
Appeal Decision

Site visit made on 14 March 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 03 April 2017

Appeal Ref: APP/K5600/W/16/3164566

Flat 3 and Flat 8, 19 Palace Gate, London W8 5LS

- 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 Mrs Caroline Hansberry against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref: PP/16/05357, dated 22 August 2016, was refused by notice dated 10 November 2016.
 - The development proposed is the demolition of part of rear elevation of common circulation space at upper first floor level of 19 Palace Gate. Part of flat roof at upper ground floor level over Flat 8. Removal of existing window and door casements at the front and rear of Flat 3. Removal of part of boundary railings at upper first floor level between no 19 and no 17. Proposed new extension study room at upper first floor level accessed from circulation space. New roof light to rear flat roof of Flat 8. Install new windows and doors to match existing at front and rear of Flat 3, 19 Palace Gate.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of part of rear elevation of common circulation space at upper first floor level of 19 Palace Gate. Part of flat roof at upper ground floor level over Flat 8. Removal of existing window and door casements at the front and rear of Flat 3. Removal of part of boundary railings at upper first floor level between no 19 and no 17. Proposed new extension study room at upper first floor level accessed from circulation space. New roof light to rear flat roof of Flat 8, 19 Palace Gate. Install new windows and doors to match existing at front and rear of Flat 3, 19 Palace Gate in accordance with the terms of the application, Ref: PP/16/05357, dated 22 August 2016, subject to the conditions set out in the attached scheduled.

Application for Costs

2. An application for costs was made by Mrs Caroline Hansberry against The Council of The Royal Borough of Kensington & Chelsea. This application is the subject of a separate Decision.

Preliminary Matter – Conservation Area

3. The appeal site is located within the De Vere Conservation Area. The Conservation Area has a wide range of residential property and architectural styles. It derives much of its special character and significance as a heritage asset from the period properties, large residential terraces, villas and smaller mews buildings. With regard to Palace Gate, the design of dwellings varies from Italianate stock brick houses, stucco fronted houses, red brick houses and
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mansion flats. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special regard to the desirability of preserving or enhancing the character or appearance of a conservation area.

4. The appeal site is located within an enclosed area and due to the height of the surrounding development, would not be visible from within the public realm. From observations made during the site visit, a number of rear extensions of varying design and scale have been constructed. The proposed extension is modest in scale and, due to the location and low profile, the installation of a roof light on the existing flat roof to serve Flat 8 would have minimal visual impact. If I were minded to allow the appeal, I consider it would be reasonable and necessary to impose conditions in relation to materials in the interests of safeguarding the character and appearance of the host building and the Conservation Area. In all, the proposal would satisfactorily integrate with the host building and would preserve the character and appearance of the Conservation Area.

Main Issue

5. In view of the above, the main issue is the effect of the proposal on the living conditions of the neighbouring occupiers of Flat 2, 17 Palace Gate with particular regard to daylight and sunlight.

Reasons

6. The appeal site is located within a six-storey mansion block on the western side of Palace Gate. The scheme mainly relates to Flat 3 of 19 Palace Gate, which is located on the first floor; although a roof light is also proposed to serve Flat 8 of 19 Palace Gate, which is located on the ground floor.
7. The proposal would extend approximately 3.3 metres beyond the rear of the existing room and would have an eaves height of around 2.8 metres. From the evidence submitted, the proposal would be the same width as the existing outrigger. Accordingly, the extension would be a relatively modest addition in a location which has undergone a wide variety of extensions and is surrounded by buildings of a greater height.
8. In relation to Flat 2, 17 Palace Gate, concern has been raised with regard to the effect of the proposal on the levels of daylight and sunlight experienced. The daylight and sunlight assessment provided on behalf of the appellant has been undertaken in line with the Building Research Establishment (BRE) guidelines. I accept that the labelling of the report may have been clearer. Nonetheless, from the evidence submitted, despite hallways not being classified as habitable rooms, the report confirms that the hallway in Flat 2 was assessed as being a habitable room.
9. Both the appeal site and a number of the rear facing windows of 17 Palace Gate are already overshadowed to an extent by the existing development located to the south of the appeal site. The daylight and sunlight assessment confirms that, with the proposal in place, all habitable rooms and associated windows at No 17 would meet the BRE guidelines in terms of vertical sky component and annual probable sunlight hours. As all of the windows at No 17 within the assessment face within 90 degrees of due north, in line with the BRE guidelines, a sunlight analysis is not required.

10. The submissions lodged on behalf of the occupier of Flat 2 are material considerations and have been taken into account. However, given the findings of the assessment, I am not persuaded that, in the overall planning balance, that they are of sufficient weight to justify the refusal of planning permission.
11. Accordingly, I find that the proposal complies with Policy CL5 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan 2015 which seeks, amongst other things, to ensure all new development provides for good living conditions, including ensuring acceptable levels of daylight and sunlight are achieved.

Other Matters

12. Various concerns have been raised regarding the potential impact of the proposal in relation to car parking, construction noise, impact on the character of the building and the potential for over development. However, there is no substantive evidence which would lead me to conclude the scheme should be resisted on these grounds.

Conditions

13. I have considered the conditions suggested by the Council against the tests of the National Planning Policy Framework and advice provided by the Government's Planning Practice Guidance. I find them to be reasonable and necessary in the circumstances of this case.
14. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans in order to provide certainty. Conditions relating to the use of materials are appropriate in the interests of safeguarding the character and appearance of the host building and the De Vere Conservation Area.

Conclusion

15. I therefore conclude that, subject to conditions, the appeal should be allowed.

Helen Cassini

INSPECTOR

CONDITIONS SCHEDULE

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 637/001 P1 Location Plan Existing; 637/002 P1 Site Plan Proposed; 637/003 P2 Plan Existing; 637/004 P2 Sections Existing; 637/005 P2 Elevation Existing; 637/006 P2 Front Elevation Existing; 637/010 P1 Plan Proposed; 637/011 P2 Sections Proposed; 637/012 P2 Elevation Proposed; 637/013 P2 Roof Plan Proposed; 637/014 P2 Front Elevation Proposed; 637/100 P1 Window Detail Existing; 637/101 P1 Window Detail Existing; 637/102 P1 Window Detail Proposed; 637/103 P1 Window Detail Proposed; 637/105 P1 Window Elevations Proposed; 637/106 P1 Window Elevations Proposed.
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing host building, in respect of materials, colour, texture, profile; and in the case of brickwork, the facebond and pointing, and thereafter retained.
4. The replacement windows and doors hereby permitted shall be framed in white painted timber and thereafter retained.