

Appeal Decision

Site visit made on 16 May 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 7 June 2017

Appeal Ref: APP/K5600/W/17/3170008
15 & 16 Douro Place, London W8 5PH

- 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 The Libra Partnership against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/16/06932, dated 17 October 2016, was refused by notice dated 2 February 2017.
 - The development proposed is the demolition of 15 and 16 Douro Place behind the front facade and its replacement including an extension to rear building line and alteration to roof and associated external alterations to provide 2 x 4 bed units.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of 15 and 16 Douro Place behind the front facade and its replacement including an extension to rear building line and alteration to roof and associated external alterations to provide 2 x 4 bed units at 15 & 16 Douro Place, London W8 5PH in accordance with the terms of the application, Ref PP/16/06932, dated 17 October 2016, subject to the following conditions:
 - 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: 07-2-90-010; 07-2-91-010; 07-2-30-010; 07-2-30-020; 07-2-30-030; 07-2-30-040; 07-2-30-050; 07-2-30-510; 07-2-30-511; 07-2-30-512; 07-2-30-513; 07-2-30-610; 07-2-30-611; 07-EX-2-30-010; 07-EX-2-30-020; 07-EX-2-30-030; 07-EX-2-30-040; 07-EX-2-30-050; 07-EX-2-30-510; 07-EX-2-30-511; 07-EX-2-30-512; EX-07-2-30-513; 07-EX-2-30-610; 07-EX-2-30-611; 07-DEM-2-30-510; 07-DEM-2-30-511; 07-DEM-2-30-512; DEM-07-2-30-513; 07-DEM-2-30-610; 07-DEM-2-30-611.
 - 3) No development above foundation level shall commence until details of the materials and finishes to be used on the external faces of the building, including the roof and details of windows/doors have been submitted to and approved in writing by the local planning authority. Such details shall include the construction of a brick sample panel on site so that the type of brick and pointing can be assessed. The development shall thereafter be constructed in accordance with the approved details.
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Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupants of No 17 Douro Place with particular regard to outlook and light.

Reasons

3. The appeal properties comprise a pair of semi-detached two storey dwellings each with a small front garden and located within the De Vere Conservation Area. The rear of No 15 has been extended at ground level with a full width flat roof extension.
4. Both properties have the benefit of an un-implemented planning permission for the removal of the roof and its replacement with a dual pitched roof feature (Ref PP/16/04250). In addition, the appellant indicates that No 16 has the benefit of an un-implemented certificate of proposed lawful development for a rear, single storey, flat roof, full width extension with a proposed rear façade that would be commensurate in design and position with that of the existing extension at No 15 (Ref CL/16/01976).
5. The adjacent property to the east, No 17, is a two storey dwelling that abuts part of the flank wall of No 16 and is set at the back edge of the pavement. The rear elevation of No 17 is south facing and contains a sitting room window and glazed rear kitchen door on the ground floor and a bedroom window and obscurely glazed bathroom window on the first floor. Beyond this rear elevation is a small courtyard which the appellant indicates has depth of approximately 2m.
6. The existing flank wall of No 17 projects well beyond both the rear elevation and courtyard of No 16. As such, this flank wall already provides a considerable degree of enclosure to the rear courtyard and significantly restricts outlook from windows in views to the west.
7. The proposed development would involve the demolition of No 15 and 16 behind the front façade and its replacement with a building that would have a similar ridge height to the existing but would be three storey at the rear and two storey at the front with dormers. The proposed rear elevation would be sited in a similar position to that of the existing and permitted ground floor rear extensions to the appeal properties.
8. The appellant indicates that the rear façade of No 17 is currently set back approximately 5.9m from the existing rear façade of No 16. The extant certificate of proposed lawful development for the ground floor extension at No 16 would increase this by approximately 2.5m at ground floor level. The proposed development would result in the rear façade of No 16 extending approximately 2m beyond the existing façade of No 17.
9. In order to consider the effect of the proposed development on the outlook and shading at No 17, the appellant has produced a number of drawings that show the position of the 45 degree line drawn from the existing and proposed eastern corner of the rear elevation of No 16 and has projected this towards the rear elevation of No 17. In addition, a Daylight and Sunlight Assessment has been provided. This accords with the Building Research Establishment (BRE) Report 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' which I accept, in the absence of any other planning policy guidance,

is an established document to consider the impact of new development on daylight and sunlight. Consequently, I have attached moderate weight to this assessment.

10. The BRE guide recommends that new development should not cause the Vertical Sky Component (a measure of the general amount of light available on the outside plane of a window as a ratio of the total unobstructed sky viewable following the introduction of a barrier such as a building) to be no less than 80% of its former value.
11. This information demonstrates that the amount of light received at the sitting room and bedroom window of No 17 is already compromised by the existing flank wall of No 16 with the 45 degree line extending beyond the eastern edge of these windows. The Daylight and Sunlight Assessment demonstrates that the maximum loss of the vertical sky component to the bedroom and sitting room window at No 17 as a consequence of the proposed development would be 2.2% and 1.4% respectively. It concludes that the appeal scheme satisfies the BRE requirements with regard to daylight and sunlight to windows and overshadowing of gardens. I have no evidence to indicate that the assessment or conclusions are incorrect.
12. The proposed development would undoubtedly result in a degree of further reduction in light and outlook to the rear of No 17. However, it would have no greater projection at ground level than the extension approved in the extant certificate of proposed lawful development for the ground floor extension at No 16. In addition, outlook from the primary windows at the rear of No 17 is already severely compromised by the extent of the existing flank wall of No 16.
13. Consequently, the occupants of No 17 already endure a substantial sense of enclosure at the rear of the property. The appeal scheme would unlikely contribute to a material worsening of the sense of enclosure from that which both already occurs and could occur as a consequence of the approved roof works and ground floor extension at No 16.
14. These circumstances, together with the fact that the appeal proposals would not interrupt the south facing outlook at the rear of No 17 and the conclusions of the sunlight and daylight assessment, are factors that lead me to conclude that the loss of light and outlook to the rear of No 17 as a consequence of the proposed development would not be of such a significant detrimental extent to warrant the dismissal of this appeal.
15. Based on the circumstances of this case, the proposed development would not result in a loss of outlook or sense of enclosure for the occupants of No 17. Douro Place of an extent would cause demonstrable harm to their living conditions. I conclude therefore that the proposal would still meet the overall amenity protection aims of Policy CL5 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan (2015). This policy, amongst other things, requires that development should ensure good living conditions for the occupants of neighbouring buildings and that there is no harmful increase in the sense of enclosure to existing buildings and spaces.

Other matters

16. The site lies within the De Vere Conservation Area. The Council has found that the proposed development would preserve the character and appearance of the

conservation area. However, I have nonetheless had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. In this respect, the current appearance of the existing façade of the building would be predominantly retained and the majority of the works to the rear of the property and the roof would not be readily seen from street. In addition, the scale, mass and design of the proposed development would be consistent with that of surrounding buildings. These factors lead me to conclude that the proposed development would preserve those interests.

Conditions

17. In addition to the standard time limit condition, I consider it necessary to impose a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. In order to protect the character and appearance of the area, I have also imposed a condition concerning the external materials to be used.

Conclusion

18. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR