



Appeal Decision

Site visit made on 22 February 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2022

Appeal Ref: APP/K5600/W/21/3285850
174 Portobello Road, London W11 2EB

- 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 174 Portobello Road Ltd against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/02182, dated 26 March 2021, was refused by notice dated 11 June 2021.
 - The development proposed is retention and refurbishment of Class E unit at ground floor level, and change of use of first floor from Class E (former ancillary bank space) to residential use (Class C3). Refurbishment with associated internal and external alterations to existing building, including rear and dormer roof extensions, to provide two residential units (Class C3) at first to fourth floors, including private amenity space at rear first and front fourth floor levels, and plant at first floor and all other works incidental to the development.
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Decision

1. The appeal is allowed, and planning permission is granted for retention and refurbishment of Class E unit at ground floor level, and change of use of first floor from Class E (former ancillary bank space) to residential use (Class C3). Refurbishment with associated internal and external alterations to existing building, including rear and dormer roof extensions, to provide two residential units (Class C3) at first to fourth floors, including private amenity space at rear first and front fourth floor levels, and plant at first floor and all other works incidental to the development, at 174 Portobello Road, London W11 2EB, in accordance with the terms of the application, Ref PP/21/02182, dated 26 March 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. A completed S.106 legal agreement was provided during the course of the appeal with an obligation that restricts future occupiers from obtaining parking permits. The Council has been consulted regarding its contents.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the host building and whether it would preserve or enhance the character or appearance of the Ladbroke Conservation Area.

Reasons

4. The appeal site comprises a four-storey property within a mixed-use terrace and forming part of the Ladbroke Conservation Area (CA). The CA

encompasses part of Portobello Road, a vibrant commercial street lined with three or four storey terraces often with uniform architectural features. The area's lively atmosphere and rows of historic terraces make a valuable contribution to the CA's special character.

5. The terrace generally has a consistent form and scale. Properties incorporate equally proportioned frontages and a uniform placement of windows that give it a pleasing and consistent rhythm. Other features of interest include the pairs of similarly positioned and sized roof extensions across the frontage, first floor bay windows and stuccoed architraves below roof parapets. However, not all the properties (including the appeal site) have those features, and this has resulted in some minor inconsistencies in uniformity of the frontage. Therefore, in so far as it relates to this appeal, the conservation area derives some of its significance from the consistency in the scale of the terrace and the uniformity in the arrangement and appearance of window openings.
6. The proposal would include the insertion of two front roof extensions that would match the general scale and appearance of those on the adjoining Nos 172 and 176 Portobello Road. Yet, the extensions would be set back from those either side, to create a shallow roof terrace area.
7. Although the proposed extensions would be visible from medium and long-range views, the set-back would be very marginal in terms of its distance and would not be obvious or perceptible to the extent that they would look discordant or out of place along the roof of the terrace. Furthermore, the extensions would be obscured somewhat by the existing roof parapets along the frontage. From shorter range perspectives at street level, the height of the terrace's frontage would give oblique views of the roof extensions as they would be set behind the parapet wall and positioned on an elevated part of the building. Accordingly, the alignment of the proposed roof extensions, in relation to others in the terrace would not be fully appreciated from those shorter-range views.
8. There would be clearer views of the proposed roof extensions from upper floor rooms on the opposite side of Portobello Road. In this context their recessed position behind those either side would not be incongruous or particularly disruptive to the rhythm of the wider roofscape given that there are already some inconsistencies between the massing of existing roof extensions and the appearance of the parapet walls. Moreover, the insertion of roof extensions of comparable scale and appearance to others in the row would resolve the appeal property's existing undeveloped roof slope, thus consolidating and enhancing the frontage's uniformity.
9. The Council has raised concerns that the presence of tall objects on the proposed roof terrace would draw attention and be an uncharacteristic location for an external amenity space in the CA. However, the height of objects placed on the terrace could be controlled through a condition ensuring they do not exceed the level of the parapet wall. Any breach of this stipulation could be addressed by the Council's enforcement powers and I note that they have applied similar conditions elsewhere. Without any compelling evidence to the contrary I see no reason why such a condition could not be applied in this instance.
10. In view of the above, the proposed roof extensions and terrace are acceptable in terms of their design, scale and siting and would not disrupt the features of

the terrace that contribute to the significance of the CA or the way in which they are experienced.

11. For the above reasons, I conclude that the proposal would not harm the character and appearance of the host property, while it would preserve and enhance that of the CA. It would therefore accord with Policies CL1, CL2, CL3, CL8 and CL11 of the Local Plan 2019. Collectively, these require, amongst other things, that proposals respect and contribute positively to the character of the dwelling and the area, while preserving the setting of conservation areas.

Other Matters

12. The signed and dated legal agreement prevents future residents from obtaining a parking permit. Through preventing this the agreement renders the development acceptable in planning terms. It is also related to the site, and is proportionate, as it seeks to do no more than is necessary to achieve the above. The Council has not commented on the legal agreement, although its officer's report indicated that, had it approved the development, one would have been required to overcome concerns relating to local parking pressure. On this basis, the agreement accords with the criteria of Regulation 122 of the CIL and with paragraph 57 of the National Planning Policy Framework (the Framework). I can therefore reasonably take it into account.

Conditions

13. I have had regard to the Council's suggested conditions and that of the appellant, amending or omitting them where necessary for clarity and to ensure compliance with the tests set out in paragraph 56 of the Framework.
14. It is necessary that planning permission is granted subject to conditions that relate to the standard time limit for commencement of development and a schedule of plans that the development relates to. These are necessary for the avoidance of doubt and in the interests of certainty.
15. Conditions requiring compliance with a considerate constructors scheme (CCS) and a construction traffic management plan are necessary in the interests of living conditions of neighbouring residents and highway safety. Details of the CCS would replace the Council's suggested construction management plan condition, and I am satisfied its terms would serve a similar purpose in safeguarding neighbouring amenities.
16. The cycle and bin storage conditions are considered necessary to ensure that adequate facilities are provided for the appeal building and to make the development acceptable in planning terms.
17. Conditions relating to the construction of the approved works in materials to match other properties in the terrace and to a required specification are necessary to safeguard the character and appearance of the host property and the conservation area.
18. I have considered it necessary to include conditions which control the placing of specific objects on the roof terrace and roof of the building in order to safeguard the character and appearance of the building and the wider conservation area.

19. Conditions which control the placement and emissions of plant apparatus on the roof of the appeal building are necessary in order to safeguard the living conditions of nearby occupiers.

Conclusion

20. For the reasons given above, and subject to the signed and dated S106 legal agreement and the conditions in the schedule below, the appeal should be allowed.

RE Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall not be carried out except in complete accordance with the details shown on drawing numbers: 00 101 00; 02 101 00; 02 102 00; 02 201 00; 02 301 00; 02 601 00 and; 02 602 00.
3. 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.
4. No development shall commence until such time as the lead contractor, or the site, is signed to the Considerate Constructors Scheme (CCS) and its published Code of Considerate Practice, and the details of (i) the membership, (ii) contact details, (iii) working hours as stipulated under the Control of Pollution Act 1974, and (iv) Certificate of Compliance, are clearly displayed on the site so that they can be easily read by passing members of the public, and shall thereafter be maintained on display throughout the duration of the works forming the subject of this permission.
5. Detailed drawings in respect of the following shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun, and the works shall not be carried out other than in accordance with the details so approved and shall thereafter be so maintained: (a) Cycle parking and storage for the new flats; (b) Facilities and arrangements for storage and disposal of refuse for the commercial premises and new flats; (c) Detailed elevation and section drawings at a scale of 1:10 of all new and replacement windows to include framing and glazing bars and a key to location annotated on main elevation drawings.
6. No items such as plants, umbrellas, heaters, screens, trellises, or other items, which rise higher than 1100mm from finished floor/decking level, shall be affixed to or placed upon the front roof terrace at any time.

7. No water tank, lift motor room, or other structure or appliance, shall be erected upon the roof.
8. All work and work of making good shall be finished to match the existing exterior of the buildings in respect of materials, colour, texture, profile and, in the case of brickwork, facebond and pointing, and shall be so maintained.
9. The external windows and doors hereby permitted shall be timber framed and painted, with the windows being white painted and so maintained.
10. The roof slope of the extension hereby permitted shall be clad in natural slates, and so maintained.
11. The cheeks of the dormer windows hereby permitted shall be clad in lead and be so maintained.
12. Noise emitted by all building services plant and vents shall not exceed a level 10dBA below the existing lowest LA90(10min) background noise level at any time when the plant is operating, and where the source is tonal it shall not exceed a level 15dBA below. The noise emitted shall be measured or predicted at 1.0m from the facade of the nearest residential premises or at 1.2m above any adjacent residential garden, terrace, balcony or patio. The plant shall be serviced regularly in accordance with the manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained. If at any time the plant is determined by the local planning authority to be failing to comply with this condition, it shall be switched off upon written instruction from the local planning authority and not used again until it is able to comply.
13. The plant shall not operate unless it is supported on adequate proprietary anti-vibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter.

*****End of Schedule*****