
Appeal Decision

Site visit made on 10 & 16 September 2019 by AJ Sutton BA Hons DipTP DMS MRTPI

Decision by R C Kirby BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2019

Appeal Ref: APP/X5990/D/19/3233327

47 Kinnerton Street, London, SW1X 8ED

- 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 J Morely against the decision of City of Westminster Council.
 - The application Ref 19/03360/FULL, dated 1 May 2019, was refused by notice dated 20 June 2019.
 - The development proposed is described as 'Erection of a fence to the rear roof terrace (Retrospective application)'.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a fence to the rear roof terrace at 47 Kinnerton Street, London, SW1X 8ED in accordance with the terms of application Ref 19/03360/FULL, dated 1 May 2019.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The appeal property is located in the Belgravia Conservation Area. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The Council concluded that the design of the development was acceptable in this particular part of the conservation area. I have nothing before me which would lead me to disagree with the Council's conclusions on this matter. The proposal would preserve the character and appearance of the conservation area.
4. The development had been completed at the time the site visits were conducted. An additional site visit was carried out in order to view the development from the neighbouring property, No 12 Ann's Close.

Main Issue

5. The main issue is the effect the development has on the living conditions of neighbouring occupiers at No 12 Ann's Close.

Reasons

6. The appeal property forms part of an attractive terrace of dwellings fronting Kinnerton Street, which is a quiet residential area. The rear of the property abuts and overlooks the rear of properties situated on the mews style lanes of Ann's Close towards the north, and Caperer's Close to the south. The pattern of development in the area could be described as close-knit, with several properties in close proximity to each other and limited outdoor space towards the rear of properties. The exceptions to this are the first-floor terraces of the appeal property and No 49 Kinnerton Street and the small courtyard at the rear of No 12 Ann's Close.
7. The development is a painted slatted timber fence measuring 1.87 metres in height and 4 metres in width forming the rear and side boundaries of the first-floor terrace area of the appeal property. It is positioned by the original low-level painted metal and glass balustrade, set within the appeal property boundary.
8. The fence can be clearly viewed by the occupiers of No 12, in particular, from first-floor windows which are level with the rear boundary fence and from the small courtyard itself, as observed on my site visit.
9. I noted that the courtyard was already enclosed and the outlook from the windows facing towards this area was limited, as a result of the close-knit nature of development in the area. Although the new fence has increased the height of enclosure on the western boundary of the appeal property and has resulted in a less permeable type of boundary treatment to that which existed previously, I find that its slatted design and positioning does not have an overbearing effect on the outlook from the windows facing onto the courtyard at No 12, nor is it overbearing on the outdoor courtyard either. Although evidently visible from the first floor windows, the appearance of the fence is less solid when viewed from this vantage point. Furthermore, the slightly setback position of the fence from the staircase window minimises the change in outlook. It does not have an overly enclosing effect upon the rooms facing towards the courtyard or the courtyard itself, over and above that which already exists, or to the degree that harm to the living conditions of the occupiers of No 12 has resulted. These areas are unlikely to be less pleasant to use as a result of the fencing.
10. I note the concerns of the occupier of No 12 relating to the effect the development has had on light to their property, albeit this is not substantiated. In this regard the appellant has provided a daylight and sunlight assessment which assessed the impact of the development on No 12. The report assessed the effect on all relevant windows and doors as well as the courtyard area, concluding that the loss of light to windows and doors was well within the level considered acceptable, based on the methodology employed. Furthermore, the assessment concluded the courtyard would not experience any decrease in sunlight levels. The conclusions of the assessment have been accepted by the Council, and I have no reason to dispute its findings. I conclude that the development does not result in an unacceptable loss of light to neighbouring properties, to the degree that would be harmful to the occupiers' living conditions.
11. The concern regarding the fence forming a trellis to support plants is noted. However, there is nothing to prevent the occupants of the appeal property

positioning plants and vegetation on the terrace area and this matter carries very limited weight in my consideration of this appeal.

Conclusion

12. For the reasons outlined above I conclude that the development has not resulted in harm to the living conditions of the occupiers of No 12 Ann's Close. Accordingly, there is no conflict with the aims of saved Policy ENV 13 of the City of Westminster Unitary Development Plan 2007 and Policy S29 of the Westminster City Plan Consolidated with All Changes Since 2013 (2016) which collectively seek to prevent development which results in an unacceptable material loss of residential amenity.

Recommendation

13. For the reasons outlined above, it is concluded that this appeal should be allowed. No conditions are necessary as the development has already been undertaken.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on this basis the appeal is allowed.

RC Kirby

INSPECTOR