

Appeal Decision

Site visit made on 25 October 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2023

Appeal Ref: APP/K5600/D/22/3295942

8 Aubrey Walk, London W8 7JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Shuper against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/07781, dated 3 December 2021, was refused by notice dated 1 February 2022.
 - The application sought planning permission for excavation of basement storey below footprint of property together with creation of lightwells to front, rear and side elevations without complying with a condition attached to planning permission Ref PP/19/03749, dated 24 July 2019.
The condition in dispute is No 2, which states that: 'The development shall not be carried out except in complete accordance with the details shown on submitted plans 17-009-01 (sheet 1 of 3); 17-009-01 (sheet 2 of 3); 17-009-01 (sheet 3 of 3); 17-009-02 B (sheet 1 of 4); 17-009-02 B (sheet 2 of 4); 17-009-02 B (sheet 3 of 4) and; 17-009-02 B (sheet 4 of 4)'.
 - The reason given for condition No 2 is: 'The details are material to the acceptability of the proposals, and to ensure accordance with the development plan'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application the subject of this appeal sought permission for amendments to three lightwells previously approved as part of the permission for a basement extension to the appeal property. These amendments involve omitting the metal grilles that would cover the lightwells to the front, side and rear of the property. To the front and rear the lightwells would be open, while to the side the open lightwell would include external stairs linking the basement to the side garden area.

Main Issue

3. I note that due to its limited size and position the Council does not raise concerns about the change to the lightwell to the rear. Therefore, the main issue is whether the proposed front and side lightwells would preserve or
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enhance the character or appearance of the Kensington Conservation Area, in which the appeal property is located.

Reasons

4. The large conservation area comprises predominantly residential properties set within a highly urban form of solidly developed streets. The *Kensington Conservation Area Appraisal* says that Aubrey Walk includes tall properties from the nineteenth and twentieth centuries providing a variety of architectural styles that differ significantly between the north and south sides. On the opposite side of Hillsleigh Road, the group which includes the appeal property, Nos 8-16, provides a crisp Arts and Crafts terrace which is half brick and half rendered with clay tiled mansard roof. As such, the appeal property makes a positive contribution to the conservation area. It is located at the end of the short terrace next to the junction of Aubrey Walk with Hillsleigh Road.
5. Policy CL7 of the Kensington and Chelsea Local Plan (2019) concerns basements. Criterion g. requires that such developments should not introduce light wells and railings to the front or side of the property where they would seriously harm the character and appearance of the locality, particularly where they are not an established and positive feature of the local streetscape. Criterion h. requires that external elements such as light wells should be sensitively designed and discreetly sited, including to limit the impact of light pollution.
6. The short terrace which includes the appeal property and neighbouring dwellings is largely unaltered and there are no visible examples of lightwells serving basements in this part of Aubrey Walk or along Hillsleigh Road. Despite this, the approved lightwells were considered to be discreet features that would serve the use of the basement while preserving the character and appearance of the conservation area.
7. By contrast, the proposed change to the front would represent a relatively large open area underneath the bay window, through which the lower ground floor doors would be apparent. The changes to the side would result in a substantively more prominent feature with the open stairwell running along a large part of the depth of the dwelling. As such, the proposed changes would result in less discreet and more prominent features to serve the basement, which would draw attention to their uncharacteristic existence in this part of the conservation area. I agree also with the Council that the open lightwells would result in greater light leakage from the basement, thereby further drawing attention to the uncharacteristic additions to the front and side.
8. I acknowledge that these changes would be contained within the boundaries of the appeal property and that boundary treatments would largely screen views of the basement features from the public realm and neighbouring properties. However, the effects of development on the character of a conservation area are not solely dependent on public or other views being available. Moreover, given the permanence of the changes proposed, their lack of more prominent visibility cannot be guaranteed in the long term. The examples of lower ground floors in Campden Hill Gardens near to the appeal property are not directly comparable as these are a characteristic feature of many properties within the street scene, with railings to the front and stairs providing external access.

Other isolated examples are referred to, but these are not a sufficient basis to overcome the uncharacteristic effects of the proposal as found above.

9. Therefore, for the above reasons, I find that the proposed front and side lightwells would fail to preserve the character and appearance of the Kensington Conservation Area. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation¹. Based on the above findings, I consider the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.
10. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal². The appellant indicates that the principal benefit is to provide a means of escape in the event of fire. However, it is unclear how this matter relates to the approved scheme where it is reasonable to assume that such means of escape were also taken into account in its design. As such and on balance, this matter does not outweigh the harm that would occur.
11. Therefore, for the above reasons, I conclude that the proposed front and side lightwells would not preserve the character and appearance of the Kensington Conservation Area. Consequently, the proposal is contrary to Policy CL7 as described above and to the following policies also from the Kensington and Chelsea Local Plan: CL1, which requires all development to respect the existing context, character and appearance, and CL6, which has the same requirements with regard to small-scale alterations; CL2, which requires development to be of the highest design quality; CL3 concerning the effects of development on heritage assets, including conservation areas; and CL11 concerning views, which includes the requirement that development should preserve views related to conservation areas.
12. In reaching this conclusion I am particularly mindful of the statutory requirement that in exercising planning functions in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area³.

Conclusion

13. For the reasons given above it is concluded that the appeal should not succeed.

J Bell-Williamson

INSPECTOR

¹ Paragraph 199.

² Paragraph 202.

³ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.