

Appeal Decision

Site visit made on 19 September 2024

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2024

Appeal Ref: APP/K5600/D/24/3343424

90 Palace Gardens Terrace, Kensington and Chelsea, London W8 4RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Andy Coulson against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/24/00602.
 - The application sought planning permission for Replacement windows and doors on the front and rear elevation. Extension to existing front vaults. Re-design of internal layout of lower ground, first, second floors; conversion of attic into habitable space; add two dormer windows to rear elevation; installation of Juliette balcony to rear façade and opening rear enclosed lightwell on lower ground floor for access to rear garden level. Installation of external acoustic enclosure, without complying with a condition attached to planning permission Ref PP/23/06275, dated 29 November 2023.
 - The condition in dispute is No 2 which states that: The development shall not be carried out except in complete accordance with the details shown on submitted plans PL010 Rev A, PL050 Rev A, PL051 Rev A, PL052 Rev A, PL053 Rev A, PL054 Rev A, PL055 Rev A, PL056 Rev A, PL057 Rev A, PL200 Rev A, PL201 Rev A, PL202 Rev A, PL203 Rev A, PL204 Rev A, PL205 Rev A, PL300 Rev A, PL310 Rev A.
 - The reason given for the condition is: The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application subject to this appeal is made under Section 73 of the Planning Act for the variation of a condition to make minor material amendments. This type of application is possible as a condition was imposed on the original permission specifying that the development shall be carried out in accordance with the schedule of plans attached to the decision, Condition Number 2.

3. Permission has been granted for development to the site that entailed, amongst other things, new windows and two dormer windows to the rear roof slope. The appellant intends to vary the approved plans in order to change the dormer window to the rear by providing a lead infill between them. Front garden changes are also proposed. However, as this is not in contention between the parties and I have no reason to come to an alternative view on the matter, I will concentrate on the proposed changes to the roof dormer.
4. The appeal site is located within the Kensington Palace Conservation Area (KPCA). Therefore, as the proposal relates to a designated heritage asset, I have had special regard to section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act.

Main Issue

5. The main issue is whether or not the proposal would preserve or enhance the character or appearance of the Kensington Palace Conservation Area (KPCA).

Reasons

6. The special features of the KPCA include its well-ordered streets and refined frontages. These consist of elegant terraces with stuccoed front elevations displaying elaborate architectural details, ornate and uniformly arranged windows, porches, boundary walls and door openings that are all mostly well preserved. The rear façades of dwellings seen in this part of the KPCA is of a more decoratively restrained composition with flat facades but a strong homogeneity to their character with commonality in materials, particularly the use of London stock brick, window alignment and hierarchy to their order. Even though the character appraisal for the CA may not identify the importance of rear elevations, they contribute positively to its character and I could see from my observations that the rear elevation of the appeal site remains largely in-tact
7. To the rear elevation, Number 90 sits more closely associated with its adjoining neighbours to the south than to the run of five storey houses to the north as it is a storey lower and shares the same ridge and eaves line and fenestration style and pattern as those to the south. Most houses along the terrace to the south have rear facing roof lights and a dormer window was apparent.
8. The approved dormers would follow the hierarchy of the windows of this dwelling as they characteristically decrease in size the further up the building. They are also consistent with the vertical emphasis of the dwelling. This proposal would join them together using leadwork. Despite the set back, they would demonstrate the characteristics of a large single box style dormer window. They would not read as two distinctive dormers but read as one complete top heavy and bulky entity.
9. The originally designed and approved acceptable proportionality, would be harmfully compromised. It would not be a subservient feature to this mid-19th Century villa and therefore not respect the historic composition of the host dwelling.

10. Although the dormer would be visible in largely private views from within the CA, even so, I find it would have a harmful effect upon the character and appearance of the CA that would be weakened as a consequence and would not be preserved or enhanced and as such be contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
11. Paragraph 205 of the National Planning Policy Framework (the Framework) informs that when considering the impact of a proposal on the heritage asset, great weight should be given to the asset's conservation. Paragraph 206 advises that any harm to the significance of the heritage asset should require clear and convincing justification. Also, with reference to the Framework and proposals affecting heritage assets, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the impact of the proposal, I find that the harm to be 'less than substantial' in this instance. This harm should be weighed against the public benefits of the proposal. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the Framework.
12. In this case, the benefits of an improved living space within the attic would be a private benefit to the appellant and is not ascribed as a public benefit.
13. Therefore, to conclude on this main issue, the proposal would not preserve or enhance the character or appearance of the CA. This would be contrary to the requirements of the Act and Policies CL1, CL2, CL3, CL8 and CL11 of the Kensington and Chelsea Local Plan 2019 that seeks to achieve good design and local distinctiveness, safeguard view, and preserve heritage assets.

Other Matters

14. Another Inspector's decision has been brought to my attention for an infill extension to the rear of the dwelling along Palace Gardens Terrace. However, as this was at first floor level it cannot be favourably compared to the proposal before me that relates to roof dormers. I therefore apportion it only minimal weight in my decision. In any case, the appeal is determined on its own individual merits.

Conclusion

15. The proposal would conflict with the development plan as a whole and there are no other material considerations which lead me to determine the appeal otherwise than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

Alison Scott

INSPECTOR

