



Appeal Decision

Site visit made on 4 October 2022

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/K5600/W/22/3301588

22 First Floor Flat, Elgin Crescent, Kensington and Chelsea, London W11 2JR

- 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 James Senior of Pembridge Developments Ltd against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/22/02185, dated 29 March 2022, was refused by notice dated 26 May 2022.
 - The development proposed is described as first floor - new railings to proposed balcony over rear ground floor bay window / casement double glazed doors to replace sash window.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the Ladbroke Conservation Area (LCA); and
 - the effect of the development on the living conditions of the occupiers of 20 Elgin Crescent, with regard to privacy.

Reasons

Character and Appearance

3. The appeal property is a semi-detached dwelling with accommodation over four floors within the LCA. The Ladbroke Conservation Area Appraisal (2015) (LCA Appraisal) sets out the significance of the conservation area, which derives from its design in the Italianate style by a number of different architects and builders who varied their designs whilst using a common palette of materials and details.
4. The buildings in the area make up a large and vital part of the character of the LCA and the types of housing built are highly significant and distinctive to the area. Rear elevations were built to a regular pattern and all elevations have unified features such as sash windows, making an essential contribution to the area's character which suffers where these have been lost or replaced unsympathetically.

5. The appeal site forms part of a semi-detached villa pair, which the LCA Appraisal identifies are of special interest to the area and are typical of the Regency period. The LCA Appraisal highlights that the appeal site and surrounding buildings make a positive contribution to the historic and architectural character of the conservation area, and change should be managed in accordance with national and local policy. Negative features affecting buildings are noted in the LCA Appraisal to include the loss of traditional sash windows.
6. There is a harmonious character to the rear elevation of the appeal site, with an established pattern of traditional sash windows with a horizontal emphasis. The rhythm of the openings contributes positively to the character and appearance of the LCA.
7. The replacement of the traditional sash windows with French doors would not take account of the historic window pattern and the design appropriate to the group of semi-detached villa pairs. The proposal would appear as an incongruous feature, breaking the established pattern of sash windows. It would be detrimental to the uniformity and rhythm of the rear elevation, creating a vertical emphasis to the otherwise harmonious horizontal emphasis on this elevation.
8. I note that there is an exception to the pattern of windows at 24 Elgin Crescent, where there is a balcony at first floor level with French doors. The Council note the balcony and change in opening is unauthorised and I have no evidence to the contrary.
9. The proposed balcony would be visible from adjacent properties and due to the elevation treatment, it would appear incongruous with the design of this group of villa pairs. As a result, there would be some limited harm to the area's character and appearance which would reduce the positive impact that the property has within the surrounding area. The use of high-quality materials, including black railings which are a feature within the LCA, would not mitigate the harm identified.
10. I have considered the other examples of balconies and French doors, of which there are several and therefore a feature of the wider area. However, they are notably absent from the properties immediately around the appeal site at first-floor level. An exception is the balcony at No 24 which I have noted above is said to be unauthorised. The other examples provided are generally at ground floor level or at the rear of different streets and are not directly comparable, having different contexts to the proposal before me.
11. Overall, the proposal would not preserve or enhance the character and appearance of the LCA and would cause harm to its significance, in conflict with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The harm that I have identified would be 'less than substantial' harm.
12. The National Planning Policy Framework (2021) (the Framework) indicates that great weight should be given to the conservation of heritage assets, irrespective of the level of harm. There are no public benefits before me sufficient to outweigh the harm that would arise to the significance of the LCA. The proposal would therefore be contrary to the provisions of the heritage protection policies of the Framework.

13. For the reasons given, the proposal would cause harm to the character and appearance of the LCA, in conflict with policies CL1, CL2, CL3, CL6 and CL11 of the Local Plan (2019). These policies require development to respond to the local context and take a sensitive approach to the architectural design of modifications to existing buildings. Development is also required to preserve or enhance the character or appearance of conservation areas and protect the special architectural or historic interest of the area, including public and private views of the rear of properties.

Living Conditions

14. I note there is an existing large window in the location of the proposed balcony and owing to the townscape there is already a degree of overlooking. Moreover, views into the private gardens at the rear is not a main issue.
15. From my site visit I saw that the nearest window in the bay at 20 Elgin Crescent is at an angle to the proposed balcony. While the bay is relatively shallow, and there would be a degree of separation between the balcony and the bay, the proposal would introduce views at first-floor level into No. 20 from the balcony, resulting in a loss of privacy of the occupiers. The appellant suggests that a screen could be put up, however I have no details of a screen before me, and I cannot be satisfied that a screen would be acceptable in visual terms. As such, this is a concern that could not be rectified by the imposition of a condition.
16. Consequently, the proposal would cause harm to the living conditions of the occupiers of 20 Elgin Crescent, with regard to privacy, in conflict with Policy CL5 of the Local Plan (2019). This policy requires all development to take careful account of the living and working conditions of neighbours, including privacy.

Other Matters

17. It is not in dispute that the proposal would be acceptable in relation to living conditions with regard to sunlight/daylight and enclosure, and the proposal would not give rise to increases in traffic, servicing, parking, noise, disturbance, odours or vibration or local microclimate effects. The lack of harm on these matters would be a neutral factor.
18. The appellant notes that the Council has not applied the presumption in favour of sustainable development from the Framework (2021). However, there is no substantive evidence to suggest that the approach set out in Paragraph 11(d) should be applied in this particular case. The decision should be made in accordance with the development plan unless material considerations indicate otherwise.
19. I note that there are third party comments regarding privacy concerns at the ground floor flat at 22 Elgin Crescent. However, given my conclusions on the main issues I have not found it necessary to consider this matter further.

Conclusion

20. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR