



Appeal Decision

Site visit made on 9 February 2021

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2021.

Appeal Ref: APP/K5600/W/20/3258191

55-57 Gloucester Road, London SW7 4QN

- 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 Dick Whittington Design and Build Ltd against the decision of The Royal Borough of Kensington and Chelsea Council.
 - The application Ref PP/20/03098, dated 1 June 2020, was refused by notice dated 10 August 2020.
 - The development proposed is the erection of a two bedroom penthouse dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the host property and the terrace of which it forms part and whether it would preserve or enhance those of the Queens Gate Road Conservation Area (CA), and
 - the lack of agreement to or to enter into a Unilateral Undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 (As Amended).

Procedural Matter

3. The appeal was accompanied by a Planning Obligation by way of Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended), Section 111 of the Local Government Act 1972 (as amended) and Section 16 of the Greater London Council (General Powers) Act 1972 (as amended) dated 12 October 2018. This dealt with car-free development. I will address this further below.

Reasons

Character and Appearance

4. The National Planning Policy Framework (the Framework) sets out how planning authorities should seek the conservation and enhancement of the historic environment and establishes that good design is a key aspect of sustainable development, indivisible from good planning.

5. The Council has recognised the importance of this part of Kensington and Chelsea as a heritage asset through the original CA designation in 1969. The Queens Gate Road Conservation Area Character Appraisal (2020) (the CA Appraisal) clarifies its significance as an area that partly comprises groups of grand residential terraces that form characterful streets with coherence and commonality where buildings sit in harmony.
6. In line with the duty imposed on me by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have given considerable importance and weight to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
7. The appeal property is formed from two properties at 55 and 57 Gloucester Road that are part of a terrace of buildings with stucco facades of 5 storeys with a lower ground floor, located on the east side of the street between its junctions with Queens Gate Gardens and Elvaston Place.
8. At roof level this terrace appears, from my site visit and the documents provided to me, to have only two existing additions. One is a small addition at the rear of 45 Gloucester Road, which is not apparent from street level. The other is a penthouse style extension at 41 to 43 Gloucester Road (No 41 to 43), which is visible from the street and appears to be mid-20th Century and constructed prior to the designation of the CA. Otherwise the roof level of the terrace appears to be substantially as originally constructed.
9. The appellant has sought to adopt a traditional design for the proposal, including by extending the dividing walls with chimneys between and at the ends of the two properties on which the proposal would be located. However, the proposed extension and alterations would be apparent from street level views from the other side of Gloucester Road, as well as being prominent in wider views of the appeal property from along the street and from the longer views afforded by both of its junctions with Cornwall Gardens. Due to its bulk, form and massing and the relatively unaltered roof profile of the appeal property and its neighbours, the proposal would result in a visually intrusive addition that would interrupt the profile of the terrace in these views of the appeal property.
10. The proposed roof level addition would be unsympathetic to the architecture of the appeal property and that of its neighbours in the terrace. The additional bulk of the proposal at roof level would significantly alter the appearance of the appeal property and would be an incongruous addition that would also detract from the coherence of the terrace as a whole. This would detract from the harmony between buildings that help define the character and appearance of the Conservation Area.
11. The appellant has made reference to a planning appeal for a similar roof extension to the appeal property that appears to have been dismissed in 2013, however no documents relating to it have been provided to me. The appellant has also drawn my attention to an unimplemented approval¹ in 1977 for a roof level extension to 55, 57 and 59 Gloucester Road and argues that this provides precedence for the proposal along with the existing roof extension at No 41 to 43 detailed above. However, these would have been considered on their own merits, on the basis of the both the physical and planning contexts at that

¹ Council Planning Ref: PJA/VW/T77/965/614

time. I have, likewise, considered the proposed development on the same basis, which is a fundamental principle that underpins the planning system and have afforded them little weight in my considerations.

12. For the collective reasons outlined above, the proposed development would not preserve or enhance the character or appearance of the Conservation Area. In the context of paragraph 196 of the Framework, the proposed development would result in less than substantial harm to the significance of the Conservation Area.
13. I therefore conclude that the proposed development at No 55 and 57 would be harmful to its character and appearance and that of the terrace of which it forms part, and would fail to preserve or enhance that of the CA. This would be contrary to policies CL1, CL2, CL3, CL6, CL8 and CL11 of The Royal Borough Kensington and Chelsea Local Plan (2019) (the Local Plan) and guidance contained within the CA Appraisal, which seek to ensure that roof level development is sympathetic to the age and character of the host building and groups of buildings and reinforces their original integrity, does not harm the character and appearance of the existing building, respects the existing context, is of high architectural and urban design quality and preserves or enhances the appearance and character of conservation area. For these reasons, the proposal would also not accord with sections 12 and 16 of the Framework.

Unilateral Undertaking

14. The signed and completed Unilateral Undertaking provided by the appellant with this appeal provides for the Planning Obligation for the scheme to be car-free. This is necessary to ensure that the development does not increase the demand for parking in the area which is subject to a Controlled Parking Zone. Without such a restriction the proposal would be likely to add to highway safety concerns or harm the convenience of residents, business and users of services. While such a provision would not comply with the terms of Section 106 of the Town and Country Planning Act 1990 (as amended), the Obligation is also made under Section 16 of the Greater London Council (General Powers) Act 1972 (as amended) which is less restrictive. I am therefore satisfied that such a provision would be enforceable. As this provision is to avoid a harm, which would otherwise occur, this would be a neutral factor in the final balance.

Planning Balance and Conclusion

15. Paragraph 11d, footnote 7 of the Framework states that where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the LPA cannot demonstrate a five year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
16. When this is the case, and as this appeal relates to the provision of housing, the need for the proposal to be considered against paragraph 11d is triggered. However, although the proposal must be determined within the context of paragraph 11d, I consider the Local Plan policies are a material consideration within this decision, which carry full weight in so far as they conform to the Framework. The Local Plan policies CL1, CL2, CL3, CL6, CL8 and CL11, which

are most relevant to this appeal, are consistent with the Framework and specifically sections 12 and 16, which seek to achieve well-designed places and conserving and enhancing the historic environment.

17. According to the Government's Housing Delivery Test: 2020 the Council has a significant projected housing shortfall on that required.
18. As I have identified above, the proposal would result in harm to the character and appearance of No 55 and 57 and that of the terrace of which it forms part and would result in less than substantial harm to the significance of the CA, contrary to policies CL1, CL2, CL3, CL6, CL8 and CL11 of the Local Plan. In light of the Council's housing land supply position, paragraph 213 of the Framework makes it clear that weight should be given to existing development policies according to their degree of consistency with the Framework. Section 12 and 16 of the Framework recognises that developments should seek to achieve well-designed places and conserve and enhance the historic environment.
19. Even taking account of the objective of significantly boosting the supply of homes and the Council's supply position, the conflict between the proposal and policies CL1, CL2, CL3, CL6, CL8 and CL11 of the Local Plan should be given significant weight in this appeal.
20. Set against the harm identified there would be social, economic and environmental benefits associated with the development. The appeal site is a 'windfall' in terms of housing, in so far as it is an extension to an existing building and not previously identified in the Local Plan for providing additional housing. Although the proposal would be a small contribution to the overall housing target for The Royal Borough of Kensington and Chelsea, small housing schemes do collectively make a major contribution to the number of new residential units and I have given this significant weight in my considerations. The proposal would also generate employment opportunities during construction, and through the employment of local services for its upkeep and maintenance when occupied. In connection with the single additional dwelling proposed, these benefits attract modest weight in favour of the proposed development.
21. Consequently, I conclude that the significant harm to the character and appearance of No 55 and 57 and that of the terrace of which it forms part and less than substantial harm to the significance of the CA that I have identified, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
22. The proposal would conflict with the development plan as a whole and there are no other material considerations which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Victor Callister

INSPECTOR