



Appeal Decision

Site Visit made on 9 November 2021

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal Ref: APP/K5600/D/21/3280909

28 Smith Terrace, London SW3 4DH

- 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 Alexandra Buchanan against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/03178, dated 14 May 2021, was refused by notice dated 27 July 2021.
 - The development proposed is ground and first floor sash window replacements on front facade with reinstatement of original traditional plaster moulding framing to window openings; rear and side infill extension at ground and first floor raised in London stock bricks along boundary with 27 Smith Terrace; installation of new windows and doors on rear elevation with traditional painted timber sash windows and French doors and painted mild steel balconette; installation of railings to second floor roof terrace to the rear of the property; boiler housing and painted timber French doors on second floor rear roof terrace; installation of new rooflight in main mansard flat roof to provide natural light to the staircase; modification of front wall and railing.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the application was refused, the Council has granted a separate planning permission¹ (the approved scheme) for most of the alterations proposed. The differences between the Appeal and approved scheme now lie only in the installation of railings to a second floor roof terrace to the rear of the property; and the boiler housing and painted timber French doors on the proposed second floor rear roof terrace. I shall therefore confine my considerations to these disputed elements of the appeal scheme.

Main Issues

3. In light of the above, the main issues are:
 - whether the development would preserve or enhance the character or appearance of the Royal Hospital Conservation Area; and
 - the effect of the development on the living conditions of the occupiers of 27 and 29 Smith Terrace, with particular regard to privacy.

¹ LPA ref: PP/21/05638 – Replacement ground and first floor sash windows on front facade with reinstatement of original traditional plaster moulding framing to window openings. Extension of rear and side infill at ground and first floor raised in London Stock bricks along boundary with 27 Smith Terrace. Installation of windows and doors on rear elevation with traditional painted timber sash windows and French doors, painted mild steel balconette. Installation of rooflight in main mansard flat roof. Internal alterations.

Reasons

Conservation Area

4. The appeal site lies within the Royal Hospital Conservation Area (the CA). Insofar as it is relevant to this appeal, the CA derives some of its significance from the historic planned layout of the Royal Hospital and the adjacent townscape, as well as the rich historic and architectural quality of the buildings within it. I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
5. Smith Terrace is characterised by modest two-storey terraced houses of eighteenth and nineteenth century origins. The uniformity of the traditional front elevations is not reciprocated at the rear where there is now an irregular rhythm to the rear elevations as result of piecemeal alterations over time. These display a variety of designs, heights and depth. The appeal site has one of the deepest flat-roofed, two-storey extensions, which under the current and approved schemes would become full width.
6. Within this context, and at a depth of just 0.75m, the boiler housing and French doors would not be a highly conspicuous or disruptive element. However, the same could not be said for the proposed roof terrace, which would occupy the whole of the roof space above the enlarged extension. Due to its depth and width, the roof terrace would be considerably larger than any other at the rear of this terraced building, including those drawn to my attention at Nos 30, 31 and 33. Together with the likely addition of items associated with its domestic use, the roof terrace would be an uncharacteristically large and visually conspicuous addition in an elevated position, notwithstanding the limited height of the railings themselves. This could not be adequately mitigated by alternative balustrade treatment.
7. The roof terrace would not be visible from the street or in any important public views identified in the Royal Hospital Conservation Area Appraisal. Nonetheless, it would be clearly visible from the rear gardens, roof terraces and windows of neighbouring properties. These views also contribute to the character and appearance of the CA and are therefore also important. Irrespective, the requirement for development proposals to preserve or enhance the character or appearance of the CA applies with equal force whether or not the proposal is prominent, or in public view.
8. I therefore find that the roof terrace would have an adverse visual effect on the terraced building and its immediate surroundings when viewed from the rear. For this reason, the proposal would cause a limited amount of harm to the significance of the CA as a whole. Accordingly, the proposal would fail to preserve or enhance the character or appearance of the CA, contrary to statutory expectations and the National Planning Policy Framework (the Framework). The proposal would also conflict with Policies CL1, CL2, CL3, CL6, CL9 and CL11 of the Royal Borough of Kensington and Chelsea Local Plan 2019 (the LP). Among other things, these policies aim to ensure that development respects local context and character; and preserves or enhances the character or appearance of conservation areas and views within them.
9. In the language of the Framework the harm to the CA would be 'less than substantial', but that is nevertheless a matter of considerable importance and weight. Whilst the overall scheme would include beneficial works to the front of

the building, so too would the approved scheme. The harm identified above would indeed arise from works undertaken distinctly in addition. As such, I attach no weight to those duplicated benefits. The benefits of reconfiguring the boiler housing and providing further outdoor space would otherwise be private rather than public in nature, so attract negligible weight. Consequently, the benefits of the scheme would not outweigh the harm that it would cause.

Living Conditions

10. As noted above, the proposed roof terrace would occupy the whole of the roof of the enlarged extension, thus projecting significantly outwards from the rear wall and up to the edge of 27 and 29 Smith Terrace. This would likely afford users of the roof terrace the opportunity for close views into the upper floor windows of those neighbouring properties. The other roof terraces on the building are more limited in their extents, while some also benefit from a degree of screening at the sides. No such screening exists, or has been proposed in this case. Given the size of the terrace, and uncertainty over the visual impact and effectiveness of any screening, it would not be appropriate to leave details of any potential mitigation to a condition. In this regard, the roof terrace would cause an unacceptable intrusion and loss of privacy to the occupiers of 27 and 29 Smith Terrace, even for an urban environment. A lack of neighbour objections does not lead me to a different view.
11. The proposed roof terrace would also allow direct overlooking of the lower level roof terrace at No 27. However, this roof terrace is currently overlooked even more closely by two large kitchen windows in the side wall of the appeal property, albeit they are to be removed as part of the scheme. Furthermore, the density of the surrounding townscape is such that reduced privacy in gardens and of roof terraces from overlooking is strongly established. That being so, the privacy of its users would not be significantly harmed. Nonetheless, I have found harm for the other reasons set out above.
12. Overall, I find that the roof terrace would unacceptably harm the living conditions of the occupiers of 27 and 29 Smith Terrace through reduced levels of privacy to their upper floor windows. Thus, the proposal conflicts with Policy CL5 of the LP, which among other things, requires that there is reasonable visual privacy for occupants of existing properties affected by new development.

Conclusion

13. Given the above, the development would not preserve or enhance the character or appearance of the CA, and would harm the living conditions of neighbouring occupiers. It would not accord with the development plan taken as a whole and there are no considerations, including the Framework, to outweigh that finding. Accordingly, the appeal should be dismissed.

A Caines

INSPECTOR