



Appeal Decisions

Site visit made on 19 October 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2022

Appeal Ref: APP/K5600/W/21/3287287

41 Kensington Square, London W8 5HP

- 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 H. Conle & Family against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/21/03708, dated 26 May 2021, was refused by notice dated 18 August 2021.
 - The development proposed is removal of non-original garden surfaces and sunken garden area and the formation of an ornamental swimming pond. Replacement of existing non-original garden gazebo and replacement with new gazebo together with new natural stone planter edgings and garden surfaces. Installation of energy efficient water conditioning equipment.
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Appeal Ref: APP/K5600/Y/21/3287286

41 Kensington Square, London W8 5HP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by H. Conle & Family against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref LB/21/03709, dated 26 May 2021, was refused by notice dated 13 September 2021.
 - The works proposed are removal of non-original garden surfaces and sunken garden area and the formation of an ornamental swimming pond. Replacement of existing non-original garden gazebo and replacement with new gazebo together with new natural stone planter edgings and garden surfaces. Installation of energy efficient water conditioning equipment.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for removal of non-original garden surfaces and sunken garden area and the formation of an ornamental swimming pond. Replacement of existing non-original garden gazebo and replacement with new gazebo together with new natural stone planter edgings and garden surfaces. Installation of energy efficient water conditioning equipment at 41 Kensington Square, London W8 5HP in accordance with the terms of the application Ref PP/21/03708, dated 26 May 2021, subject to the conditions in the attached schedule.

Appeal B

2. The appeal is allowed and listed building consent is granted for removal of non-original garden surfaces and sunken garden area and formation of an ornamental swimming pond. Replacement of existing non-original garden

gazebo and replacement with new gazebo together with new natural stone planter edgings and garden surfaces. Installation of energy efficient water conditioning equipment at 41 Kensington Square, London W8 5HP in accordance with the terms of the application LB/21/03709, dated 26 May 2021, and the plans submitted therewith, subject to the conditions in the attached schedule.

Main Issue

3. 41 Kensington Square is a terraced dwelling which forms part of the Grade II Listed building '41 and 41A, Kensington Square W8' (hereafter No 41) and is located within the Kensington Square Conservation Area (the CA). In this context, the main issue in these appeals is the effect of the proposal on the special architectural and historic interest of No 41 and, linked to that, whether it would preserve or enhance the character or appearance of the CA.

Reasons

4. The significance of No 41 derives principally from the elegant, pared back architecture and fabric of the house, particularly its Regency period alterations in conjunction with the adjoining 42 Kensington Square. These attributes also allow the dwellinghouse to contribute positively to the significance of the CA as one of the fairly eclectic, mainly Georgian or Victorian era, terraced buildings fronting this planned yet also interestingly piecemeal garden square.
5. The evolution of the CA is evidenced in part by the map regression contained within the Kensington Square Conservation Area Appraisal (2017). It shows that the rear garden spaces behind No 41 and its neighbours along its terrace were highly truncated in the 1930s to construct the present Barker's Building and its associated service areas and yard, a comparatively colossal former department store which fronts Kensington High Street to the north. To the east rear side of No 41 is a covered loading bay serving Barker's which presents No 41's garden with its tall, mainly corrugated metal, rear elevation.
6. The treed garden areas that survived this redevelopment offer an inherent openness and verdant character which allows for some relief between the Kensington Square terrace and the Barker's Building. However, this is not to say that the gardens are unable to accommodate suitable outbuildings. Moreover, at the edges of the gardens the transition between them and the Barker's Building is actually quite brutal and abrupt. This is particularly so for No 41, given that it is flanked by the long imposing elevation of the loading bay, and at the rear the garden terminates with several large and highly incongruous ventilation grills set into the back wall of the Barker's Building.
7. The gazebo design takes reference from a structure in Kensington Square nearby. Despite its flamboyance, the gazebo would be well proportioned and well related to the heights of existing surrounding walls. It would be obviously subservient in scale and incidental in function to the far larger house. Its position at the back end of the garden would emphasise its deference to No 41 and conceal the adjacent area of the Barker's Building. The proposed rusticated render garden walls and trellis fencing would be a more suitable response to this domestic setting than the current arrangement. The verdant quality of the garden would be ensured through retention of its trees.
8. Overall, the proposal would restore primacy and refinement to this impoverished garden, more befitting of No 41's status, with a more harmonised

interface between the residential opulence of Kensington Square and the sheerness of the Barker's Building. Consequently, the special architectural and historic interest of No 41 would be preserved, as would the character and appearance of the CA. It follows that the proposal would accord with the heritage and design aims of Policies CL1, CL2, CL3, CL4, CL6 and CL11 of the Local Plan (adopted 2019) and the National Planning Policy Framework.

Conditions

9. Given the constraints of Kensington Square and its housing density, a condition is needed to secure a Code of Construction Checklist and Site Construction Management Plan before work begins on site. Due to their public amenity value, and value to the surrounding historic environment, it is essential that a condition ensures the safeguarding of the trees on site during construction work. As the site is within a Critical Drainage Area, a pre-commencement condition is needed to secure the detailed drainage specification of the development. Given the annotation on the proposed plans, and as the works would not interact with the dwelling itself, conditions are not necessary with regard to the making good of internal and external fabric, nor in relation to the retention of existing fabric including existing wall and ceiling plasterwork. Given the intricacy of the proposed works, particularly in relation to the gazebo, detailed drawings are required to ensure that the work is suitably carried out.

Conclusion

10. For the reasons outlined above, and taking all other matters raised into account, I shall allow the appeals.

Matthew Jones
INSPECTOR

Appeal A – 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: 4422-PL-01, 4422-PL-04, 4422-PL-05, 4422-PL-07, 4422-PL-09, 4422-PL-10, 4422-PL-11, 4422-PL-12 Rev A, 4422-PL-13 Rev A, 4422-PL-14 Rev A, 4422-PL-15 Rev A, 266/SK/01 Rev D.
- 3) No development shall commence until a Code of Construction Checklist (CCC) and Site Construction Management Plan (SCMP) have been submitted to and approved in writing by the Local Planning Authority, and copies of the CCC and SCMP, and their written approval, have been placed on the property record. The work shall thereafter be carried out in accordance with the approved details.
- 4) For the duration of works the trees existing on the site at the date of this permission shall be protected so as to prevent damage above and below ground, and no tree shall be lopped, topped, or felled, or root pruned.
- 5) No development shall commence until a SuDS strategy with the following information has been submitted to and approved in writing by the Local Planning Authority: (A) A detailed analysis of surface water run-off and attenuation volume (B) Information about the proposed SuDS types, their location, attenuation capacity, specification, structural integrity, construction, operation, access, and maintenance. (C) Drainage plans to show clearly how surface water run-off will be conveyed to the SuDS and any connections to the sewer system if necessary. The approved measures shall be fully implemented and maintained thereafter.

Appeal B – Schedule of Conditions

- 1) The works authorised by this consent shall begin not later than three years from the date of this consent.
- 2) 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:
 - (a) Form, colour and finish of cladding to the rear face of the loading bay.
 - (b) Notwithstanding the approved drawings, any trellis or means of enclosure to the rear lightwell of the main building.
 - (c) Samples of all facing materials to the gazebo and cross sections and/or detailed drawings of its trellising and frieze detail.