
Appeal Decision

Site visit made on 18 May 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2021

Appeal Ref: APP/K5600/W/20/3265413

**106 Kensington Church Street and Bedford House/8B Berkeley Gardens,
London W8 4BH**

- 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 and Mrs B Jones against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/20/04827, dated 1 September 2020, was refused by notice dated 17 November 2020.
 - The development proposed is the formation of a new ground floor entrance on Berkeley Gardens to provide a dedicated residential entrance, a roof extension to provide further living accommodation for the existing flat and associated internal and external alterations to the building.
-

Decision

1. The appeal is dismissed insofar as it relates to the roof extension and terrace.
2. The appeal is allowed insofar as it relates to the formation of a new ground floor entrance on Berkeley Gardens and associated internal and external alterations to the building at 106 Kensington Church Street, London W8 4BH in accordance with the terms of application ref: PP/20/04827, dated 1 September 2020 and subject to the conditions set out in the Schedule at the end of this decision.

Preliminary Matters

3. The appellant submitted amended plans with their appeal statement. The changes include only the removal of a portico door surround to the proposed now ground floor entrance from Berkeley Gardens. I have been asked to determine this appeal on the basis of these plans.
4. The 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application (Annexe M.1.1). If an appeal is made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought (Annexe M.2.1).
5. Notwithstanding that, in deciding whether to accept these revised plans, I have given consideration to the 'Wheatcroft Principles' (Bernard Wheatcroft Ltd v

SSE [JPL 1982 P37]) and whether any prejudice would occur. In this case, the Council have indicated their only concern with the new ground floor entrance to Berkeley Gardens is the use of a portico surround. I note the Council has indicated they would be happy to accept a condition which removed this feature if the appeal were to be allowed. As such, I am confident no party would be compromised in the consideration of the amended plans and have therefore determined the appeal accordingly.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the host building and the local area, with particular regard to the Kensington Palace Conservation Area (the CA).

Reasons

7. The appeal property is a four-storey building of mixed use. There is a commercial unit at ground floor level, with residential and office uses spread across other floors of this building and 8B Berkeley Gardens. The CA is dominated by Kensington Palace and its gardens. Elsewhere, particularly closer to the appeal site, there is a distinct mix of commercial and residential character. Kensington Church Street hosts a range of business types, while Berkeley Gardens is a thoroughfare leading to Brunswick Gardens, both of which are comprised of Victorian Stucco terraced housing in tree lined streets. The appeal building is noticeably taller than those to either side by one storey. Given its corner location and the heavily trafficked Kensington Church Street, this makes the building prominent in views from surrounding areas.
8. The reason for refusal refers only to the harm caused by the erection of the extension and terrace on the roof of the building. The Council has confirmed it has no objection to the replacement door at the ground floor entrance provided the portico is removed, while there are no issues with various other minor alterations internally and externally. These comprise an enlarged lightwell, replacement doors, windows and railings, restoration of the parapet wall and chimney and removal of downpipes.
9. From my observations on the site visit, the existing parapet wall on top of the roof of the appeal building was clearly visible from street level. The structure would be set back from the existing parapet. I note there is disagreement as to the distance above the parapet elements of the proposal would rise. However, even taking the appellants figure of 690mm, this would appear readily visible above the parapet from some vantage points, particularly in longer range views along Kensington Church Street. A tree at street level may provide some screening, but this would vary through the year and would only be evident from one direction along Kensington Church Street.
10. There would be other views from some of the upper floor windows of surrounding properties on Berkeley Gardens and Brunswick Gardens. I note this is not disputed and is confirmed by the imagery provided in the design and access statement. A lack of objections from occupiers of these properties would not convince me the proposal is acceptable. While the positioning of the extension and terrace was dictated by the attempt to screen the development from view, to my mind this highlights the limitations of the location for this type of proposal. The proposal appears contrived as a result.

11. As a result of the proposed materials, particularly the bronze colour of the exterior of the extension, and overall height of the structure it would appear out of keeping with the prevailing character of properties along Berkeley Gardens in particular. Although I understand the bronze was influenced by a statue in Kensington Palace Gardens, this is some distance from the appeal site and does not appear in context with the more immediate character of the vicinity. This harm would be compounded by the large expanses of double-glazed windows of the extension which, while more common in lower floor elevations facing the street, would appear incongruous at roof level when compared to other buildings.
12. As such, the extension would jar against the original simple design of the flat roof and would not be architecturally sympathetic to the character of the building or the local area. As its presence would be apparent from some public views, the proposal would not only harm the character and appearance of the host property but would also fail to preserve the significance of the CA.
13. In the context of the National Planning Policy Framework (the Framework), the level of harm I have identified would be less than substantial. Paragraph 196 states that where a development would lead to less than substantial harm to the significance of a designated heritage asset (such as the CA), this harm should be weighed against the public benefits of the proposal.
14. I would agree some of the alterations to the roof, such as the restoration of the parapet wall and chimney stack, would be of limited heritage benefit to the CA. The residential benefits forwarded, such as additional living space, would be private rather than public in nature. While it is claimed this would free up another home elsewhere in the Council area, the extension would not create a separate property, so I have not afforded this any weight in the balance. As such I would not consider there are sufficient public benefits to outweigh the harm to the heritage asset.
15. To conclude, the proposal would harm the character and appearance of the host building and the CA. It would therefore be contrary to Policies CL1, CL2, CL3, CL8 and CL11 of the of the Royal Borough of Kensington and Chelsea Local Plan (September 2019) (the LP). These require, among other things, roof alterations and additional storeys to be architecturally sympathetic to the age and character of the building and for development to preserve or enhance the character or appearance of the conservation area. There would be further contravention to the Framework, which advises great weight should be given to the conservation of heritage assets.
16. Turning to the proposed new entrance from Berkeley Gardens and other associated internal and external alterations, the plans show these would be of a suitable design in relation to the host building. I note that the Council has raised no objections to these elements of the proposal although some further details are required to be secured by condition, including detailed drawings of the door and windows to be used in those elevations. Subject to these details, I therefore conclude that the proposed internal and external alterations would not cause any undue harm to the character or appearance of the host property or the CA. As such these elements of the proposal would comply with Policies CL1, CL2, CL3, CL8 and CL11 of the LP.

Conditions

17. I have imposed the standard time limit condition. The condition requiring that the development is carried out in accordance with the approved plans is necessary to provide certainty for all parties, particularly with regard to the new entrance. In the interests of the character and appearance of the host building and local area, a condition is necessary to ensure that the external materials match those of the existing house. Further details relating to the doors and windows of the exterior of the building, as well as refuse storage and cycle parking provision are necessary to ensure the character and appearance of the area and living conditions of nearby occupiers are preserved. As the portico surround has been removed from the plans, a condition requiring the new opening is constructed without this feature is no longer necessary.
18. Due to the excavations and demolition required, particularly at lower ground floor level, conditions are necessary to protect the living conditions of neighbouring residents, requiring the submission of a Construction Traffic Management Plan and details of adherence to the Council's Code of Construction Practice.

Conclusion

19. The extension and roof terrace would harm the character and appearance of the host building and the CA. As such, this element of the proposal would conflict with the development plan taken as a whole. These parts of the appeal are therefore dismissed. However, I have found no harm to the character and appearance of the host building or CA with regards to the new entrance to Berkeley Gardens and associated external and internal alterations. Therefore, for the reasons given, I conclude that these elements are allowed, and a split decision is issued.

C McDonagh

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Ground Floor Plan, ref: 19_34 300 P2; Proposed First Floor Plan ref: 19_34 301 P2; Proposed Second Floor Plan ref 19_34 302 P2; Proposed Third Floor Plan ref 19_34 303 P2; Proposed Fourth Floor Plan ref 19_34 304 P2; Proposed Roof Plan ref 19_34 305 P2; Proposed Section AA ref 19_34 310 P2; Proposed Section BB ref 19_34 311 P2; Proposed Section CC ref 19_34 312 P2; Proposed Lightwell Drawings ref 19_34 313 P2; Proposed Elevation West ref 19_34 320 P2; Proposed Elevation South ref 19_34 321 P2; Proposed Elevation North ref 19_34 322 P2 insofar as the drawings relate to the new ground floor entrance on Berkeley Gardens and associated internal and external alterations only.
- 3) All work and work of making good shall be finished to match the existing exterior of the building in respect of materials, colour, texture, profile and, in the case of brickwork, facebond and pointing, and shall be so maintained.
- 4) No development shall commence until full particulars of the following have been submitted to and approved in writing by the local planning authority and the development shall not be completed otherwise than in accordance with the details so approved:
 - (a) Detailed drawing at scale of 1:10 showing proposed flush entrance door to Berkeley Gardens;
 - (b) Cycle parking and storage to include layout of stands;
 - (c) Facilities and arrangements for storage and disposal of refuse to demonstrate no obstruction to proposed cycle parking;
 - (d) Section and elevation drawings at a scale of 1:10 to show proposed new and replacement windows to the Berkeley Gardens and Kensington High Street historic elevations to include details of glazing bars, framing and equivalent survey drawings for replacement windows.
- 5) No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The statement should include:
 - (a) routing of demolition, excavation and construction vehicles, including a response to existing or known projected major building works at other sites in the vicinity and local works in the highway;
 - (b) access arrangements to the site;
 - (c) the estimated number and type of vehicles per day/week;
 - (d) details of any vehicle holding area;
 - (e) details of the vehicle call up procedure;
 - (f) estimates for the number and type of parking suspensions that will be required;

(g) details of any diversion or other disruption to the public highway during preparation, demolition, excavation and construction work associated with the development;

(h) work programme and/or timescale for each phase of preparation, demolition, excavation and construction work associated with the development;

(i) details of measures to protect pedestrians and other highway users from construction activities on the highway; and

(j) where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, position of nearby trees in the highway or adjacent gardens, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.

The development shall be carried out in accordance with the approved CTMP. A one-page summary of the requirements of the approved CTMP shall be affixed to the frontage of the site for the duration of the works at a location where it can be read by members of the public.

6) No development shall commence until an Appendix A Checklist and Site Construction Management Plan (SCMP) for the development have both been submitted to, and approved in writing, by the Council's Construction Management Team, and then copies of the approved Checklist and Plan, and their written approval, have been submitted to the local planning authority to be placed on the property record.

The development shall be carried out in accordance with the Appendix A Checklist and SCMP so approved, or in accordance with a subsequent Checklist or SCMP as may be approved under this condition.