



The Planning Inspectorate

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117 - 987 8927
Switchboard 0117 - 987 8000
Fax No 0117 - 987 8139
GTN 1374 - 8927
E-mail ENQUIRIES.PINS@GTNET.GOV.UK

GVA Grimley
10 Stratton Street
London
W1X 6JR

Your Ref:
MLD/029727859
Our Ref:
T/APP/K5600/A/98/1011582/P7

Date: - 2 MAR 1999

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 & SCHEDULE 6
APPEAL BY TARHOUSE MANAGEMENT LIMITED
APPLICATION NO: TP/98/1479**

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your client's appeal against the failure of the Council of the Royal Borough of Kensington and Chelsea to determine within the required period an application for the extension, refurbishment and change of use from hotel to apart-hotel at De Vere Hotel, 1-3 De Vere Gardens (60 Hyde Park Gate), London, W8. I held a local inquiry on 17 and 18 February 1999.

The appeal property and surroundings

2. The appeal property lies within the De Vere Conservation Area in a prominent position on the corner of Hyde Park Gate and De Vere Gardens overlooking Kensington Gardens to the north. This is an important area of Metropolitan Open Land. The area to the south is predominantly residential in character.

3. The front elevation of the appeal property is 5 storeys with an existing single storey mansard roof. Part of the mainly 5 storey western side elevation has an existing single storey mansard roof. There is a tall flagpole, fire escape access door and other structures on top of the roof, such as water tanks and a lift motor room. A boiler flue also protrudes above the roofline. Externally and internally, the appeal property is in fair, but neglected condition. The rear aspect has a rather dingy appearance.

4. The appeal property adjoins 58 and 59 Hyde Park Gate and 1 Palace Gate to the east. These buildings of 4 and 5 storeys have mainly double and part single mansard roofs. There is a rooftop fire escape walkway linking the appeal property to these adjoining properties. Further to the east is Thorney Court which varies between 8 and 11 storeys with an irregular shaped roof.

5. To the west, on the opposite corner of De Vere Gardens, is Kensington Palace Hotel, a 5 storey building with high roof top plant and other structures. Further to the west is Prince of Wales Terrace. Both sides of the Hyde Park Gate frontage of the Terrace are of four storeys with double height mansards and are fairly symmetrical and uniform in appearance.



Revised appeal proposal

6. At the beginning of the inquiry, the appellant requested that the appeal should proceed on the basis of the altered drawings submitted by letter dated 22 January 1999. The changes include the reduction and redesign of the proposed mansard roofs, and the internal re-configuration of the fifth and sixth floors. This would reduce the total number of bedrooms from 93 to 83. During the inquiry, the appellant agreed to all of the proposed mansard roofs being clad in natural slate.

7. The original appeal site has not been extended, and I am satisfied that the changes do not amount to a substantially different proposal. Interested persons would not, in my opinion, be prejudiced by my considering the appeal on the basis of the modified proposals. The Council raised no objection, and this is what I have done.

The main issues in the appeal

8. I consider the main issues in this appeal to be the effect of the proposal on the character and appearance of this part of the De Vere Conservation Area, on the appeal property and on the living conditions of adjoining residents.

The planning policy framework

9. Policies STRAT6, CD48 and CD52 of the 1995 adopted Unitary Development Plan for the Royal Borough aim to preserve or enhance the character or appearance of conservation areas. Policies STRAT7 and CD25 aim to secure high design standards generally, and Policy CD53 seeks to ensure that development in conservation areas specifically is of a high design standard. Criteria such as scale, height and bulk are relevant. Policy CD54 is concerned with the effect of proposals on views within, into, and out of conservation areas. Policy CD49 encourages the improvement of the environment of conservation areas.

10. Policy CD38 normally resists additional storeys and roof level alterations; in particular when (b) the building or terrace already has an additional storey or mansard, and (e) where the roofline is exposed to long views from public spaces and the proposal would have an intrusive impact on those views. Policy CD39 normally permits additional storeys and roof level alterations where (a) the proposal would help to re-unite a variety of roof extensions, and (b) where the alterations are architecturally sympathetic to the age and character of the building.

11. The 1985 adopted De Vere, Kensington Court and Cornwall Conservation Areas Proposals Statement shows most of the appeal property (1 De Vere Gardens and 60 Hyde Park Gate) as having a Category 3 roofline where there should be no additional storeys save for some exceptions. The remainder of the appeal property (3 De Vere Gardens) and the adjoining terrace to the south have Category 2 rooflines where there should be absolutely no change to the roofs.

12. Policy CD11 requires extensions to existing buildings which can be seen from Kensington Gardens not to exceed the general height of buildings, and Policy CD23 seeks to protect Kensington Gardens from development which would have an adverse effect on its setting or enjoyment.

13. Policy STRAT1 seeks generally to protect and enhance residential amenity, and Policy CD41 sets out the criteria for assessing the impact of rear extensions on neighbouring properties. Policies CD28 and CD30 are concerned with sunlight, daylight and privacy.

14. Policy T2 generally allows extensions to existing hotels, and Policy T3 normally permits proposals which involve a reduction of bedrooms in existing hotels.

The effect on the Conservation Area and appeal property

15. Regarding the impact of the appeal proposal on this part of the De Vere Conservation Area and on the appeal property itself, I acknowledge that the surrounding area is varied in character, not least due to the different building heights, ages and styles.

16. However, the roof heights of the appeal property and the adjoining properties 58 and 59 Hyde Park Gate and 1 Palace Gate to the east are about the same, so that the overall building bulk looks reasonably balanced. The additional mansard roof on the front elevation would distort that uniformity, and this would be particularly noticeable from Kensington Gardens which rises gently to the north.

17. The front elevation would look odd on two other counts. First, unlike the existing mansard, the proposed additional mansard would not be the full width of the elevation and would therefore not appear as an integral part of the design of the building. Second, the symmetry of the proposed additional front mansard would be distorted by views of the wall of the enclosed fire escape which is recessed to the east.

18. The design of the double mansard on the De Vere Gardens elevation is unusual in the way that it is stepped back. Also, the hipped southern end of the proposed second level mansard would give a lopsided appearance to the mansard as a whole. Given the number and configuration of the 2 proposed rows of dormer windows there would be a jagged tooth-like effect. This would contrast adversely with the simple roofline of the Category 2 buildings to the south.

19. Though the second level mansard would not be visible from street level in De Vere Gardens, the whole of the double mansard would be apparent from the hotel windows opposite. From here the proposed double height mansard would look top heavy in my opinion.

20. \When viewed from the north west, particularly from Kensington Gardens, the proposed double mansard would appear dominant in my assessment. This would detract from the existing reasonably balanced appearance of the appeal property. The effect would be compounded by the proposed raising of the several chimney stacks by some 2 metres. I appreciate though that these serve dummy flues and therefore the chimneys may not need to be raised for health reasons.

21. Taking account of the above and my observations, the appeal proposal would not in my judgement, overall, preserve or enhance the character or appearance of this part of the De Vere Conservation Area, but rather would detract from it. I conclude also that the appeal proposal would harm the character and appearance of the appeal property itself.

22. In coming to these conclusions, I have allowed for the facts that much of the existing clutter on the roof would be removed or hidden, that the existing facades and decorative features would be restored, and that external pipes would be removed as part of the refurbishment scheme.

The effect on residential amenity

23. Turning to the question of the impact of the appeal proposal on residential amenity, I appreciate that there would be some improvement in the outlook from the bedroom and living room windows of the flats in 58/59 Hyde Park Gate. This would result in part from the use of lighter coloured brickwork on the proposed rear extension.

24. However, judging from my observations and given the height of the proposed steeply sloping, slate clad rear mansard, I believe that it would appear somewhat oppressive from the adjoining properties and increase the existing sense of enclosure. I conclude that this weighs against the appeal proposal.

Development Plan conclusions

25. I further conclude that whilst the appeal proposal accords with some policies of the development plan in whole or in part, particularly T2 and T3, it is contrary to a greater or lesser extent to the others mentioned above, notably CD38 and CD39 and those Policies concerned with the effect of development proposals on conservation areas.

Other material considerations

26. In July 1998, the Council granted planning permission for the use of the appeal property as an apartment-hotel which included the erection of a single mansard roof extension. The additional storey was considered to unify the roofscape on the De Vere Gardens elevation and was therefore allowed as an exception to the Category 3 roofline policy.

27. However, the appellant's evidence was that this approved scheme was not economically viable and would not therefore be built. The point being that if the current appeal scheme was not permitted, the existing 2-3 star hotel use would continue substantially in its present form with only relatively modest improvements being made, such as some re-painting. The opportunity to upgrade the appeal property to a 4-5 star apart-hotel would be lost together with several benefits, including the removal of roof clutter, extensive restoration of the facades, and visual improvements to the rear.

28. None of the additional benefits would be realised either. In particular, the proposed quality apart-hotel would be likely to generate less coach traffic than that currently associated with "package break" element of the existing hotel use. Allowing this appeal would enable the various hotel uses which currently operate without restriction, such as the restaurant, to be brought under control. Occupancy periods would be longer, thus reducing the number of comings and goings. There would be additional and more secure employment, and a boost to the tourism economy of London.

29. Whilst the Council questioned the basis of the appellant's valuation exercise, they produced no counter evidence of their own in order to show that the approved scheme could

be viable. Given the robustness of the appellant's argument, I accept that under present economic circumstances it is highly unlikely that the approved scheme will proceed.

30. That said, I am not persuaded that none of the benefits associated with the appeal scheme could not be carried out. For example, it seems to me that the tall roof top flagpole could be removed fairly easily at modest cost. There is, in any event, a question remaining as to whether the owners of 58/59 Hyde Park Gate would formally agree to the redesign of the fire escape stairs which would allow the removal of the fire escape walkway to take place. Also, it appears that the current lack of control of the existing hotel use has not been the cause of serious problems or complaints.

31. Having carefully weighed all the potential benefits, I conclude, on balance, that they do not outweigh the policy objections to the appeal proposal and the overall harm it would cause to the character and appearance of this important and prominent location.

Conditions and other matters

32. I have studied the Council's suggested conditions and taken account of the appellant's reaction to them and of the appellant's suggested Grampian style condition aimed at securing the removal of items of roof clutter, in particular the fire escape walkway. However, I do not believe that these conditions would substantially overcome the objections to the appeal proposal.

33. The 1989 appeal decision letter relating to Hotel Oliver, referred to by the Council, is not especially relevant in that the property at that time did not lie within a conservation area.

34. I have considered all the other matters raised, including the PPG and RPG advice referred to, the planning history of the appeal property and other buildings in the surrounding area, but found nothing which outweighs the conclusions leading to my decision.

Appeal Decision

35. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully



R C MERELIE MSc DipTP MRTPI
Inspector

APPEARANCES

FOR THE APPELLANT

Mr C Lockhart Mummery QC

Instructed by GVA Grimley
10 Stratton Street
London W1X 6JR

He called:

Mr N H J De Lotbiniere
RICS BSc(Est Man) MSc(EnvP)

Partner, Planning &
Development Consultancy
Division, GVA Grimley

Mr J R Stephenson
FRICS FSVA ACI Arb

Senior Director,
Grant & Partners

FOR THE LOCAL PLANNING AUTHORITY

Mr S White of Counsel

Instructed by Director of Legal
Services, the Royal Borough of
Kensington and Chelsea

He called:

Kate Orme
BA(Hons) MSc MRTPI

Senior Planning Officer,
the Royal Borough of
Kensington and Chelsea

Helena Hana Benes
BSc(Econ) DipTP Dip Cons (AA)
MRTPI IHBC

Principal Planning Officer,
the Royal Borough of
Kensington and Chelsea

DOCUMENTS

Document 1	List of persons present at the inquiry.
Document 2	Council's letter of notification and circulation list, and replies.
Document 3	Four letters of representation.
Document 4	Plans & Appendices to Mr Lotbiniere's proof.
Document 5	Appendices to Mr Stephenson's proof.
Document 6	Appendices to Council's witnesses proofs.
Document 7	Fax of 15 April 1998 from GVA Grimley to the Council.

- Document 8 Council's suggested conditions.
- Document 9 Bundle of original appeal plans and drawings.
- Document 10 Bundle of amended appeal drawings submitted 22 January 1999.
- Document 11 Schedule of existing, proposed and additional drawings.
- Document 12 3 additional drawings; front and side elevations, sections B-B, and rear sketch.
- Document 13 3 additional drawings of roof of De Vere Park Hotel as existing and proposed.
- Document 14 Before & After computer-generated photographic study.