
Appeal Decision

Site visit made on 28 May 2024

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal Ref: APP/K5600/W/23/3336179

76 Kensington Park Road, Kensington and Chelsea, London W11 2PL

- 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 Ski Enterprises Ltd against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/23/00916, dated 3 February 2023, was refused by notice dated 12 October 2023.
 - The development proposed is external alterations, installation of plant and servicing at lower ground floor level and installation of extraction services to the rear of the building.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. 76 Kensington Park Road links at the back to 65 Portobello Road, forming a single structure. This was previously a retail arcade at ground floor level, with storage at lower ground floor level and residential properties over. The appellant now intends to convert the lower part of the building into a restaurant. This change of use from retail is not part of the appeal proposal. The Council agrees that it would not be a material change of use requiring planning permission. Although some neighbours object to the restaurant use, that matter is outside the scope of this decision. The appeal is only about the physical changes specified in the application.
3. I was not able to gain access to the appeal building at my site visit, but was able to see the site and surroundings from the street and from a neighbouring property.

Main issue

4. The main issue is whether the proposal would preserve or enhance the character or appearance of the Ladbroke Conservation Area.

Reasons

5. This part of the conservation area mainly contains a mix of residential and commercial uses. 76 Kensington Park Road is a handsome, classically designed, 4 storey (plus lower ground floor) mid-terrace Victorian building, noted in the

Council's Ladbroke Conservation Area Appraisal (LCAA) as being a positive contributor to the area. In contrast to the highly ornamented, stucco frontage the rear elevation is relatively plain, unadorned brickwork but is still of good proportions and quality. The LCAA advises that where houses were fronted with stucco, money was usually saved by leaving the brickwork to the rear exposed.

6. The Council's objection is to the proposed addition of a 500mm flue pipe at the back, rising some 3 stories from the ground floor to top out above roof level. Due to its height, length and diameter this would be a substantial new feature at the back of the building. It would be clearly visible from Portobello Road, through a gap between buildings, and also from a large number of neighbouring properties. Although the rear elevation of No 76 and its neighbours are more functional and much less decorative than the front elevations, this flue pipe would still stand out as an unsympathetic addition that would be out of scale with the other elements of the rear elevation.
7. The appellant draws my attention to a number of other pipes in the general vicinity. I do not have the full details of these other installations but most of them appear to be smaller in height and/or width and more discreetly sited, often on lower quality buildings. I note in particular that the nearest of these, at 88 Kensington Park Road, appears to be a more modest installation which is hardly noticeable. Despite the many commercial properties in the area, I saw no other comparable flue pipes within the immediate vicinity. Even painted matt grey or black as proposed, the flue pipe would detract significantly from the appearance of the building.
8. There is a row of grade II listed buildings on the other side of Kensington Park Road, at 12-16 Stanley Gardens. The proposed flue pipe would not be seen together with the listed buildings so that the proposal would not affect their settings. Like the Council, I consider that the proposed lightwells at the front would be an improvement over the existing hard surfacing. This does not, however, outweigh or set aside my concerns in regard to the proposed flue.
9. I conclude that the proposal would fail to preserve or enhance the character or appearance of the conservation area. It conflicts in this respect with policies CL1, CL2, CL3 and CL11 of the Local Plan 2019, which seek to secure high quality design that contributes positively to the townscape and protects the special architectural or historic interest of conservation areas. In coming to this conclusion, I give special attention to the desirability of preserving or enhancing the character or appearance of conservation areas and preserving the setting of listed buildings as required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
10. The harm to the conservation area, in the terms of paragraph 205 of the National Planning Policy Framework (the Framework), would be *less than substantial*. I nevertheless give great weight to this matter as directed by the Framework. Paragraph 208 of the Framework states that, where less than substantial harm would be caused, the harm should be weighed against the public benefits of the proposal, including securing the optimum viable use for the heritage asset.
11. It appears that the retail arcade has closed down and this part of the premises is now largely unused. I give significant weight to the economic benefits of bringing the floorspace back into productive use. The Portobello Road area is

well known for a varied and thriving commercial sector and a continued commercial use here would very much be in character. I have not, however, seen any evidence to suggest that there are no alternatives to the proposed flue pipe, or that a restaurant use is the only or optimum viable use for the building. I find that, on the basis of the evidence before me, the public benefits of the scheme would not outweigh the harm which would be caused to the conservation area.

12. I conclude that the proposal would harm the character and appearance of the conservation area and conflicts with the development plan for the area. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR