

Appeal Decision

Site visit made on 9 February 2017

by Terry G Phillimore MA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 February 2017

Appeal Ref: APP/K5600/W/16/3162426

Alexandra House, 55-57 Pont Street, London SW1X 0BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by CPC Group Ltd against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/16/05485, dated 18 August 2016, was refused by notice dated 14 October 2016.
 - The development proposed is redivision of 5 existing residential apartments to 8 residential apartments.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. With the appeal the appellant has submitted a unilateral undertaking dated 27 January 2017. This contains a planning obligation pursuant to section 106 of the Act which provides for preclusion on access to parking permits. It overcomes the Council's concern about the implications of the development on local parking demand.
3. Planning permission was granted on 30 August 2016 for redivision of the property into 7 units (ref PP/16/02782). The current proposal would create two new dwellings at lower ground floor level and an additional dwelling at upper 4th and 5th floor levels.

Main Issue

4. The main issue is whether the proposed units at lower ground floor level would provide acceptable living conditions with particular regard to daylight.

Reasons

5. No objection is raised by the Council to the additional unit proposed at the upper levels of the property or in relation to the revised dwelling mix that would result from the modified scheme. I have no reason to reach a different view on these matters or find that the objectives of policy CH 2 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan 2015 in this respect would not be satisfied.
 6. The two new units at lower ground floor level (numbered apartments 2 & 3) would each be single aspect to the front of the property and accessed
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individually from the front lightwell via steps from the street. Both would have a living/bedroom space, a separate kitchen and a bathroom. There is agreement that relevant floorspace standards would be met by these units.

7. Policy CL 5 among other things seeks good living conditions for occupants of new buildings including by reference to ensuring good standards of daylight and sunlight. The supporting text indicates that regard will be had to Building Research Establishment guidance on this. Indicated BRE target values of Average Daylight Factor are 1.5% for a living room, 1% for a bedroom and 2% for a kitchen. In this case the living/bedroom of apartment 2 would achieve 1.59%, with a level of 1.70% in the case of apartment 3. Neither kitchen would have a window, with the main access to each apartment opening onto these. The appellant states that in the absence of a window there is no BRE daylight standard to be met, arguing that a kitchen can be designed without natural light, with electric lighting providing more reliable and constant light.
8. However, looking at the accommodation that there would be in each apartment, it is likely that the kitchens would be well used spaces. The appellant acknowledges the scope for their use for dining, which would be a habitable type purpose. Also relevant is the Mayor of London's Housing Supplementary Planning Guidance 2016, which states that the design of single aspect flats will need to demonstrate that all habitable rooms and the kitchen are provided with adequate daylight, among other requirements.
9. The Council refers to the BRE daylight target value for a studio apartment which is 2%. The appellant argues that this is not relevant since a studio flat contains only one main room whereas in each case here there would be two. However, the kitchens would provide no additional naturally lit space within the apartments. A single aspect and restricted outlook might in itself not be an unusual feature of flats in central London, as indicated by the other examples cited by the appellant. However, in this case it is an additional factor limiting the amenity of the proposed apartments in combination with the low level of natural light that there would be within them as a whole. Applying the quoted standards to the circumstances of the particular case in a balanced common sense way, I find that the units would not provide adequate living conditions. The proposal does not comply with policy CL 5.
10. The proposal is consistent with policy aims to provide additional dwellings in the Borough, and the shortcomings relate to only a minority of units within the development. However, the benefits of the scheme do not outweigh the finding against it on the main issue, and overall the proposal is not in accordance with the development plan and does not amount to sustainable development.

11. For the reasons given above I conclude that the appeal should be dismissed.

T G Phillimore

INSPECTOR