



Appeal Decision

Site visit made on 23 April 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/L5810/W/23/3327508

Flat 5, 10 Castelnau, Barnes, Richmond Upon Thames, London SW13 9RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Katherine Passerieu against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref is 23/0691/FUL.
 - The development proposed is described as "a Juliette balcony is to be extended and converted to a balcony."
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw on my site inspection that alterations had been made so it was possible to walk onto the proposed balcony area, although the proposed balustrades were not erected at that time. The appeal has been determined on this basis.
3. In response to the appeal, some interested parties with an interest in the land the subject of this appeal said they had not been notified by the appellant of the proposal. In view of this, and the significant doubt regarding the accuracy of the completed certificate, the appellant was asked to serve notice during the appeal process on those persons with an interest in the land, to comply with Article 13(1) of The Town and Country Planning (Development Management Procedure) (England) Order 2015. The appellant subsequently confirmed that this had been undertaken, and those with an interest in the land have been provided with 21 days to comment on the proposal. The appeal has been determined on this basis, and following the end of the 21-day period for any comments, pursuant to the notice.
4. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in planning decisions. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context, and both parties have had the opportunity to make comments on the revised Framework within their statements and final comments.
5. The appellant has stated within their appeal documentation that they are prepared to alter the southern side of the proposed balustrade to be clear glazed. Although the Council indicated that they would not have objection to this, I do not have any amended plans to show this and interested parties have not been properly consulted regarding such a change. Consequently, there is

insufficient information provided to assess the proposed alteration and there would be unfairness to interested parties by accepting such a change in this case. Therefore, I have determined the appeal based on the plans also considered by the Council.

6. Both main parties have made me aware of an earlier planning permission for a Juliette balcony at the appeal site, I have been provided with details and plans for this permission¹ ('approved Juliette balcony') and I have taken these into account insofar as they are relevant to the appeal scheme before me.

Main Issues

7. Taking into account the Council's report and notice of decision, the main issues are the effect of the proposed development on:
 - the Castelnau Conservation Area (the CA);
 - the non-designated heritage asset (NDHA), known as 10 Castelnau; and,
 - the living conditions of neighbouring occupiers at No's 8 and 10 Castelnau, with particular regard to privacy.

Reasons

Effect on the CA

8. The appeal property is a detached villa converted into 5 no. flats, the flat in question (Flat 5) is mostly located at second floor level, it has an existing Juliette balcony on its rear side which is set within the roof plane. The approved Juliette balcony had inward opening doors with a low balustrade immediately in front of the doors, which prevented the area beyond the balustrade being used as a balcony.
9. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. At paragraph 203, the National Planning Policy Framework (the Framework), sets out matters which should be considered, including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 205 of the Framework states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
10. The CA contains a variety of properties that have mainly been built at a similar time. In the immediate area, as recognised in the Council's Castelnau Conservation Area Study, undated (CCAS), are a pleasant variety of property styles, with a cohesion through the use of similar building materials and architectural detailing. The appeal property is one of several similar detached villas, at the southern end of Castelnau, it is set back from the road, with landscaping on its frontage, and it has a slate roof that is largely unaltered. It, along with the nearby similar villas make a positive contribution to the significance of the CA.

¹ Ref. 12/3663/HOT

11. The Council's Castelnau Conservation Area 25 Statement, undated (CAA) states that the CA's pressures/problems include the loss of traditional architectural features and materials due to unsympathetic alterations.
12. The Council does not raise objection to the effect upon the CA from the proposed balcony or its clear glazed balustrades on two of its sides, and from my site observations, I see no reason to disagree due to their transparent and light weight appearance and the limited physical changes to form the proposed balcony. The Council's objection solely relates to the proposed vertical balustrade on the outer side of the balcony.
13. The proposed vertical balustrade in question would be relatively small, clad in matching slate, and located near to an external chimney stack, notwithstanding this its unusual appearance would be alien to the appeal property and its neighbours, and represent an illegible and incongruous vertical feature at such a high level on the pitched roof plane of the appeal property. I note the existing Juliette balcony on the appeal property, and those referred to on nearby properties within the appeal documentation, but none of those similar balconies displayed the extending vertical slate clad balustrade as proposed. This makes this proposal clearly distinct from those and the earlier approved Juliette balcony, and they do not justify the harm arising from the proposal.
14. I acknowledge that the proposed balustrade would not be particularly noticeable from public vantage points, I saw that there was a limited glimpsed view of it from Queen Elizabeth Walk. It would, however, be visible from the adjoining properties. Such views are part of the CA, and the introduction of a slate clad vertical balustrade into the area would harmfully contrast against the mainly unaltered roof forms of the appeal property and others nearby. And whilst there is some degree of architectural variety nearby, including No. 12, the appearance of the proposal in the context of the appeal property would nevertheless be harmful to the character and appearance of the CA.
15. In view of the above, the design of the proposed slate balustrade would be harmful to the appearance of the appeal property, and it would neither preserve or enhance the character or appearance of the CA, contrary to the requirements of the Act. For the same reasons, the proposal would also conflict with Policies LP1, and LP3 of the London Borough of Richmond upon Thames, Local Plan adopted 3 July 2018 (LP), that amongst other things require new development to be of a high architectural and urban design quality, improve the quality and character of buildings, and conserve and where possible enhance the significance of conservation areas. The unsympathetic alteration to the building would also be inconsistent with the objectives of the CAA and CCAS, which collectively seek to preserve the character and appearance of the CA and prevent harmful alterations. In addition, there would also be conflict with the Council's Supplementary Planning Document, House Extensions and External Alterations, dated May 2015 (SPD) insofar as it requires the retention of the original form of the host property and its broad objective of ensuring alterations relate sympathetically to existing buildings.
16. I also found that the proposal would be inconsistent with one of the aims of the Barnes Village Planning Guidance, Supplementary Planning Guidance, dated December 2015, that seeks to ensure local character and historic buildings and features are retained and enhanced, particularly in relation to Conservation Area 2 (Castelnau).

NDHA

17. The appeal property has been designated as a Building of Townscape Merit by Richmond Upon Thames London Borough Council to reflect its architectural style and visual interest, and the positive contribution it makes to the area. For the reasons outlined above the proposed vertical slate balustrade would harm the appearance of the NDHA, and it would introduce an alien and incongruous feature onto its rear roof plane. As such the proposed development would be harmful to the character and appearance of the NDHA.
18. I therefore conclude that the proposed slate clad vertical balustrade would harm the appearance of the NDHA, and it would conflict with Policy LP4 of the LP that requires development to preserve, and where possible enhance, the significance, character and setting of non-designated heritage assets, including Buildings of Townscape Merit. In addition, paragraph 209 of the Framework states that a balanced judgement should be made regarding direct harm to a NDHA having regard to the scale of any harm or loss, and the significance of the heritage asset. As the change to the appeal property would be relatively minor in terms of the scale of the property, there would be limited harm, which would have to be weighed alongside any benefits of the scheme, which I shall have regard to later in my decision.
19. In addition, the proposal would also be inconsistent with the Council's Supplementary Planning Document, Buildings of Townscape Merit, adopted May 2015, which seeks to prevent unsympathetic alterations and extensions to such buildings.

Living conditions

20. I saw on my site inspection that it would be possible when standing on the proposed balcony to directly look into the rear gardens of No's 8 and 10 Castelnau. Although, I do accept there would be no unacceptable loss of privacy for occupiers of No's 8 and 10 when they are inside their properties, as the proposed balcony would not allow direct overlooking of their windows.
21. It is noted that No. 10's rear garden is a communal area, and that there are existing higher level windows on its first floor, and an existing Juliette balcony at second floor level, which already provide an element of overlooking towards the rear gardens of No's 8 and 10. However, such potential overlooking from existing windows would be from within the property itself, and mainly from positions close to the windows, or in the case of the Juliette balcony, from a position set back from the rear elevation of the building and within the roof plane. Even considering the proposed balustrades, the proposed balcony would offer a much greater potential to overlook the rear gardens of No's 8 and 10 from outside of the property, close to its rear elevation. This would also be from a dominant and raised level, which could be for extended periods of time, and this effect upon privacy would be significantly greater than the existing situation and harmful to the living conditions of the occupiers No's 8 and 10.
22. I therefore conclude that the proposed development would be harmful to the living conditions of the occupiers of No's 8 and 10 Castelnau in terms of its effect upon their privacy, the proposal would also conflict with Policy LP8 of the LP that amongst other things, requires development to protect the amenity and living conditions of occupants of new, existing, adjoining and neighbouring properties and ensure balconies do not raise unacceptable overlooking. The

proposal would also conflict with paragraph 135 of the Framework that requires a high standard of amenity for existing and future users. In addition, the proposed development would also be inconsistent with the SPD, in terms of it requiring new extensions not to result in any substantial loss of privacy.

Other Matters

23. It is noted that the appeal property is not a listed building, however this is a neutral matter in my decision that neither weigh in favour or against the proposal.
24. The appellant has stated that the occupiers of the flat in question do not have any private amenity space, and the proposal is said to create 3.9 square metres of private amenity space. This is acknowledged, and it would be a benefit of the proposal to the occupiers of the flat in question, which does carry some weight, although it is also noted that those occupiers also have access to the communal rear garden at the appeal property.

Planning Balance

25. I have found that the proposed development fails to preserve or enhance the character or appearance of the CA. I give this harm considerable importance and weight in the planning balance of this appeal.
26. I find the harm to the CA to constitute less than substantial harm owing to its effect being localised. Although, this does not equate to a less than substantial planning objection, especially where the statutory tests are not met. Paragraph 208 of the Framework requires public benefits to outweigh such harm. In this case the public benefits associated with the proposal are very limited, they include a relatively small economic benefit associated with the construction of the development. I am not persuaded that the other benefits raised by the appellant are, in the context of this proposal, public benefits. I therefore find the public benefits to be limited, and not to outweigh the harm identified above to the significance of the designated heritage asset. Accordingly, there is conflict with the heritage protection policies of the Framework.

Conclusion

27. The proposed development would be harmful to the heritage asset, and there would be some limited harm to the NDHA, the proposal would also be harmful to the living conditions of the occupiers of No's 8 and 10 Castelnau. Although the proposal would introduce a small area of private amenity space for the occupiers of the Flat 5, this would not outweigh the identified harm above. As such the proposal is contrary to the requirements of the Act, the development plan taken as a whole, the Framework and there are no other considerations that outweigh this conflict. Accordingly, I therefore dismiss the appeal.

A Hunter

INSPECTOR