

Appeal Decision

Site visit made on 14 June 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2019

Appeal Ref: APP/K5600/W/19/3223817

York House, Turks Row, London SW3 4TH

- 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 Mr Edward Thompson against the decision of the Council of the Royal Borough of Kensington & Chelsea.
 - The application Ref PP/18/07064, dated 2 November 2018, was refused by notice dated 9 January 2019.
 - The development proposed is a new one-bedroom dwelling (Class C3) at ground and basement level, with landscaping and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the living conditions of the occupiers of the existing lower ground floor and ground floor flats of York House, with particular regard to outlook; and,
 - the living conditions of future occupiers, with particular regard to outlook.

Reasons

The living conditions of the occupiers of the existing flats

Basement flat

3. The living room of the existing basement flat has a tripartite bay window. It looks out onto a lightwell, enclosed by the end wall of the well, and by the high walls of the oil tank rooms opposite. Given the position of the courtyard deck in relation to the bay, and the set back of the proposed ground floor wall, the building would not harm the outlook from within the basement flat.
 4. However, to protect the privacy of the future occupiers of the proposed flat, a screen of planting would run across two-thirds of the bay of the basement flat. It would be higher than eye level inside the flat, and it would stand around 1m from the bay window. The tank room walls already confine the outlook from the living room, however, they are around 2.5m from the window; this retains some sense of depth to the space beyond the room. The proposed screen would reduce that outlook to almost nothing. It would have the most dismal effect of over-enclosure on the occupiers in the living room of the basement flat.
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5. The unaffected window of the bay looks out onto the end wall of the lightwell beside it; it would offer no relief to the over-enclosing effect on the occupiers in the living room. Their outlook, already fragile, would be reduced to an unacceptably poor level.

Flat 5

6. Flat 5, on the ground floor, has a similar bay window serving its living room. It looks out across a courtyard to an area of planting between two stores set beside the high brick boundary wall, around 7m away. The wall of the proposed flat would extend across the bay, between 3m and 4m from the window. Though the profile of the proposed flat would slope away from flat 5, its eaves would be above the eye level of occupiers in flat 5. Because of the proximity of its wall opposite flat 5, the proposed flat would reduce the outlook of the occupiers of flat 5 by an unacceptable degree. I have taken into account that the living room of flat 5 has a pair of glazed doors opening onto a terrace by the flank wall of the building, which may provide an alternative outlook. However, given the focus in the room of the bay window and the degree of over-enclosure from proximity, the harm would remain.

Flat 1

7. The end wall of the proposed flat would be around 5m away from what appears to be a window of a habitable room in flat 1, but it would turn away from the window at around the point of its reveal. This would diminish its presence in the outlook from the room. I appreciate that the outlook from the room would change, but because of the limited width of the end elevation of the proposed building, it would not result in a significantly harmful outlook to its occupiers.
8. The appellant's Sunlight and Daylight Report shows that the sunlight and daylight received by surrounding flats would meet the levels of the Building Research Establishment's (BRE) guidelines¹. Given the amount of development surrounding the affected flats, the orientation and size of their openings, I find the proposed development would not harmfully reduce the daylight and sunlight received by neighbouring occupiers.
9. There would be a bin store beside the end elevation of the proposed flat, however, given that the courtyard is already used for storage, I can identify no harm from this proposal in terms of the risk of noise or disturbance to surrounding occupiers. The entrance door of the proposed flat would be opposite the window of flat 5, but it could be conditioned to be sufficiently obscure to prevent loss of privacy by overlooking and by light disturbance.
10. I conclude on this issue that the proposed development would harm the living conditions of the occupiers of the basement flat and flat 5, with particular regard to outlook. It would conflict with policy CL5 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan 2015 (LP) which requires development to ensure good living conditions for occupants of new, existing and neighbouring buildings, and that there is no harmful increase in the sense of enclosure to existing buildings.

¹ Site layout planning for daylight and sunlight: a guide to good practice (BR209), P Littlefair, 2011

The living conditions of future occupiers

11. The living room would open out onto two small courtyards. Though small, these could incorporate plants and materials to mitigate their lack of depth, which could be secured by condition. Together with the light from the rooflights, I find the ground floor would provide adequate daylight and outlook for future occupiers and visitors. The basement bedroom would be lit indirectly through the stairway and through the borrowed floor light above it, as well as directly through a large opening reflecting light from the lightwell. This large opening would provide a degree of outlook onto the reverse side of the planting screen in front of the basement flat.
12. The appellant's calculations show the daylight within the flat would meet the BRE guidelines. Given the number of alternative aspects from this flat, including at ground level, its arrangement, its seclusion and its urban location, I find it would provide satisfactory living conditions for future occupiers, with particular regard to outlook. There would be no conflict with LP policy CL5.

Other Matters

13. I have had regard to other matters raised in the representations of neighbours in York House including their heating and hot water supply, contamination, maintenance and construction access. However, as I am dismissing the appeal on one of the main issues, these do not lead me to a different overall conclusion.
14. I have had regard to my duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Royal Hospital Conservation Area. Given the existing yard character and its location below the eastern boundary wall, the sensitive form, scale and materials of the proposed development would preserve the character and appearance of the CA, in accordance with the Act. I have had special regard to the adjacent listed building, Cavalry House, whose setting, for similar reasons, would, I consider, be sustained.

Conclusion

15. The proposed development would provide satisfactory living conditions for future occupiers. It would provide one additional dwelling to local housing supply in a location with excellent access to public transport. It would bring biodiversity benefits too, while making effective use of previously developed land for homes, to the value of which the National Planning Policy Framework indicates substantial weight should be given. However, these benefits are outweighed by the harm it would cause to the living conditions of surrounding occupiers, which is in clear conflict with the policies of the development plan. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR