



Appeal Decision

Site visit made on 31 October 2023

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2023

Appeal Ref: APP/K5600/W/23/3323207

225-227 and 229-231, Kensington High Street, London W8 6SA

- 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 JMK Group against the decision of the Council of the Royal Borough of Kensington and Chelsea.
- The application Ref PP/23/01117, dated 14 February 2023, was refused by notice dated 20 April 2023.
- The development proposed is upwards extensions of the buildings to provide additional hotel accommodation, use of ground floor as café, retail and hotel lobby and associated improvement to shop frontages, use of basement as additional hotel floorspace and reconfiguration of the existing hotel bedrooms.

Decision

1. The appeal is allowed and planning permission is granted for upwards extensions of the buildings to provide additional hotel accommodation, use of ground floor as café, retail and hotel lobby and associated improvement to shop frontages, use of basement as additional hotel floorspace and reconfiguration of the existing hotel bedrooms, at 225-227 and 229-231 Kensington High Street, London W8 6SA, in accordance with the terms of the application Ref PP/23/01117, dated 14 February 2023, subject to the conditions in the Schedule to this Decision.

Preliminary Matters

2. Planning permission has already been granted at the site for '*Upwards extension of the buildings to provide additional hotel accommodation; use of ground floor as café, delicatessen and hotel lobby and associated improvement to shop frontages; use of basement as additional hotel floorspace and reconfiguration of the existing hotel bedrooms*' (LPA ref: PP/22/04703). The Council confirms that the only difference between the extant consent and the appeal scheme is an additional storey above the rear part of No 225-227, and it is solely this element which features in its refusal reasons. I find no reason to reach alternative conclusions in respect of the previously approved aspects and their effects on the buildings' or area's character, appearance or the heritage significance of any of the identified assets. Thus, whilst I have considered the scheme holistically, my considerations in this decision letter are confined principally to the proposed rear addition at No 225-227.

Main Issues

3. The main issues are whether the development would preserve or enhance the character or appearance of the Edwardes Square, Scarsdale and Abingdon Conservation Area (the CA), and whether the setting of the nearby grade II listed Our Lady of Victories Roman Catholic Church would be preserved.

Reasons

4. The appeal site is a hotel with shop fronts at street level. It occupies a prominent position at the corner of Kensington High Street with Abingdon Road, and is within the CA. As far as it relates to this appeal, the CA derives some of its special interest and significance from a tight urban grain and the historic and architectural quality of its varied buildings, including traditional terraced housing of two and three storeys, as well as much larger mansion blocks and purpose-built commercial buildings ranging between three and six storeys in height.
5. The two buildings at the appeal site are of different ages, style and size, contributing to the varied character of the area. No 225-227 is a traditional 19th century building with a four-storey frontage onto Kensington High Street, dropping to three stories at the rear fronting onto Abingdon Road. No 229-231 is a 20th century building in an art deco style with a three-storey frontage onto Kensington High Street. Both are identified in the CA Appraisal (2022) as positive buildings in the CA, and notwithstanding some insensitive shopfront alterations I see no reason to disagree.
6. The Council highlights that No 225-227 has already been extended upwards at the rear and is concerned that the addition of a fourth floor as proposed would result in the loss of the visual distinction between the main building and its more subservient rear wing. However, as part of the proposal (and the extant consent) the main building would be increased in height to five storeys, thereby retaining the clear step down in storey height from the main to the secondary part of this building. Moreover, the proposed fourth storey would be proportionally shorter than those below and would sit slightly under the existing parapet level of the main building. These factors would ensure that the rear wing remains as a visually distinct and subservient element, respecting the character and integrity of the original building and its positive contribution to the CA.
7. The Council raises further concerns in relation to the Abingdon Road streetscape. However, for the reasons above, the proposed rear addition would appear as a subservient addition to the taller main hotel building. Whilst the step down to the neighbouring three-storey terraced properties on Abingdon Road would be less gradual than the current relationship, it would not be uncomfortable. According to the drawings, the difference in height between these buildings would be around 4.5 metres. This could not reasonably be described as a dramatic transition, particularly as there is no uniform building height along Abingdon Road. Rather, it reflects the similar manner in which the buildings step up in height at the southern end of the terrace and more importantly, would be consistent with the typical 'bookend' language found within the surrounding well-defined urban grain where an increase in scale towards Kensington High Street is a defining characteristic. The fact that the buildings are also separated by a narrow alleyway and have a clearly distinct form and appearance would further moderate the effect of the height difference between them. Accordingly, the proposed rear addition would be a suitable and appropriate addition to the host building and streetscape.
8. The grade II listed Our Lady of Victories Roman Catholic Church is tucked discretely behind the Kensington High Street frontage immediately to the southwest of the appeal site. The listing also includes the entrance arch

between 233-235 and 237-239 Kensington High Street. I have a duty to have special regard to the desirability of preserving its setting. The Church is of brick construction in a relatively modern post-war style. The appellant's Heritage Statement explains that it was constructed in 1957 as a replacement for an earlier church that was destroyed in the Second World War. As far as it is relevant to this appeal, the significance/special interest of the listed building is primarily related to its design and the continual occupation of the site.

9. The existing setting of the Church is confined to its immediate surroundings which are intensively developed and predominantly characterised by tall buildings of varied age and appearance which closely surround it and screen it from most outside vantage points, apart from the narrow view of, and through, the entrance arch. As such, the setting makes only a limited contribution to the significance of the listed building.
10. There is no substantive evidence before me that the proposed rear addition to No 225-227 would obscure important views of the Church or its entrance arch, but it would be perceptible from within the Church courtyard. However, it would not have a looming presence over the Church, as has been suggested by the Council. The other proposed increases in the height of the appeal buildings have already been deemed to be acceptable by the Council, and in the case of No 229-231 are even closer to the Church. Based on the submitted photomontages and from my own observations, I am satisfied that the change arising from the proposed rear addition would not be so distinct or imposing as to have a negative impact upon how the heritage value/special interest and significance of the Church and its entrance arch would be appreciated. Consequently, the effect on the setting of the listed building would be neutral.
11. Given all the above, I conclude that the character and appearance of the CA as a whole, and the setting of the nearby grade II listed Church would be preserved. The proposal therefore complies with statutory expectations and the National Planning Policy Framework (the Framework) in these regards. It also complies with Policies CL1, CL2, CL3, CL4, CL9 and CL11 of the Royal Borough of Kensington and Chelsea Local Plan 2019. These Policies, amongst other things, seek to ensure development responds to the local context, to be of the highest architectural and urban design quality, to reinforce the character and integrity of the original building, protect important views, and to preserve or enhance the character or appearance of the conservation area and protect the special architectural or historic interest of the area and its setting.

Other Matters

12. Given the context and nature of the development, there will inevitably be some disturbance and inconvenience from construction activities. However, the imposition of conditions would ensure that these temporary effects are appropriately managed.

Conditions

13. I have considered the Council's suggested conditions in light of the Framework and the Planning Practice Guidance and I note that the appellant has agreed to the conditions, including pre-commencement conditions. In some cases, I have undertaken some minor editing in the interests of precision and clarity.

14. In addition to the statutory time limit, a condition listing the approved plans (2) is imposed for certainty.
15. Conditions are necessary in relation to construction practices (3) and construction traffic (4) to manage the effects of construction on local residents; and in the interests of the safe and efficient operation of the highway network. A further condition is necessary in relation to ground gas investigation (5) to protect human health. It is necessary for these particular conditions to be worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.
16. In the interests of the preservation of the character and appearance of the host building and area, numerous conditions are imposed in relation to external building materials and details (6, 11, 13), as well as roof top structures (15).
17. Numerous conditions relating to noise and sound insulation (7, 8, 9, 10, 12) are necessary in order to protect the living conditions of nearby residents and ensure appropriate standards for hotel guests. To further protect the living conditions of neighbouring residents it is necessary to prevent the use of the roof areas as a balcony or other guest amenity area (16).
18. A restriction on the use of the ground floor premises (17) is necessary to define the permission and ensure accordance with the development plan.
19. Finally, and for the avoidance of any doubt, it is appropriate to clarify that the external tables and chairs shown on the application drawings do not form part of the permission (14).

Conclusion

20. The proposal complies with the relevant policies of the development plan and the Framework when considered as a whole. Accordingly, and subject to conditions, I conclude that the appeal should be allowed.

A Caines

INSPECTOR

SCHEDULE OF CONDITIONS

Standard

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

A-000-001 rev P0; A-000-002 rev P0; A-110-001 rev P3;
A-110-002 rev P3; A-110-003 rev P2; A-110-003 rev P3;
A-110-004 rev P3; A-110-005 rev P2; A-110-006 rev P2;
A-100-099 rev P0; A-100-100 rev P0; A-100-101 rev P0;
A-100-102 rev P0; A-100-103 rev P1; A-100-104 rev P3;
A-100-105 rev P3; A-120-001 rev P2; A-120-002 rev P2

Pre-commencement

- 3) No development shall commence until:
 - a) A Code of Construction Checklist and Site Construction Management Plan (SCMP) for the development have been approved in writing by the Council's Construction Management Team; and then
 - b) Copies of the approved Checklist and Plan, and their written approval, have been submitted to the local planning authority to be placed on the property record. The development shall be carried out in accordance with the approved SCMP.
- 4) 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 shall 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, 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.

- 5) No development shall commence until:
- a) A Ground Gas and Vapour Investigation (GVI) incorporating the results of environmental and historical searches is undertaken and a Ground Gas and Vapour Assessment Report (GVAR) where necessary incorporating a Remediation Strategy (RS) has been submitted to and approved in writing by the local planning authority.
 - b) No occupation or use of the development shall commence until the approved RS is implemented and a Verification Report (VR) is submitted to and approved in writing by the local planning authority.
 - c) Any unexpected contamination shall be addressed in line with the Council's CLC3 guidance. Where physical remedial measures are implemented to protect end users of the development, they shall be maintained. The GVI, GVAR, RS and VR shall be addressed in line with the Council's contaminated land guidance for small scale ground gas and vapour protection.

Other conditions

- 6) 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.
- 7) 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.
- 8) The plant shall not operate unless it is supported on adequate proprietary antivibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter.
- 9) In order to comply with condition No.7 and the noise levels as specified in the submitted noise impact assessment prepared by Bickerdike Allen Partners LLP, dated 13th July 2022, ref. A11472_00_PR001_1.0, a post installation assessment demonstrating compliance with condition No.7 shall be carried out and submitted for the consideration and written approval of the local planning authority no later than 1 month from the

installation of the relevant part of the works. In the event that the details are not considered satisfactory by the local planning authority and are refused, the equipment shall be switched off until a revised assessment has been submitted to and approved in writing by the local planning authority.

- 10) A scheme of sound insulation, designed to prevent the transmission of excessive airborne and impact noise between the proposed hotel accommodation hereby permitted and adjacent buildings 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 be carried out in accordance with the approved details prior to the first occupation of the extensions hereby permitted and shall be so maintained thereafter.
- 11) Notwithstanding any details shown on the drawings hereby permitted and as listed within condition No.2, detailed drawings or samples of materials as appropriate, 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 be carried out in accordance with the approved details and shall thereafter be so maintained:
 - a) Detailed drawings and/or samples of all brickwork, stone banding, stone coping, lead roofing and natural slate roofing materials. The sample panels shall show the proposed colour, texture, facebond and pointing to be used on all external faces of the extensions forming the subject of this permission with the panels being provided on site and retained for the entire duration of the implementation phase.
 - b) Detailed elevation and section drawings at scale 1:20 of all new external doors and windows.
 - d) Details of the stone elevations to the roof extension within No 229-231 including a sample panel to be provided on site and retained during the construction phase showing the proposed facade arrangement and its associated window's junctions.
 - c) Threshold level details for all new external ground floor level access doors facing Kensington High Street.
 - d) Details of a Flood Prevention Strategy and measures to ensure the occupiers of the new lower ground floor level hotel rooms would be suitably protected from the threat of rainwater and sewer flooding.
- 12) Notwithstanding any details shown on the drawings hereby permitted and as listed within Condition No.2, details of the facade construction for the new extensions hereby permitted, to include glazing with commensurate composite sound insulation performance predictions, shall be submitted to and approved in writing by the local planning authority before the relevant parts of the works are carried out. The works shall be carried out in accordance with the approved details prior to first occupation or use of the parts of the development to which they relate and be so maintained thereafter.
- 13) Notwithstanding any details shown on the drawings hereby permitted and as listed within Condition No.2, a brick sample panel showing the proposed bricks, bond and mortar for the infilled upper level western

elevation window within No 229-231 shall be provided on site for the written approval of the local planning authority before the relevant works are carried out, and the approved sample panel shall thereafter remain on site during the construction phase of those works. The development shall be carried out in accordance with the approved sample panel.

- 14) Notwithstanding any details shown on the drawings hereby permitted and as listed within Condition No.2, the tables, chairs and planters depicted within the external pavement areas at street level do not form part of this permission.
- 15) Notwithstanding any details shown on the drawings hereby permitted and as listed within Condition No.2, no water tank, lift motor room, or other structure, equipment or appliance, shall be erected upon the roof without the grant of planning permission.
- 16) The roof areas of the development hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Orders revoking or re-enacting that Order with or without modification), the parts of the development on the ground floor level identified as being used for retail use Class E(a) and cafe use Class E(b) shall be used only for these specified purposes, and for no other purpose without the grant of planning permission.

****End of Schedule****