
Appeal Decision

Site visit made on 29 July 2021

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 20 August 2021

Appeal Ref: APP/K5600/C/20/3261040

5B Colbeck Mews, London SW7 4LX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
 - The appeal is made by Mrs Jane Baily against an enforcement notice issued by The Council of The Royal Borough of Kensington & Chelsea.
 - The enforcement notice was issued on 22 September 2020.
 - The breach of planning control as alleged in the notice is the installation of glass stainless steel safety guardrail at roof level.
 - The requirements of the notice are (i) Remove the glass and stainless steel safety guardrail and all associated fixtures and fittings from the roof and make good; and (ii) Remove from the land any debris associated with the above requirement.
 - The period for compliance with the requirements is two calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (e) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Reasons

The ground (e) appeal

2. The enforcement notice identifies the affected property as Flat B, 5 Colbeck Mews. Apparently, Flat B did exist before 1993, since when the correct address of the Appellant's property is 5B Colbeck Mews. Paragraph 176(5) of the Act provides that where it would otherwise be a ground for determining an appeal under section 174 in favour of the Appellant that a person required to be served with a copy of the enforcement notice was not served, this may be disregarded if the Appellant has not been substantially prejudiced. The Appellant received the enforcement notice and has made an appeal and has therefore not been prejudiced in any way. The incorrect address stated on the notice can therefore be disregarded. The ground (e) appeal thus fails.

The ground (a) appeal

3. 5B Colbeck Mews is a mid-terrace, three storey, mews property that is situated within the Courtfield Conservation Area (CCA). The main issue is the effect of the installation of a glass stainless steel safety guardrail at roof level on the character and appearance of the CCA.

The Development Plan and National Planning Policy

4. The Development Plan includes the Royal Borough of Kensington and Chelsea's Local Plan 2019 (LP). LP policy CL1 requires all development to respect existing context, character and appearance, and LP policy CL2 requires development to be of the highest architectural and urban design quality. LP policy CL3 generally seeks to preserve historic assets such as conservation areas, LP policy CL8 requires roof alterations to be sympathetic to the age and character of the building or group of buildings, and LP policy CL11 requires, amongst other things, that views, including those at the rear of properties, will be preserved.

5. Paragraph 202 of the National Planning Policy Framework (NPPF) states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset the harm should be weighed against the public benefits of the proposal.

The main issue - the character and appearance of the CCA

6. Colbeck Mews is a narrow street and the guardrail, at roof level on a three storey property, cannot be seen from ground level. But there are higher mansion block terraces on both sides of the mews and the guardrail will be visible in views from many windows in these terraces. LP policy CL11 requires development to protect views that contribute to the character and quality of the CCA, including developments whose visual impacts extend beyond that of the immediate street. Views from nearby windows, taking into account this policy requirement, must therefore be regarded as important as views at street level.

7. The mews properties, which were built in the mid to late Victorian period, vary in detailing but have a generally consistent character and appearance. In particular, traditional materials such as brick and slate predominate. The glass and stainless steel guardrail, which exceeds, in specification, that which is required for maintenance purposes, has introduced wholly modern materials into a location where traditional materials remain largely unaltered. There are no other such installations on the roof of the terrace and the guardrail is both visually intrusive and incongruous. The guardrail is visible in views from many nearby properties and has a significant adverse impact on the character and appearance of the terrace and the CCA. The development conflicts with LP policies C1, CL2, CL3, CL8 and CL11. The harm, with regard to NPPF paragraph 202, is less than substantial but there are no public benefits to weigh against the harm.

Conclusion

8. The installation of the glass stainless steel safety guardrail at roof level of the appeal property has had a significant adverse effect on the character and appearance of the CCA. The ground (a) appeal thus fails.

The ground (g) appeal

9. The Appellant accepts that two months can be "...considered an adequate amount of time to comply with the notice..." and with Covid-19 restrictions now mainly withdrawn, there is no reason to vary the compliance period stated in the enforcement notice. The ground (g) appeal thus fails.

John Braithwaite

Inspector