



Appeal Decision

Site visit made on 26 June 2024

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th July 2024

Appeal Ref: APP/K5600/D/24/3341517

33 Hillgate Place, Kensington and Chelsea, London W8 7SS

- 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 Ms Catherine Gluckstein against the decision of The Royal Borough of Kensington & Chelsea Council.
 - The application Ref is PP/23/07615.
 - The development proposed is the addition of a lower ground floor extension with green roof and landscaping, reconfiguration and replacement of windows on the rear elevation and existing outrigger, addition of a rooflight to the butterfly roof, internal reconfiguration.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - The character and appearance of the host dwelling, the group of buildings of which it forms part and that of the local area, with reference to the Kensington Conservation Area (the CA)
 - The living conditions of neighbouring residential occupiers.

Procedural Matters

3. The appellant has submitted revised plans PR-99 PL.02, PR-100 PL.02, PR-101 PL.02, PR-200 PL.02, PR-300 PL.02 and RR-301 PL.02 with their appeal statement. These are intended to overcome concerns expressed by the Council regarding the character and appearance of the appeal dwelling, the group of which it forms part and that of the CA as well as the living conditions of neighbours. Given that the Council and other interested parties have had opportunity to comment on the revised plans and additional material submitted, I have accepted the revised plans and additional information in line with the Wheatcroft principles¹ (as refined).

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]), Holborn Studios Ltd v LB Hackney EWHC (admin) (June 2020)

Reasons

Character and Appearance

4. The appeal dwelling is a 19th Century 3 storey palisaded terraced house with raised ground and lower ground floor with front area and small garden/yard to the rear. It has a butterfly roof form set behind a parapet, which terminates the stucco front façade.
5. The design and scale of the appeal dwelling reflects that of the other houses in the terrace, with the exception of the adjoining dwelling at 26 Hillgate Street, which is a four storey corner property at the end. This reflects the design and scale of the group of taller dwellings that form a group on 3 of the 4 corner plots at the junction of Hillgate Place with Hillgate street.
6. This part of Kensington and Chelsea has been recognised as an important heritage asset through the designation of the CA by the Council. The Kensington Conservation Area Character Appraisal (2017) (the CA Appraisal) clarifies its significance as an area with a highly urban form, comprising solidly developed streets made up of largely 19th Century buildings, many of architectural significance. The CA Appraisal also notes the appeal dwelling as making a positive contribution to the CA. In line with the duty imposed on me by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have given considerable importance and weight to the desirability of preserving or enhancing the character or appearance of the CA.
7. In response to the reasons for refusal, the appellant has revised the proposal as part of their appeal submission. These revisions include the retention of an existing rear ground floor window, the retention of the existing railings to the first floor rear terrace, the omission of the planting boxes included in the original application and a window and not a new door is now proposed for the side elevation of the outrigger.
8. The proposed lower ground floor rear extension remains unaltered in the appeal proposal in terms of its depth, design, materiality and projection beyond the existing outrigger. This proposed extension would have a flat green/planted roof and would be built over the majority of the small rear/yard garden, with only a strip of garden retained to its rear. While this retained strip would be the full width of the garden it would be only approximately 1 metre deep. A separate lightwell with planting is proposed to the side of the existing outrigger, measuring approximately 2 metres x 2 metres, which would be located to the centre of the extended dwelling and enclosed on 4 sides.
9. Due to its scale and the limited size of the existing rear garden/yard, the proposed rear lower ground floor extension would impose itself over this open area to the rear of the appeal dwelling. This would encroach on the gap between the houses in the terrace of which the appeal dwelling forms part and those terraced houses on Kensington Place that back on to them, which have rear gardens/yards of similar size. In this regard the proposal would fail to reflect the character and appearance of the appeal dwelling and the rear of the terrace of which it forms part, which appears from my site visit to retain most of their garden/yards and, where extended, to reflect the scale of their host dwellings and open rear areas.

10. Whilst there is an example of an extension that covers virtually all of the rear garden/yard of a nearby property fronting Kensington Place, which is visible from the rear of the appeal dwelling. This appears to be of some age, and I have been provided with no planning details. This, however, exhibits the dominating and incongruous visual effect that would result from the appeal proposal that I have identified above.
11. For these reasons, the proposed extension would appear dominant and incongruous in rear views of the appeal dwelling from surrounding houses. The proposed extension would therefore fail to appear as a subordinate addition to the appeal dwelling and the terrace of which it forms part, and would detract from the contribution that the appeal dwelling, and the terrace make to the significance of the CA.
12. As the revised appeal proposal retains the existing railings and omits the planters to the first floor terrace, the appeal dwelling remains as existing in this regard. I find, therefore that this overcomes the second reason for refusal of the Council's decision notice.
13. The other proposed changes to the windows of the dwelling and the rooflight in the butterfly roof are modest changes that reflect the existing architectural expression of the appeal dwelling, or have very limited presence in any views both public and private and result in no significant harm to the character and appearance of the appeal dwelling or that of the CA.

Living Conditions

14. The appellant's appeal revision for a window and not a door for the side elevation of the outrigger, as originally proposed, would not allow for access to the roof of the proposed lower ground floor extension and would face onto the rear of properties on Hillgate Street. Without this revision, I find that, as originally proposed, the roof of the proposed lower ground floor extension could be accessed and used as an amenity space by occupiers of the appeal dwelling. This would result in substantial overlooking and concomitant loss of privacy of neighbouring residential occupiers, which would be to the extent that would be significantly harmful to their living conditions.
15. Consequently, the revised proposal does not result in any significant increase in overlooking of neighbouring properties and would not cause any significant loss of privacy or any significant harm to the living conditions of neighbouring residential occupiers. I find, therefore, that this overcomes the third reason for refusal of the Council's decision notice. Lack of harm in this instance is a neutral factor in my considerations.

Other Matters

16. The appellant has set out in their appeal statement concerns with regard to communication with the Council and behaviour during the planning application process. However, there are other procedures in place that relate to such matters, and these are not issues for me to consider as part of this appeal, where I can only consider such issues as they relate to the appeal.
17. For the reasons given above, I find that the proposed development, when considered as a whole, would be harmful to the character and appearance of

the host dwelling, the terrace of which it forms part and would fail to preserve or enhance that of the CA. In the context of paragraph 208 of the National Planning Policy Framework (2023) (the Framework), the harm I have identified to the significance of the CA would be less than substantial.

18. This would conflict with Policies CL1, CL2, CL3, CL6, CL9 and CL11 of The Royal Borough Kensington and Chelsea Local Plan (2019). For these reasons, the proposal would also be in accordance with Policies D3 and HC1 of the London Plan (2021) and sections 12 and 16 of the National Planning Policy Framework (2023).), which seek to ensure development, including extension, is sympathetic to the age and character of the host building and groups of buildings and reinforces their original integrity, does not harm the character and appearance of the existing building, respects the existing context, is of high architectural and urban design quality and preserves or enhances the appearance and character of conservation areas.

Planning Balance and Conclusion

19. Whilst the proposed extension would provide additional living space, which would benefit existing and potential future occupiers, this does not constitute a substantial public benefit. In general, planning decisions should be made in the wider public interest. In this context, the harm I have identified, including the less than substantial harm to the significance of the CA outweighs these benefits.
20. Dismissing the appeal is a proportionate response in this instance.

Victor Callister

INSPECTOR