



Appeal Decision

Site visit made on 8 June 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2023

Appeal Ref: APP/K5600/D/23/3316325

15 Billing Street, Kensington and Chelsea, London, SW10 9UT

- 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 Brierley against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/22/06174 dated 12 October 2022, was refused by notice dated 23 December 2022.
 - The development proposed is extension of existing rear-return to create new bathroom; rear balcony; rear and front French doors to lower ground floor and new windows.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the impact of the proposal upon i) the character and appearance of the host dwelling, terrace grouping and The Billings Conservation Area and ii) flood risk and its impact.

Reasons

Character and appearance of the host dwelling, terrace grouping and The Billings Conservation Area

3. The appeal site is a two storey (with lower ground floor), mid-terrace, residential dwelling which stands within the Billings Conservation Area (CA). The property benefits from a two-storey closet wing extension to the rear of the site onto which the upwards extension element of the appeal proposal would be located. Section 72 of the Planning (Listed Buildings in Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the CA.
4. From the Council's delegated report, the first refusal reason is based upon the replacement of the sash window to a door at ground floor level, the addition of the balcony as well as the upwards rear extension. No issues have been raised with the remaining elements of the proposal and I have no evidence before me to conclude differently on these. The appeal decision will, therefore, focus upon the matters upon which the first refusal reason is based as outlined.
5. Whilst I note the Council's concern, regarding a lack of supporting information, I have considered the case on its own merits, taking into account the information which is now before me as well as what I saw at the time of my site visit. At the time of my site visit, I found that the appeal sites rear elevation (and the appeal proposal) would not be visible from the public realm

which would restrict any impact the proposal would have on the appearance of the CA and terrace grouping but it should be kept clearly in mind that appearance is the outward, visible, qualities, whereas character is the sum of all qualities which distinguish an area. They are separate matters.

6. The appeal site is identified as a positive building within the CA appraisal document, and it is outlined that Billing Place and Billing Street were built at slightly different times (1850 & 1854 respectively) as well as noting that Billing Street is stated to be considered to be the best street in the CA with the most uniform terraces. Uniformity of the rear elevations is noted, within the CA appraisal, as being an important characteristic, which distinguishes the terrace grouping of Billing Street. The row within which the appeal site stands, does not have an established character for closet wings, or extensions at three storeys in height. I acknowledge that the adjoining property, 14 Billing Street, includes a three-storey closet wing, but this would appear to be an anomaly within the overall terrace grouping.
7. It is noted that the rear elevations of the terraced grouping would have (at one stage) been a blank elevation with a small projection to the rear for a WC. I acknowledge, therefore, that closet wings are unlikely to have formed an original characteristic for the properties along Billing Street and that the existing two-storey closet wing is likely to be a later addition regardless or not of whether the Council hold records of the extension. In this case, despite closet wing extensions being characteristic of the area (notably within Billing Place), they are not characteristic of the terrace row within which the appeal site stands. The differentiation between Billing Street, and Billing Place, despite them being adjacent to each other is notable within the CA appraisal as a key material consideration which is perhaps not readily appreciable from site inspection alone.
8. The CA appraisal also notes different roof forms within 16 to 19 Billing Street due to their original mono pitched roof form. The appeal proposal would be built up to the shared boundary, with 16 Billing Street, and the eave of the proposal would sit above the eave of the adjoining property. This would, create a strong contrast with the roof form of the neighbouring property, which is not, for example, the case with the neighbouring three storey closet wing. As a result of this, the proposal would appear prominent in contrast to 16 Billing Street which would contribute to harm as a result of the proposals.
9. In isolation, I acknowledge the proposal is a modest addition following the same form with matching materials to the host property. It would, however, detract from the character of the host dwelling and terraced row with further impact as a result of the contrasting roof designs with 16 Billing Street. Whilst there are, evidently, some similarities between Billing Street and Billing Place they have, in terms of the rear elevations, evolved in different manners resulting in different characteristics and qualities for each rear elevation.
10. I do not find the widening of the doorway on the rear elevation (lower ground floor level) to be of such disruption which would warrant refusal, however, based upon the evidence before me balconies are not characteristic of the grouping which further adds to the cumulative impact of the proposals before me. The replacement of windows could, if the proposal had been acceptable in other regards, have been controlled by condition to ensure appropriate design as a result of the overall proposals.

11. In accordance with paragraph 199 of The National Planning Policy Framework 2021, when considering the impact of the proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. I find that the proposal would result in less than substantial harm to the CA as a result of the factors outlined within this decision letter.
12. In accordance with the Framework, paragraph 202, where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use. The proposal would be for alterations to a single residential dwelling, and I have no evidence before me to support that the proposal would result in any public benefits or secure optimal viable use to outweigh the weight which should be given to the harm which has been identified.
13. The proposal would be contrary to Royal Borough of Kensington and Chelsea Local Plan 2019 (LP) Policy CL1 which requires all development to respect existing context, character and appearance, LP Policy CL2 which requires development to be of the highest architectural and urban design quality, taking opportunities to improve the quality and character of buildings in the area and LP Policy CL3 which requires development to preserve or enhance the character of the CA. The proposal would also be contrary to LP Policy CL6 which requires that alterations and additions do not harm the existing character and appearance of the building and LP Policy CL9 which requires extensions and modifications to reinforce the character and integrity of the original building (or group of buildings).

Flood Risk

14. The appeal site stands within Flood Zone 3 and 2, albeit it is not located within a designated critical drainage area. The proposal includes the lowering of the lower ground floor within Flood Zone 3. LP Policy CE2 is clear that the Council will require development to address and reduce flood risk and its impacts. In order to deliver this the Council will require a site-specific flood risk assessment for all development in Flood Risk Zone 2 and 3 and this has not been provided. In addition, the proposal has also failed to provide details of existing surface water run-off and sustainable drainage systems which are also requirements set out within LP Policy CE2.
15. Whilst I note that such information was never requested during the application period, I find that it is clear that the site stands within a Flood Zone and that the LP Policies are clear on the requirements to support applications within such zones. The lowering of the lower ground floor level is noted to be a relatively small lowering, at around 300mm, but the appellants statement, that the proposal will have zero impact on any flood risk, is not supported by any formal assessment or evidence which is a policy requirement.
16. I note, within the Council's report, that it was suggested an appropriately worded pre-commencement condition could have been used to request full details of flood risk and surface run-off and I have no reason to disagree on that point in general. Despite this, there is absolutely no information before me relating to a flood risk assessment and I consider that this information, clearly set out as a policy requirement, should be considered at an early stage

within the determination of the proposal. On this occasion, I feel such information should be provided at the point of determination and not secured via a pre-commencement condition.

17. The proposal would be contrary to LP Policy CE2, which requires development to address and reduce flood risk and its impacts as well as requiring a site-specific Flood Risk Assessment for all development in Flood Risk Zone 2 and 3. The proposal would also be contrary to the Framework, paragraph 167, which states that where appropriate, applications should be supported by a site specific Flood Risk Assessment (this is confirmed within footnote 55, to be a requirement for all development in Flood Zones 2 and 3).

Other Matters

18. The appellant has listed a number of approvals which are stated to be for extensions on Billing Street, including some with the closet wing extended. Whilst reference numbers have been provided, no further details, such as the decision notice, Council report or approved plans have been provided to enable me to attribute weight to these previous decisions within the determination of this appeal. Notwithstanding this I note, from the reference numbers, that these all pre-date the current local plan and some pre-date the Framework.
19. I note that it is stated that the appeal site had previously had the same closet wing extension approved in 1992 (TP/92/0945), however, this does not represent a fall-back position of weight given that it is a permission which is no longer able to be implemented. The starting point for determination, of the current proposals, is completely different to how it would have been at the point of determination in 1992 (even within the CA at that point) as well as being a notable amount of time prior to the information now available within the CA appraisal document.
20. The Council references further policy in their refusal reason, which relates to views, but due to the lack of visibility of the appeal proposal, which I noted at the time of my site visit when I walked along both Billing Street and Billing Place, I do not find that the proposal would be contrary to this policy.

Conclusion

21. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR