



Appeal Decision

Site visit made on 7 May 2024

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2024

Appeal Ref: APP/K5600/D/23/3335630

102 Cheyne Walk, London SW10 0DQ

- 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 Mr A St John against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/23/05955 dated 12 September 2023 was refused by notice dated 30 November 2023.
 - The development proposed is Retention of pergola structure
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal concerns development at 102 Cheyne Walk within the setting of Lindsey House a Grade II* listed building (List Entry Number:1189891) listed on 23 June 1954. No works or development is proposed to the listed asset although the appeal site is within its setting. In addition, the site is located within the Cheyne Conservation Area (CA).
3. Therefore, as the proposal relates to the setting of a listed building and development within the CA, I have had special regard to section 66 (1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act (the Act).
4. The proposal before me is to retain the covered pergola at roof top level of a four-storey dwelling over a basement. It is located close to the edge of the flat roof on three sides and despite its openness between its posts, exhibits a sturdiness to its structural integrity. From my own assessment of the pergola, the weightiness of it and its build quality and fixings, even though it may not be bolted to the floor of the roof terrace, together with its scale, it does not appear as a readily portable structure. I consider it to have a permanence about its appearance. I am therefore satisfied it meets the definition of development in this regard.

Main Issues

5. The main issues are the effect of the proposed development on the setting of the heritage asset of the Grade II* listed building, Lindsey House; and whether the character and appearance of Cheyne Conservation Area would be preserved or enhanced.

Reasons

Special interest and significance

6. Lindsey House comprises the residential villa of 95-101 Cheyne Walk on its northern side. The historical significance of Lindsey House derives, in the main, from its architectural execution. Most likely built in 1674, it is three storeys with dormers set within a high tiled roof and stucco fronted. Windows are two each or three in the case of No. 98, square headed with glazing bars. Numbers 100-105 have triple height bays. To No. 98, cast iron balconies are positioned on columns to first and second floors and railings above the cornice. Significantly the status of Lindsey House is further elevated due to its occupants in the name of father Mark, and the ingenious and prolific figure in engineering history, son Isambard Brunel.
7. The appeal site is also of significance as it is located within the Cheyne Conservation Area. It encapsulates fine examples of Georgian and decorated Victorian terraces interspersed by green spaces, with Cheyne Walk occupying an enviable position lining the River Thames as a riverside setting creating an important vista. The CA is recognised for its distinctive and varied townscape as each street has a different character with terraces of uniformity and others more diverse in character. Overall, the significance of the CA derives from its high architectural value with its historic routes intertwined by a tangle of intimate alleyways creating a valuable contribution to the CA.

Appeal proposal and effects

8. The appeal site is located in very close quarters to Lindsay House, within the setting of this designated Grade II* listed asset. The Framework defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. The Framework explains that its extent is not fixed and may change as the asset and its surroundings evolve. Lindsey House sits to the east of the appeal site and given the close physical relationship between buildings, the appeal site is clearly seen in the context of this heritage asset. Due to the ornate characteristics of Lindsey House and its scale, the building appears as an impressive piece of architectural ability within the street scene and its high designated Grade II* status reinforces this. The setting of Lindsey House is overall experienced through a series of strategic road networks populated by buildings along this side of the road that complement rather than compete with it, together with the framing of the River Thames in-front.
9. From my assessment I can see how the pergola structure has been designed to respond to the shape of the host dwelling with its square shaped profile. However, it sits very close to the front edge of the building and is visible from street level and in views from further afield, seen from both directions along Cheyne Walk. The appeal building is a tall and slender house with a flat roof that has a different characteristic to the adjacent houses. Whilst I could see local evidence of structures to other roof tops, and in particular a modern guard rail located atop the mansard roof of the attached building, it is of a very different function and characteristic to the modern and contemporary proposal before me.
10. As I have explained earlier, the frame of the pergola, even though it is finished grey in colour, has a solidness to its structure. It does not appear lightweight in nature. This, and the increased height to the roofline that the pergola creates, draws the eye towards this roofline impacting upon the skyline. The presence of the additional scale, height and massing and contemporary nature, situated so close to the front edge of the roof is in conflict with the character and

massing of the local area where this type of development is not part of the local distinctiveness. In its forward position it competes for attention and draws attention away from the highly graded and nationally important designated heritage asset that is Lindsey House. Therefore, it directly and negatively affects its setting and detracts from the special interest of the asset.

11. Lindsey House is described within the conservation area appraisal as a 'positive building' as it makes a valuable contribution to the historic and architectural character and appearance of the CA. Although the houses to the west of Lindsey House are also described within the appraisal as 'a disparate group of narrow houses', and despite their lack of cohesiveness, and even if the host building has been, according to the appellant 'much altered', they form part of the varied streetscape that is a defining characteristic of the Cheyne CA.
12. The additional height to the building and the bulkiness to its structure in this position creates a dominating effect to the roofline that poorly integrates into the street scene and the local distinctiveness that underpins the special interest of the CA. Therefore, a small but integral component that underpins the character and appearance of the CA as a whole would not be safeguarded but instead be weakened and not preserved or enhanced. Rather, the significance and special interest of the CA would, in a small way be harmed, running contrary to sections 72(1) of the Act.
13. 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 conservation of designated heritage asset's (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 206 goes on to say that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
14. With reference to Paragraphs 205 and 206 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the type and scale of the proposed development, and the degree to which it impacts on the setting of the designated heritage asset, I find the category of harm in this instance to be 'less than substantial'. Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing the asset's optimum viable use.

Public benefits

15. The Planning Practice Guidance entitled Historic Environment, advises that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the Framework. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit.
16. I appreciate the value of the roof terrace that it brings to the appellant and their family, and the structure provides shelter from the elements. It is not however their only outside private space. The benefits are private benefits to the appellant and do not amount to public benefits. I am not persuaded there

is clear and convincing justification for the identified harm to the setting of the heritage asset of Lindsey House. Bearing in mind the overarching statutory duties that apply to listed buildings, these must be given considerable importance and weight and I am satisfied these benefits do not outweigh the material harm to the setting of the heritage asset.

Other Matters

17. Despite the fact no neighbours have objected to the proposal, this is neutral in the overall consideration of things and neither weighs for or against it.

Conclusion

18. Bringing all matters together, I have attached considerable importance and weight to the desirability of avoiding any such harmful effects on the setting of the listed building in accordance with the Act and to the proposal preserving or enhancing the character or appearance of the CA. This proposal would result in a deleterious effect upon how the setting of the heritage asset contributes to its significance and would fail to preserve or enhance the character or appearance of the CA. All things considered, it would not meet the broad objectives of Policies CL1, CL2, CL3, CL4, CL6, CL8 and CL11 of the Kensington and Chelsea Local Plan 2019 that seeks to achieve good design and local distinctiveness and safeguard heritage assets and important views, and the heritage protection aims of the National Planning Policy Framework.
19. Therefore, for the above reasons and having regard to all other matters raised, I conclude that the appeal is dismissed.

Alison Scott

INSPECTOR

