
Appeal Decision

Site visit made on 20 June 2017

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 19 July 2017

Appeal Ref: APP/K5600/W/17/3170354

Flat C, 45 Elgin Crescent, London W11 2JU

- 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 Ms Anna Casdagli against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/16/02728, dated 12 May 2016, was refused by notice dated 21 September 2016.
 - The development proposed is erection of balcony at rear of first floor flat, replacement of sash window with French doors, and internal associated alterations to store room.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a balcony at the rear of the first floor flat, replacement of a sash window with French doors, and associated alterations to the store room at Flat C, 45 Elgin Crescent, London W11 2JU in accordance with the terms of the application, Ref PP/16/02728, dated 12 May 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AJC/1/16/A/Rev1, AJC/1/16/B/Rev1, AJC/1/16/C and AJC/1/16/D.
 - 3) All work and work of making good shall be finished to match the existing exterior of the building in respect of materials, colour, texture, profile and, in the case of brickwork, facebond and pointing, and so maintained.
 - 4) External windows and doors hereby permitted shall be timber framed and white painted, and so maintained.
 - 5) The railings to the first floor rear balcony shall be painted black, and so maintained.

Procedural Matter

2. The description of development used in the heading above has been taken from the planning application form. However in allowing the appeal I have altered it

slightly for the purpose of clarity and have removed reference to internal alterations as these do not constitute development.

Main Issues

3. The main issues are the effect of the proposal on:

- the character and appearance of the host building and the Ladbroke Conservation Area;
- the living conditions of the occupiers of the flat below the proposed balcony having particular regard to outlook.

Reasons

Character and appearance

4. The appeal site is located in the Ladbroke Conservation Area (CA). The Council's Ladbroke Conservation Area Appraisal (CAA) states that highly significant features of the CA are the 16 private communal gardens that are located behind the terraces to the rear of the houses. The gardens are all registered Historic Parks & Gardens (Grade II listed). The CAA states that the backdrop of the gardens is provided by the rear elevations of the houses that surround them which are often as finely detailed as the frontages with other rear elevations being less detailed but nonetheless clearly designed as a set piece with shared features and a high degree of uniformity. Rears overlooking communal gardens are almost all designed to be flat without closet wings (although some have gables). The CAA states that in places additions to the formal rear elevations have harmed the group and its prestige.
5. The appeal site comprises a first floor flat (Flat C) in a five storey mid terraced property located within an imposing terrace of similar properties on the southern side of Elgin Crescent. The terrace backs onto one of the Grade II listed private communal gardens located in the CA. The rear elevation of the host building has a rear projecting closet wing, the height of which extends up to the height of the middle of the large window opening in the rear elevation of Flat C. There are a number of other closet wings on the rear elevations of properties within the terrace as well as a number of balconies, including at first floor level and at ground floor level wing on the host building on the rear elevation of the closet. There is some uniformity to the rear elevation of the terrace however the presence of closet wings and balconies together with some differences in fenestration means that there is also variety.
6. In the main, existing balconies on the rear elevation of the terrace are Juliet style balconies with the notable exception of the balcony off the closet wing on the host building. The proposed balcony would have a similar rear projection to that balcony and would have a similar width and design to other existing balconies on the wider terrace. Though the proposed balcony would be deeper than other first floor balconies including that at 47 Elgin Crescent, it would be adjacent to the rear projecting closet wing which extends significantly further back than the proposed balcony. Viewed in this context the balcony would not be harmful to the character and appearance of either the host building or the CA.
7. The Council raised no objections to the effect of the other aspects of the proposal on the character and appearance of the host building or on the CA and

I have no reason to disagree with their conclusion noting that these aspects are relatively minor in nature.

8. Taking the above matters into consideration, I conclude that the proposal would preserve the character and appearance of the host building and the CA in accordance with the expectations of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. For the same reasons it would also accord with the development plan and in particular policies CL1, CL3 and CL6 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan (CLP). These policies require development to, amongst other things, not harm the character or appearance of existing buildings, their settings or townscape and to preserve or enhance the character or appearance of conservation areas. Though not specifically referred to in the Council's reason for refusal relating to character and appearance, I am also satisfied that the proposal accords with relevant policies within the London Plan (LP) and relevant paragraphs of the National Planning Policy Framework (the Framework).

Living conditions

9. The proposed balcony would serve a bedroom within Flat C and would be positioned above a large bedroom window to Flat D below. The bottom of the proposed balcony would be the same height as the bottom of the existing first floor window to Flat C which is set some distance above the top of the bedroom window to Flat D below. This distance together with the reasonably limited rear projection of the proposed balcony means that the bottom of the balcony would only become visible from within the bedroom below from a distance reasonably close to the window. Having regard to this and to the large size of the affected window, the impact on the outlook from this window would not be significant or materially harmful to the living conditions of the occupiers of Flat D, this is notwithstanding the presence of the existing closet wing and the approved extension to the lower ground floor flat below (Ref PP/15/06520).
10. I have also had regard to the concerns raised by the owners/occupiers of Flat D in relation to privacy, noise and disturbance and loss of light. Whilst I note that the proposed balcony would be large enough to enable it to be used for seating, it would nevertheless be modest in size and I am therefore satisfied that the use of the balcony would be unlikely to generate significant levels of noise and disturbance or overlooking of nearby balconies and gardens or to materially increase any such overlooking when compared with the existing large bedroom window to Flat C. With regard to light, I note that calculations carried out by the appellant indicate that the proposed balcony would not have a significant adverse impact on the amount of light received by the bedroom window to Flat D. Whilst the appellant's calculations have been queried by the owners/occupiers of Flat D, in the absence of any substantive evidence to the contrary and having regard to the scale and position of the balcony relative to Flat D, I consider that it is unlikely to result in a significant and harmful loss of light to that property.
11. The Council raised no objections to the effect of the other aspects of the proposal on the living conditions of nearby occupiers and I have no reason to disagree with their conclusion on this issue.
12. Taking the above matters into consideration I conclude that the proposal would not have a significant adverse effect on the living conditions of the occupiers of the flat below the proposed balcony having particular regard to outlook. It

therefore accords with Policy CL5 of the CLP which requires all development to ensure good living conditions for occupants of existing buildings. Though not specifically referred to in the Council's reason for refusal relating to living conditions, I am also satisfied that the proposal accords with relevant policies within the LP and relevant paragraphs of the Framework.

Other Matters

13. I am satisfied that the proposal would not harm the setting of the listed communal garden to the rear of the appeal site. This is having regard to the position and modest scale of the proposal relative to the wider terrace and to the communal garden.
14. In reaching my decision I have also had regard to the concerns raised by interested parties regarding the structural impact of the proposal, the safety of the balcony, the impact of the proposal on the value of neighbouring property and on scheduled maintenance works to the wider building. There is no substantive evidence regarding any structural impact of the proposal and in the absence of this and having regard to the modest scale of the works proposed I am satisfied that the proposal is unlikely to result in any structural damage to the building. The height of the balcony railings is consistent with the height of railings on other balconies on the building and appears to be sufficient so as to ensure the safety of users of the balcony. I note that the Council considered the railing height to satisfy building regulations. Any impact of the proposal on the value of nearby properties and on the maintenance schedule for the building are not matters for me to consider in determining the appeal as planning is concerned with land use in the public interest and not with the protection of purely private interests such as those stated.

Conditions

15. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the relevant plans as this provides certainty. I have also imposed the suggested conditions regarding materials, door and window specifications and the colour of the railings. This is having regard to the site location, the scale and nature of the proposal and in order to protect the character and appearance of the host building and the CA.

Conclusion

16. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR