both Appeal A and Appeal B would fail to preserve or enhance the character and appearance of the CA, contrary to the design and heritage conservation and enhancement aims of Policies CL1, CL2, CL3, CL6, CL8 and CL9 of the Royal Borough of Kensington and Chelsea Local Plan (LP).

11. In the parlance of the National Planning Policy Framework the identified harm to the significance of the heritage asset is less than substantial. However, any harm requires clear and convincing justification. The proposed expansion and enhancement of the existing hotel accommodation does not amount to public benefits which convincingly outweigh that harm.

Living conditions

12. In both appeal schemes, the proposed infill extension would block 2 windows positioned on the south facing side elevation of the neighbouring closet wing. Based on the evidence before me, these windows serve Flat 4 and Flat 7 at 54 Hogarth Road. In the case of Flat 4, it is a bathroom window. I have little information regarding the internal layout of Flat 7.
13. I acknowledge that bathrooms are not considered a 'habitable' room, and some are designed without a natural light source. However, it would appear that the bathroom in Flat 4 has been designed with a window which is likely to provide not only light but ventilation. To block it up would cause a loss of this light and ventilation and result in an oppressive sense of enclosure, to the detriment of the living conditions of the occupants of that flat. In the absence of definitive evidence to the contrary, I consider that such harm may also arise if the window serving Flat 7 were to be blocked up.
14. I have no evidence to demonstrate that the appellant has either ownership of Flats 4 and 7 or the agreement of the owners to the proposed development. In any event I must consider the effect of the appeal proposals upon the living conditions of occupants of these flats, both now and in the future.
15. For the foregoing reasons I conclude that, in the case of both Appeal A and B, the appeal proposal would have a harmful effect on the living conditions of the occupants of Flats 4 and 7 at 54 Hogarth Road, with regard to light, ventilation and sense of enclosure. This would be contrary to the amenity protection aims of LP Policy CL5.

Conclusion

16. I note the Council does not raise any objection to the extension above the closet wing proposed in both appeals. Based on the submitted evidence and my observations on site, I see no reason to take a different view. However, this part of the appeal proposals is not severable from the proposed infill extension. Therefore, it is not possible for me to issue a split decision in these cases.
17. For the above reasons, and having had regard to all other matters raised, I conclude that Appeal A and Appeal B should be dismissed.

CL Humphrey

INSPECTOR