



Appeal Decision

Site visit made on 8 October 2024

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/K5600/W/24/3346180

8 Berkeley Gardens, Kensington and Chelsea, London, W8 4AP

- 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 Tobias Punga against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/24/01699.
 - The development proposed is alterations at roof level and creation of roof terrace.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time of the Council's Decision on the application which is the subject of this appeal, the adopted development plan was The Royal Borough of Kensington and Chelsea Local Plan, September 2019. However, the Royal Borough of Kensington and Chelsea New Local Plan Review (LP) was adopted in July 2024 and is the extant adopted development plan. In the interests of natural justice both main parties have had a chance to comment on the relevance of the new local plan to this appeal. I have had regard to these comments and have determined this appeal on the basis of the current adopted local plan.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the area; including whether or not the proposed development would preserve or enhance the character or appearance of the Kensington Palace Conservation Area.

Reasons

4. The appeal site is a four storey plus lower ground floor building which forms part of a terrace fronting Berkeley Gardens. The appeal site is situated within the Kensington Palace Conservation Area (CA). The Kensington Palace Conservation Area Proposals Statement (CAPS) identifies key features in the CA including Kensington Palace itself, Kensington Gardens and Hyde Park which are encompassed by grand houses. The CAPS states that "8-11 Berkeley Gardens forms a symmetrical 3-storey group with very similar details to those at 21-23 Brunswick Gardens around the corner. Facing it, the terrace formed by 4-7 Berkeley Gardens picks up the details of its adjacent Brunswick Gardens block through the rhythm of bay windows set up by those three bayed houses is subtly altered to fit the more common two-bay format in

Berkeley Gardens. The parapet line is more consistent though the cornice details have disappeared. The view down Berkeley Gardens from Kensington Church Street presents a powerful display of Victorian speculative domestic architecture.”¹

5. The appeal property is finished in white render and painted brick and is set back from the road behind detailed black metal railings. Further railings are present at first floor level. Though some design differences are present, there is a strong consistency to the design and articulation of the buildings in the area. The properties within the terrace which contains No 8 have a similar character and appearance with a consistent building height and a coherent palette of materials. These features create a strong sense of uniformity to the street scene and characterise this part of the CA. In my view, the host property and the terrace of which it is part make a positive contribution to the significance of the CA.
6. The appeal site is in the process of conversion to a single family dwellinghouse following a grant of planning permission in early 2024². The proposal comprises alterations at roof level to facilitate a roof terrace to a previously approved replacement mansard roof³. The terrace would measure around 16.8sqm and be set back approximately 1.8m from the existing build line to the front and 1.5m from the existing build line to the rear.
7. The evidence before me indicates that the appeal site would be designated within the CAPS as “Category 2 – No additional storeys: rationalisation, improvement or adaption of existing roof profiles” which covers properties where: “Additional storeys would be inappropriate but where existing top floors are sufficiently varied for alterations leading to significant improvements to be contemplated. This might mean the removal of whole storeys, dormers, skylights or roof terraces added to the original design or their improvement. It also allows for the adaption of roof spaces with skylights or dormers of appropriate design in suitable locations. Adaptions which alter the profile of the roof are not acceptable under this category”.⁴ This guidance sets out only that such alterations, where they lead to significant improvements, should be contemplated. It does not suggest that they would always be allowed.
8. The proposed roof terrace would be enclosed by cast iron railings with a black powder coated finish. The proposed railings would sit significantly higher than the rooflines of the neighbouring properties at 8-11 Berkeley Gardens. These properties, at present, do not have roof level additions and the roofs are of a similar height. In my view, the proposal would appear as a visually jarring interruption to the consistent rhythm of the roofline of the terrace. Moreover, the proposed railings would erode the symmetry which is noted within the CAPS.
9. The addition of these railings at roof level would visually elongate the appeal property and would thus fail to respect the scale and proportions which characterise the host dwelling and the terrace of which it is part. The simplistic design of the proposed railings would also fail to reflect the more delicate,

¹ Pages 17 and 18 CAPS

² Ref PP/23/08023

³ Ref PP/22/06152

⁴ Page 29 CAPS

intricately designed and detailed railings which are prevalent in the area and are a feature of the host dwelling.

10. I note that due to its set back the terrace and railings would be partially screened from some viewpoints. However, Conservation Areas are to be experienced from both the public and the private realm and views would nevertheless be possible, including views from other nearby properties.
11. Consequently, for the reasons set out above, I consider that the proposal would be visually unsympathetic and would erode the unbroken, uniform appearance and rhythm of the buildings within the street. The proposal would, therefore, cause harm to the character and appearance of the area and would fail to preserve or enhance the character or appearance of the Conservation Area. Due to the small scale of the proposal the harm to the heritage asset would be less than substantial.
12. The approach in the National Planning Policy Framework (the Framework) is that where a proposal would lead to less than substantial harm to a heritage asset, as in this case, that harm should be balanced against the public benefits of the proposal.
13. I acknowledge that providing access to additional amenity space for use in association with the property would be a highly desirable benefit of the scheme for the occupiers of the property. However, this would be of private benefit to the appellant and would not offer wider public benefits.
14. On the other side of the balance, I have identified that the proposal would fail to preserve or enhance the character or appearance of the area and as such would not meet the statutory requirements set out in s72 (1) of the Town and Country Planning (Listed Buildings and Conservation Areas Act) 1990 and would cause harm to the significance of the heritage asset. The Framework indicates that great weight should be given to a heritage asset's conservation. Accordingly, the public benefits of the scheme do not outweigh the harm identified.
15. For these reasons, I consider that the proposal would be an unsympathetic addition which would fail to preserve or enhance the character or appearance of the CA. As such, the proposal would be contrary to Policies CD1, CD2 and CD10 of the Royal Borough of Kensington and Chelsea New Local Plan Review, July 2024 (LP). Amongst other things these policies seek to ensure that development is of a high standard of design, is beautiful and respects the existing context. The proposal would also conflict with LP Policy CD4 which states that development is required to preserve or enhance the character or appearance and significance of the conservation area.
16. Furthermore, the proposal would fail to accord with LP Policy CD12 which requires roof alterations to be sympathetic to the form and character of the building or group of buildings of which it would be part.

Other Matters

17. I note that the appellant has made changes from the scheme upon which pre-application advice was sought with the aim of overcoming the harm which was identified. However, in my view, the revised scheme would, nevertheless, cause harm to the character and appearance of the area.

18. The appellant has provided details of other properties within the area where alterations including roof terraces have been approved. Though other examples of similar schemes can be a factor in determining whether a scheme would be compatible with the area in planning terms, each case must be determined on its own merits based on the specific circumstances at each site. These circumstances will rarely, if ever, be identical.
19. A scheme at 106 Kensington Church Street and 8B Berkeley Gardens was approved in 2021⁵. This site is situated next door to the appeal site. However, the building at No 8B differs from the appeal building in a number of important ways. The property at 8B is of a markedly different appearance to the appeal property and is not a part of the symmetrical group referred to in the CAPS which includes No 8. The delegated report which accompanies the planning permission at No 8B is also clear that the proposed alterations at roof level would not be evident in public or private views and also comments that the building at No 8B is a tall building which bookends the terrace. As such, I do not consider that this scheme is directly comparable to that which is before me.
20. I also note the planning permissions which have been granted in nearby Brunswick Gardens⁶. Though similar, these schemes also differ from the appeal proposal in respect of the specific designs of the buildings. The scheme at No 6 Brunswick Gardens would, for example, be set back further at both the front and rear elevations and the railings at No 18 would be set back significantly further still, thus reducing their visual impact. The evidence before me also indicates that the decisions taken by the Council were finely balanced. The specific circumstances of these proposals and the immediate context within which they sit is such that, on balance and using their planning judgement, the Council took a different view and granted planning permission. The existence of these other examples is not a sufficient justification for granting planning permission.
21. My attention has also been drawn to a scheme at 32 Palace Gardens Terrace which was allowed on appeal in 2019⁷. As with the other examples to which I have been pointed, this scheme differs in that the Inspector noted a number of other examples of visible roof level railings and paraphernalia within the immediate vicinity of the appeal property. The evidence before me and my own observations on site lead me to conclude that this is not the case at the appeal site. Furthermore, the proposed railings at No 32 also appear to have been sited some 3.5m from the front elevation of the property thus further reducing their visual impact.
22. In any event, whilst the wider context is a consideration, in this instance I have found that the proposal would cause harm which would not be overcome by the presence of other examples.
23. The Council refer to Policy CL11 of the previous Local Plan which was superseded by Policy CD15 of the LP. I have, however, not made direct reference to this policy in my decision as it appears to relate to strategic or key views that contribute to the character and quality of an area. Due to the

⁵ PP/21/00596

⁶ PP/23/02417 and PP/19/04145

⁷ APP/K5600/C/18/3206739

scale of the proposal before me, in my view, this policy is of limited relevance in the context of this particular appeal.

Conclusion

24. For the reasons set out above, the proposal is contrary to the development plan. There are no material considerations that indicate that permission should be granted. Therefore, taking all other matters raised into account, the appeal is dismissed.

L J O'Brien

INSPECTOR