
Appeal Decisions

Site visit made on 11 April 2021

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an Inspector appointed by the Secretary of State

Decision date: 22 April 2021

Appeal A: APP/K5600/W/20/3255781 **15 Wellington Square, London SW3 4NW**

- 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 Spiller against the decision of The Council of The Royal Borough of Kensington and Chelsea.
 - The application Ref PP/20/01556, dated 29 February 2020, was refused by notice dated 19 June 2020.
 - The development proposed is described as refurbishment of 15 Wellington Square and the redevelopment of the rear closet wing and courtyard.
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Appeal B: APP/K5600/Y/20/3257020 **15 Wellington Square, London SW3 4NW**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
 - The appeal is made by Mr Spiller against the decision of The Council of The Royal Borough of Kensington and Chelsea.
 - The application Ref LB/20/01557, dated 29 February 2020, was refused by notice dated 19 June 2020.
 - The works proposed are described as refurbishment of 15 Wellington Square and the redevelopment of the rear closet wing and courtyard.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. As set out above, there are 2 appeals on this site. Each relates to the same scheme but they address separate applications for planning permission in the case of Appeal A, and listed building consent in the case of Appeal B. I have considered each on its individual merits, however, to avoid duplication I have dealt with the Appeals together, except where otherwise indicated.
4. Since the applications above were refused, the Council has granted planning permission and listed building consent (the approved scheme), for most of the internal alterations proposed. Works are in progress. The main areas of difference between the Appeal and approved schemes lie in proposed modification of the roof, modification of the closet wing, and erection of an extension.

5. The submissions reference the 'basement' and 'lower ground floor' interchangeably. For sake of clarity, I shall refer to the lower ground floor only in my reasons below, as this is the label used on the plans.
6. Applications for awards of costs were made by Mr Spiller against The Council of The Royal Borough of Kensington and Chelsea in relation to both Appeal A and Appeal B. These applications are the subject of a separate Decision.

Main Issues

7. The main issues are:
 - the effect of the scheme on designated heritage assets, including whether it would preserve a Grade II listed building, its setting, or any of the features of special architectural or historic interest that it possesses; and whether it would preserve or enhance the character or appearance of the Royal Hospital Conservation Area (the Conservation Area);
 - in relation to Appeal A, the effect of the scheme on the living conditions of occupants of neighbouring properties, in relation to (a) noise and vibration, and (b) privacy; and
 - in relation to Appeal A, the effect of the scheme on flood risk and drainage.

Reasons

Heritage Assets

8. The appeal property is 15 Wellington Square, which forms part of the consecutively numbered terrace 14-17 Wellington Square, which is the listed building in this case. Insofar as it is relevant to the Appeals, the significance and special interest of the listed building lies in its early-nineteenth century date and fabric, uniformity in its design and appearance, the elaborate nature of its frontage detailing, and its group value as one of a series of similar terraces which surround Wellington Square.
9. Only the front elevation is described within the listing record. However, this is not unusual, given that the description chiefly serves to identify the building. The description does not therefore define the limits of the special interest or significance of the listed building.
10. The listed building is also located within the Conservation Area. Insofar as it is relevant to this appeal, the special interest and significance of the Conservation Area resides in the historic planned layout of the Royal Hospital and adjacent townscape, and the interrelationship of the buildings and spaces these contain. As this notably includes Wellington Square, of which the listed building is a component, it makes an important contribution to the special interest and significance of the Conservation Area.
11. The rear elevation of the terrace appears to have originally featured a largely if not wholly flat back and simple brick finish. This remains most clearly appreciable at No 15, to which only a closet wing has been attached. As is typical, the latter holds little architectural quality in itself, and in this case the openings within it bear no direct relation to those within the original rear elevation. Scope for improvement therefore exists.

12. The scheme would see the closet wing remodelled. As shown on the elevations and vertical sections, this would involve installation of continuous glazed openings, a projecting conservatory, and a pyramid roof. The appearance created is described as 'contemporary' in character, and aside from an increase in vertical emphasis, it would relate in no direct way to the character of the original rear elevation alongside which it would be directly viewed. In this regard the level of resulting incongruity would be far greater than that which exists at present. Consequently, the works would not achieve any net improvement, but instead give rise to visual conflict and harm.
13. The fact that the closet wing is not exposed to public view does not alter my findings above. This is because listed buildings are safeguarded on the basis of their inherent architectural and historic value, irrespective of whether or not public views are available. Moreover, whether or not large panels of glazing have featured within other designs proposed or approved for other buildings elsewhere, their specific effects in this case would be visually unacceptable.
14. A roof terrace is proposed. Within the context of its original design, such a feature and use of the roof of No 15 would be alien. The original butterfly roof has however already been partially removed and modified in order to accommodate a bathroom. Insofar as the proposed terrace would occupy the same section of the roof, it would not therefore give rise to any loss of historic fabric or form. The terrace would however occupy a larger space, thus requiring some further removal of the historic roof structure, as too further loss of its original form. In each regard increased harm would be caused.
15. The terrace would provide space to accommodate a rooftop air conditioning unit. However, no details of the unit, its location, or any related physical measures relating to attenuation of noise and vibration, have been provided. Nor have any specific details of associated ducting within the building. Further uncertainty is introduced by annotation of the plan reading 'extend as necessary', which presumably means the terrace. Given the absence of necessary information, and the resulting uncertainty, the effects of installing air conditioning on the listed building cannot be properly assessed, and it cannot therefore be reasonably concluded that no harm would be caused. The fact that air conditioning may have been installed to other buildings has no particular bearing on the effects that it may have on the listed building in question.
16. The Council has identified a few minor aspects of the proposed internal works which differ from those within the approved scheme. These include loss of a historic opening within a chimneybreast on the lower ground floor, which contains no features of interest, but whose curved shape is distinctive. Also, the apparent loss of a historic chimneypiece on the third floor to accommodate shelving. In each regard some harm would be caused. Insofar as concerns have been raised in relation to chimneypieces on the first floor however, the plans do not indicate retention, but nor do they indicate removal. Approval of the scheme would not therefore authorise removal of these chimneypieces.
17. The proposed scheme would additionally see installation of French doors and a Juliet balcony within a window opening in the ground floor rear elevation. The design is not consistently shown on the plans. However, neither of the designs presented would directly complement those of historic windows in the rear elevation. Moreover, the works would themselves entail the loss of a historic sash window. This would result in both physical and visual harm.

18. A mews building, which is paired with another to the back of No 14, is located beyond a small courtyard to the rear. This is separately occupied and addressed as 13 Woodfall Street, but the integral garage remains in use by No 15. The arrangement is cramped, and the more so given that fully flanking extensions have been added either side to Nos 14 and 16. As such the courtyard has become heavily enclosed on all sides and is now shaft-like in character. Within the context of the setting and original layout of the listed building, the courtyard is an unusual survival, and draws some significance from this fact. Nonetheless its character has been adversely affected and changed by increased enclosure, creating an unpleasant space.
19. The proposed extension would occupy the majority of the courtyard. Insofar as this would be linked to No 15 through the closet wing, it would have no direct attachment to the original rear elevation. The latter would remain no less exposed than it is at present, thus allowing continued appreciation of its full height. For these reasons, and given that the extension would feature glazed walls, it would be perceived as a distinct addition, sufficiently separated from the original building to avoid any confusion of the historic plan form of the lower ground floor, or to give rise to direct visual conflict.
20. The extension would span the space between the closet wing and mews building, changing their historic physical relationship. The mews building is however of sufficient height that from outside it would continue to appear clearly distinct, and its original identity would remain apparent. This indeed appears to be the case at No 14, whose courtyard has already been filled.
21. From inside, linked internal access between No 15 and the garage would be provided. This would also represent change insofar as no such internalised access has ever existed. In view of my findings above however, this would not be readily confused as a historic feature or fundamentally undermine perception of the historic relationship of the two buildings.
22. The roof of the extension would be laid out as a garden, delivering some cosmetic improvement. The existing courtyard could also undergo cosmetic improvement. The raised height of the extension roof would nonetheless reduce the adverse effects of enclosure by Nos 14 and 16, thus providing a somewhat more pleasant space.
23. The proposed screening of the roof has been subject of objection, and indeed the screening of drops within this context is most commonly provided by railings. In this minor regard I am satisfied that specific details of screening could be secured by condition. For this and the above reasons I find that the extension would not harm the fabric or setting of the listed building.
24. I have therefore found that the extension would be acceptable, and many of the internal works have of course already been approved. When taken as a whole however, the net effects of the scheme on the listed building would nonetheless be negative. Consequently, the scheme would fail to preserve the special interest of the listed building. As such it would both conflict with the expectations of the Act, and paragraphs 193 and 194 of the National Planning Policy Framework (the Framework), which set out the great weight to be attached to the conservation of designated heritage assets, and the need for clear and convincing justification for any harm.

25. Having further regard to the Conservation Area, the proposed external alterations would be partly appreciable from adjacent properties, but would not be generally visible from within the public realm. When taking to account its height and layout, it is also unlikely that use of the proposed roof terrace would be broadly perceived. The contribution made by the listed building to the special interest and significance of the Conservation Area nonetheless extends beyond its public appearance, to its historic character considered in the round. As such, given my findings above, the scheme would also fail to preserve or enhance the character or appearance of the Conservation Area, giving rise to further conflict with the Act and Framework as outlined above.
26. With further reference to paragraph 196 of the Framework, the scheme would therefore cause less than substantial harm to the significance of both the listed building and the Conservation Area. I attach great weight to the harm that would be caused to the significance of the listed building, and considerable importance and weight to the harm that would be caused to the significance of the Conservation Area. In accordance with the Framework, it is necessary to balance this harm against any public benefits the scheme would deliver.
27. Insofar as the scheme would see the building renovated, so too would the approved scheme. The harm identified above would indeed arise from works undertaken distinctly in addition. As such I attach no weight the benefit.
28. The scheme would provide buffering of rainwater run-off from the courtyard, making a very minor contribution towards the reduction of sewer flooding within the wider Borough. As such the benefit attracts negligible weight.
29. Work would be generated for contractors. As the broader economic benefits would however be very limited in scale, they again attract negligible weight.
30. The benefits of reconfiguring and expanding the accommodation would otherwise be private, and so can attract no weight in themselves. Consequently, I have attached no more than negligible weight to the public benefits of the scheme. This is clearly insufficient to outweigh the harm that it would cause.
31. For the reasons outlined above I conclude that the overall effect of the scheme on designated heritage assets would be unacceptable, failing to preserve a Grade II listed building, and failing to preserve or enhance the character or appearance of the Conservation Area. With regard to Appeal A, and insofar as it is relevant to Appeal B, the scheme would conflict with Policy CL1 of the Local Plan 2019 (the LP) which requires development to contribute positively to the townscape and respond to the local context; Policy CL2 of the LP, which seeks to secure high quality design; Policy CL3 of the LP which reiterates statutory duties in relation to conservation areas; Policy CL4 of the LP which seeks to preserve the heritage significance of listed buildings; Policy CL6 of the LP which seeks to secure alterations and additions which do not harm the character and appearance of a building and its context; and Policy CL8 of the LP, which seeks to secure architecturally sympathetic roof alterations.

Living Conditions

(a) Noise and vibration

32. As outlined above, the scheme includes the installation of an air conditioning unit on the roof, but no details have been provided. Nonetheless, given the

nature of the equipment, the elevated position, and the fact that the property forms part of a terrace, scope for both noise and vibration would arise. Each could adversely affect the occupants of adjoining or neighbouring dwellings.

33. The extent, nature and specific impacts of noise and vibration cannot be known in the absence of any information. Nor can the extent to which such impacts could be effectively mitigated and made acceptable. Thus, whilst noise and vibration from air conditioning units can be subject of attenuation measures, and these would generally be secured by condition, in this case that option does not exist given the lack of evidence.
34. Again, air conditioning units have been mounted on other buildings in the area. However, this has no direct bearing on the acceptability of the specific noise and vibration impacts likely to arise in relation to the unit proposed.
35. For the reasons outlined above I conclude that the appellant has failed to demonstrate that the scheme would have an acceptable effect upon occupants of neighbouring dwellings in relation to noise and vibration. The scheme would therefore conflict with Policy CL5 of the LP which requires all development to ensure good living conditions for occupants of neighbouring buildings; and thus also Policy CE6 of the LP, which seeks to resist all applications for noise and vibration generating plant that would have an unacceptable impact on surrounding amenity.

(b) *Privacy*

36. Given the small size of the gap between the No 25 and the mews building to the rear, there is a high degree of mutual overlooking between facing windows which are non-obscured. Due to the density of the surrounding townscape there is also a high degree of mutual overlooking between windows within the rear elevations of properties, and of rooftop terraces where these exist. The prevailing context is therefore one in which reduced privacy through mutual overlooking is strongly established.
37. Within this context, the decision notice specifically identifies overlooking from the proposed terrace as being of concern. The layout, and relative floor level of the terrace, would allow some limited scope for its users to look over the parapet to the rear. In so doing they could not clearly see into the mews buildings to the rear given the acuteness of the angle of view involved. Any view would otherwise be less direct and extensive than the views which already exist from rooms within the rear elevation.
38. Views towards the roof-top terrace at No 16 would be very limited, but the terrace on the mews building at No 14 would be directly overlooked. Again however, the terrace is already overlooked both by No 15, and by numerous other properties in the surrounding area. That being so, the privacy of its users would not be harmed in any significant way.
39. For the above reasons I conclude that the limited opportunity for minor additional overlooking of neighbouring dwellings from the proposed terrace would not cause any unacceptable harm to the living conditions of occupants of neighbouring dwellings. Whilst in this regard the scheme would therefore comply with Policy CL5 of the LP, this would not alter the existence of overall conflict with the policy on the basis of noise and vibration, as outlined above.

Flooding and drainage

40. Policy CE2 of the LP requires development to address and reduce flood risk and its impacts, and in particular seeks a reduction of 50% of existing rates of run-off. The Council has not identified the site as being at any risk of flooding, and in this context the rationale for seeking a 50% reduction in run-off is in terms of lowering the more general risk of flooding across the Borough, including of sewers.
41. The Council's concern presumably relates to the extension. At present the courtyard it would occupy is hard surfaced, and, as outlined above, heavily enclosed by buildings on all sides. Drains within it appear to provide a dual purpose in servicing waste pipes and draining the space. Whilst limited percolation into the ground below cannot be ruled out, it appears that accumulated rainwater currently flows down the drains and into the sewer.
42. No details have been provided of how the extension and remaining courtyard space would be drained. The remaining courtyard space could however be surfaced in permeable paving, whilst the extension is shown with green roofing across around half of its area. Each would provide buffering of run-off on site, and betterment over the existing situation can therefore be anticipated.
43. The exact margin of betterment is unclear given that no technical or environmental information has been provided. The fact that betterment would occur however raises the question as to what harm would arise were its level to fall below 50%. In this regard the Council has not identified any particular harm, and none is otherwise apparent.
44. For the reasons outlined above I conclude that the appellant has failed to demonstrate that the scheme would achieve a 50% level of betterment in the level of run-off as is required by Policy CE2 of the LP. However, betterment would be achieved, and no obvious harm in relation to flooding, or any other harm would arise were its level to fall below 50%. On the basis of the evidence before me I therefore conclude that despite conflict with Policy CE2 of the LP, the scheme would be acceptable with regard to flooding and drainage.

Conclusion

45. The scheme would fail to preserve designated heritage assets, and in relation to Appeal A, conflict with the development plan. There are no other considerations which alter or outweigh these findings. Therefore, for the reasons set out above, I conclude that Appeals A and B should be dismissed.

Benjamin Webb

INSPECTOR