



Appeal Decision

Site visit made on 23 September 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2024

Appeal Ref: APP/K5600/W/24/3344681

10 Upper Cheyne Row, London SW3 5JN

- 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 and Mrs Pirard against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/23/08216.
 - The development proposed is Various External Alterations to Front and Side of Dwelling; Roof Alterations; and Front Boundary Treatment Works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended plans as part of their appeal. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
3. Established case law states that, in considering whether, or not, to accept amendments to a proposal during the appeal process, it must be considered whether the proposed change involves a "substantial difference" or a "fundamental change" to the application and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal. A 'substantial difference' or a 'fundamental change' could also be as a result of a series of small, incremental changes to a scheme.
4. The amendments relate to a number of changes including removal of the proposed pedestrian gate in the front boundary wall, removal of the proposed French doors in the front bay window, retention of the existing steps to the front entrance with a slight reduction in height of the door, installation of flush roof vents to match the colour of the existing roof tiles, painting of the window casements black and frames white on the front elevation, retention of the fabric from the gate pier in its reconstruction in the proposed new position, removal of paint on the ground floor of the front elevation using an appropriate method, replacement of damaged roof and wall tiles like-for-like and retaining as many historic tiles as possible.

5. The appellant argues that the amendments do not involve a "substantial difference" or a "fundamental change", pointing to the Council's agreement that the amendments would not change the description of the development. However, the description of development is fairly broad, and the Council are of the view that the amendments would fundamentally alter the scheme and could have resulted in a different recommendation. These are material matters affecting the determination of this appeal. As such, the suggested amendments do not pass the substantive test and I do not accept them. Given this conclusion, I have not considered whether the suggested amendments pass the procedural test. Consequently, for the avoidance of doubt, I have determined the appeal on the proposal and plans that the Council determined the application on.

Main Issue

6. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Cheyne Conservation Area (the CA) and its effect on the significance of the non-designated heritage asset (NDHA) known as 10 Upper Cheyne Row (No 10).

Reasons

Significance of the CA and the NDHA

7. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. In addition, the National Planning Policy Framework (the Framework) requires great weight to be given to the conservation of designated heritage assets. The Framework also indicates that the effect on the significance of a non-designated heritage asset should be taken into account.
8. The CA, within which the appeal site is located, derives its significance from a combination of its architectural, historical and cultural attributes including a variety of Georgian, Victorian and Edwardian buildings, many of which are listed, its attractive green spaces, riverside views and notable historical figures. Known as the 'village of palaces', the CA's rich and extensive historical background precedes that of Kensington Palace.
9. While the appeal property is not locally listed, it is identified in the Cheyne Conservation Area Appraisal (January 2017) as a building that makes a positive contribution to the historic and architectural character and appearance of the CA and is recognised by the appellant as a NDHA.
10. Built in 1923 and designed by A. M. Cawthorne, the appeal property is a two-storey semi-detached dwelling which forms a pair with 8 Upper Cheyne Row (No 8) and is located within a predominantly residential area. Their well-preserved design and symmetry are fine examples of domestic revival houses, rare within central London. Nos 8 and 10 (the pair) are set back from the road with large front gardens. No 10 has a stone boundary wall with tiled copings and roofed gate piers to the front. This boundary treatment is consistent with those in the group of houses designed by Cawthorne at 4 – 14 Upper Cheyne Row.

Effect of the Proposal on the CA and NDHA

11. The proposed alterations to the front door, including removal of the existing steps and bringing the door forward to the main building line, would disrupt the symmetry of the pair and remove a traditional porch which is integral to the original design of the house.
12. The proposed relocation of the main entrance from the front to the side elevation of the house with a new recessed main door at the side would give prominence to the side elevation and erode the legibility and original design of the house.
13. The addition of French doors to the front bay window and a window to the side of the front bay would further erode the symmetry of the pair. Furthermore, French doors are an uncharacteristic feature of front elevations in the street and would be anomalous within this context. While the ground floor of the appeal property is largely screened from public view by the front boundary wall, the proposed changes would, nevertheless, harmfully effect the existing cohesive design and character of the house.
14. Notwithstanding the appellant's evidence in relation to the proposals for the side elevation and its effect on the structure, the proposed replacement of the existing casement windows with doors, along with the addition of a new main door as described above, would give further prominence to the side elevation and harm the character and appearance of the house. While there are limited public views of the side elevation, it can be viewed from more private vantage points. Notwithstanding this, the side and rear of buildings form an important part of the character of the CA.
15. The proposed replacement of the existing roof and wall tiles, which have darkened in colour with age, with new red clay tiles would substantially alter the appearance of the house given the large extent of the tiled areas. The appearance of the new tiles would further disturb the harmony of the pair as the roof and wall tiles of No 8 are original to the house. This patina of age contributes significantly to the character and appearance of the CA. The loss of the existing tiles would have a harmful effect on the host building, the pair and the wider CA. In addition, the colour of the proposed roof vents at the rear would be inconsistent with the colour of the proposed tiles.
16. Like No 8, part of the appeal property's side elevation is rendered white. However, there is no evidence that this formed part of the original design of the houses. If this appeal were allowed, a condition would be necessary to prevent any damage to the brickwork under the render. This would also apply to the removal of paint work on the ground floor of the front elevation.
17. The appeal property has an existing roof lantern which is the same size as roof lantern of No 8. The existing roof lantern is not visible from the street. However, the proposal to replace it with a larger roof lantern which would be closer to the front elevation could mean that it would be visible from the street and further disrupt the balance of the pair. The proposal to paint the windows black including the casements and the wider frames would also undermine the visual harmony of the pair.

18. The proposed addition of a pedestrian gate to the front boundary wall and widening of the vehicular gate by repositioning one of the gate piers would disrupt the existing rhythm of openings in the boundary wall within the group of houses 4 -14 Upper Cheyne Row and further compromise the symmetry of the pair.
19. Consequently, the proposal would significantly harm the character and appearance of the NDHA and would fail to preserve or enhance the character and appearance of the CA, although the harm would be less than substantial in terms of the Framework.

Public Benefits

20. Paragraph 208 of the Framework establishes that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset (in this case the CA), this harm should be weighed against the public benefits of the proposal. Paragraph 209 of the Framework also suggests a weighing exercise in relation to proposals affecting NDHA, that has regard to the scale of harm or loss and the significance of the heritage assets.
21. While the proposal would not alter the scale or the use of the appeal building, interrupt important views or impact on the setting of a landmark, these are neutral matters which weigh neither in favour nor against the proposal.
22. The appellant indicates that the condition of the property has been neglected by previous owners and the proposal will bring it to an appropriate and modern living standard. However, this would largely amount to a private benefit to occupiers of the dwelling, so I am only able to give this very limited weight.
23. The proposal includes an additional gable window to the front elevation to match No 8, removal of paint from the ground floor brickwork, reinstatement of cast iron pipes and use of traditional materials. These are all positive benefits, however, given their small scale in the context of the CA, the weight afforded to these benefits is limited.
24. Paragraph 205 of the Framework establishes that great weight should be given to the conservation of a designated heritage asset, and the limited benefits I have found would not be sufficient to outweigh the harm identified to the CA. The proposal would also detrimentally harm the significance of the NDHA, and the limited benefits found would not outweigh the significant harm identified.
25. For the reasons above, I conclude that the proposed development would neither preserve or enhance the character or appearance of the CA and would cause significant harm to the NDHA. Hence, it would conflict with Policies CL1, CL2 CL3, CL6, CL8 and CL11 of the Local Plan (September 2019) insofar as they require development to respect the existing character and appearance of buildings and their surroundings, preserve or enhance conservation areas, be sympathetic to the age and character of a building and group of buildings with regard to roof alterations, and protect and enhance views that contribute to the character and quality of the area. It

would also be contrary to the Framework in relation to conserving and enhancing the historic environment.

Other Matter

26. I acknowledge the appellant's concerns with the Council's handling of the case, but in reaching my decision I have been concerned only with the planning merits of the case.

Conclusion

27. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

U P Han

INSPECTOR