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# Appeal Decision

Site Visit made on 14 September 2021

**by David Wyborn BSc(Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 October 2021**

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**Appeal Ref: APP/K5600/W/21/3269182**

**Basement Flat, 57 Cornwall Crescent, London W11 1PJ**

- 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 R Moore against the decision of the Royal Borough of Kensington and Chelsea.
  - The application Ref PP/20/06738, dated 1 December 2020, was refused by notice dated 29 January 2021.
  - The development proposed is a single storey rear extension to existing basement flat with lantern roof and lightwell.
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## Decision

1. The appeal is dismissed.

## Background

2. Planning application (Ref PP/18/01084) sought approval for a single storey rear extension to the basement flat at 57 Cornwall Crescent. The plans showed that the proposed extension would have a rear projection which would extend out to the same line as the existing single storey extension at 59 Cornwall Crescent. Furthermore, the height of this proposed addition would be the same as this adjoining extension. The plans showed a lantern to the proposed flat roof.
3. The Council refused this application and the matter was considered at an appeal. The Inspector, in his appeal decision of October 2018<sup>1</sup>, notes that the then appeal proposal would replicate the length, scale and height of the extension at No 59. After analysing the character and appearance of the area, including the Ladbroke Conservation Area (the CA) in which the site is located, he concluded that the extension would be acceptable in terms of its impact. The Inspector, however, found that drainage issues were unacceptable and dismissed the appeal.
4. A further application (Ref PP/18/08001) was submitted which proposed the same extension but with revised drainage details. This proposal was approved by the Council in February 2019. Construction works then commenced. However, the evidence indicates that the approved plans (and those considered by the Inspector) had not accurately plotted the existing rear extension at No 59, which projects less than that shown on the approved plans.

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<sup>1</sup> APP/K5600/W/18/3204470

5. The evidence from the appellant<sup>2</sup> indicates that because of these discrepancies, the extension to No 57, that has now been completed, extends 346mm beyond the rear of the existing extension at No 59. Furthermore, the height of the extension at No 59 is higher than originally drawn such that the extension at No 57 is now a little lower by comparison with the neighbouring rear addition. The development as constructed on site at No 57 also has a larger lantern to the flat roof than shown on the approved drawings and the rear garden area has changed, as the steps have not been constructed as shown on the plans.

### **Main Issue**

6. In the light of this background and the reason for refusal, the main issue is the effect of the proposal, when compared with the approved scheme, on the character and appearance of the host building and adjoining area, and whether the scheme preserves or enhances the character or appearance of the CA.

### **Reasons**

7. The CA covers a fairly extensive, largely residential area. The significance of the general area in the vicinity of the appeal site includes the distinctive urban form of terraced streets arranged in crescents with parks and gardens, together with traditional proportions and detailing to the buildings. The appeal site is located fairly centrally within a traditional terrace within the CA. No 57 and the adjoining properties have a fairly consistent and rhythmical appearance to the front elevations that provides an attractive street scene. The areas set behind the terrace, although generally only visible from the adjoining properties, also contribute to the significance of the CA as they are spaces framed between the large lengths of terrace buildings that provide gardens and reasonably green areas within an urban environment.
8. The rear of this terrace does not have a completely uniform building line and there are a number of original and subsequent rear projections that have a more vertical emphasis and extend in some cases two or three storeys up the main rear flank walls. The evidence indicates that there are also some single storey rear projections that extend into the gardens. However, the rear gardens often appear to be somewhat sunken and, with the landscaping between plot boundaries, there is not generally an uninterrupted view along the backs of the properties which identifies a visibly clear and consistent building line at basement level.
9. The rear single storey extension to No 59 is explained to extend out, notwithstanding the appeal proposal, the furthest of any others in the row. The Council and local residents draw attention to Policy CL9 of the Kensington and Chelsea Local Plan 2019 (the Local Plan) and, in particular criterion (a), which explains that extensions will be resisted if the proposed extension would extend rearward beyond the existing general rear building line of any neighbouring extensions. I saw at my site visit that the appeal extension extends beyond the adjoining extension at No 59 by about the length of two bricks.
10. In terms of the rear of this terrace, where the intervisibility between rear gardens is not widely apparent and the appeal extension is fairly set down, I consider that the difference in distance between the adjoining extensions is not

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<sup>2</sup> The Council had previously commented that the extension projects 600mm beyond the rear line of the extension of No 59, however, the 346mm measurement was noted by the Council in its Planning Report. In any case, I saw the difference between the two extensions at my site visit.

so discernible and material in practice, on the ground, that it breaches the approach to not extend beyond a general building line required by Policy CL9.

11. I understand the argument that each future extension could incrementally extend further back. However, in the circumstances of this rear area, the variation with the neighbouring addition is not so material that it causes harm. In coming to this view, I consider that the lower height of the flat roof of the extension, compared to the neighbouring addition, does help to mitigate the effect of the extension. The bulk of the extension is subordinate to the original building and allows the form of the original building to be clearly understood. In these respects these related policy tests in Policy CL9 of the Local Plan concerning extensions are met.
12. The rear extension is not seen in wider public views but it is apparent from some of the adjoining properties and from some of the rear windows from the apartments above the basement flat. For occupiers looking down towards the extension from the adjoining residential units the lantern would be, it seems to me, a prominent feature of the appeal proposal. I consider that the large lantern dominates the flat roof and is a feature out of scale and character with the fairly simple and reasonably low key form of the other elements of the extension.
13. Additionally, it is explained by local residents that the glazed area of the lantern allows the loss of artificial light from the room below. While I have noted the views of the Council on this issue, I can envisage in the evenings and earlier parts of the night, when the lights may be turned on within the extension, that this leads to a marked glow of light from the roof of the extension. Given the size of the lantern, I consider having regard to the evidence before me on this issue that, in all likelihood, this effect results in the conspicuous appearance of the extension and is harmful to the character of the immediate area in this local context, even taking into account the likely effect of lights from adjoining windows and gardens that occur from these properties. At these times, this adverse impact is likely to be materially greater, because of the size of the lantern and therefore the extent of light spillage, than would be the case with the approved extension and its smaller more proportionately sized lantern.
14. I am mindful of the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any land or buildings in a conservation area. It seems to me that the significance of a conservation area does not rely solely on elements that can be seen from the public realm, and the introduction of what may be considered to be minor elements that are at odds with the character and appearance of a site can lead to a gradual erosion of the significance of a heritage asset. In this case, I consider that the oversized lantern relative to the size of the flat roofed area and the glow from the artificial light that is likely to appear after dusk, lead me to the conclusion that the development does not respond positively to local character or reinforce local distinctiveness in the context of this site. Accordingly, this element of the extension, and therefore the extension as a whole, does not preserve the character and appearance of the rear of the host building and this part of the CA.

15. The harm I have identified to the CA as a whole would be less than substantial within the meaning of paragraph 202<sup>3</sup> of the National Planning Policy Framework (the Framework). In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.
16. The benefits of the scheme include the provision of the increased and improved living accommodation, including an additional bedroom. The extension is provided with natural light from the rear patio windows and lantern. This improved accommodation accords with the Framework policy that decisions should create places with a high standard of amenity for existing and future users. However, the approved scheme, with the smaller lantern and similar floorspace, would also provide an extension with improved living conditions and with the provision of natural light from rear patio windows and a lantern. The improvements to living conditions from the appeal extension are largely private benefits for the occupiers of the basement flat such that any public benefits that accrue from the proposal, when compared with the approved scheme, are very minor and afford only limited weight in support of the proposal.
17. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the potential harm to the significance. I have found that the public benefits of the proposal afford limited weight and therefore do not outweigh the harm to the CA and its significance, which although minor and localised, in accordance with the Framework, is required to be attributed great weight.
18. It follows from the above analysis that, while I have found that the bulk and projection of the extension is acceptable, I conclude the lantern is oversized and its presence and effect results in harm to the character and appearance of the host building and does not preserve or enhance the character or appearance of the CA. Accordingly, the development conflicts with Policies CL1, CL2, CL3, and CL9 of the Local Plan which requires development, amongst other things, to respond to the local context.

## **Other Matters**

19. I have carefully considered and taken into account all the letters of representation both for and against the proposal, including the objections from the Ladbroke Association. I have reached my conclusions on the impact of the extension to the area in the analysis above.
20. The Council did not refuse the application because of the effect of the proposal on the living conditions of neighbouring residents, including from the size and position of the extension and the artificial light loss from the lantern. I have raised objection to the lantern for the reasons explained, however, following my site visit, I do not consider that the development is so harmful to the residential amenity of adjoining occupants that this should form an additional reason for dismissal. In this respect I agree with the Council.

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<sup>3</sup> The Framework was revised on 20 July 2021. This includes changes to some of the paragraph numbers and I consider that the key elements of the Framework policies that are relevant to this appeal have not been materially altered.

## **Conclusion**

21. The proposal harms the character and appearance of the rear of the host building and the adjoining area, and conflicts with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

*David Wyborn*

INSPECTOR