



Appeal Decision

Site visit made on 22 February 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2022

Appeal Ref: APP/K5600/W/21/3284641

First And Second Floor Maisonette, 37 Lonsdale Road, London W11 2BY

- 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 Ben Powell against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/04048, dated 18 June 2021, was refused by notice dated 14 September 2021.
 - The development proposed is conversion of flat roof to terrace. New windows and doors on rear elevation, replacement windows on front elevation. Replacement of existing roof and new AOV rooflight.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposed development on the living conditions of nearby residents, with particular reference to privacy and noise and disturbance; and
 - the effect of the proposed development on the character and appearance of the host property and the surrounding area, including the Colville Conservation Area.

Reasons

Living conditions

3. The appeal dwelling, a tall mid-terrace property, forms part of a dense perimeter block that encloses mews properties and a modern apartment development. The site is located within the Colville Conservation Area (CA).
4. A closet wing projects from the dwelling's rear elevation, and it is proposed to enclose its flat roof with railings to create a roof terrace. Users of the balcony would be able to look back into a bedroom window in the rear elevation of the adjoining property at No 33 Lonsdale Road (No 33), as well as a side bathroom window within its closet wing. Both openings are a matter of meters away from the proposed balcony, and given this proximity, highly invasive views would be obtained into those neighbouring rooms. At times when the proposed balcony would be in use, occupiers of the rooms would feel uneasy when being overlooked to the extent that their privacy would be significantly harmed.

5. There would likely be some general activity and conversation taking place on the proposed balcony, particularly during dry weather and warmer months, whilst this might extend into the evenings when it is expected that neighbouring residents would be settling down and relaxing. The close proximity and immediacy of the proposed balcony to the adjacent windows at No 33 would result in a significant noise intrusion that would be harmful to its residents, particularly when those windows are open, perhaps during hot weather.
6. I have considered the appellant's suggestion of a privacy screen running along the side of the balcony. However, no specific details have been provided showing its scale and proximity to No 33. Without these details it is not known what effect a screen would have on other aspects of living conditions such as outlook. I am also uncertain of how effective the screen would be at mitigating noise from the balcony, and whether or not its visual presence would have wider impacts on the area's character and appearance. Therefore, given these uncertainties, a condition requiring a privacy screen would not be reasonable in this case.
7. It is acknowledged that the arrangement and concentration of dwellings within this dense urban area would inevitably lead to some intervisibility between properties, while residents would expect to be exposed to an element of noise from surrounding gardens and from within properties. Yet, in this case the immediacy of the proposed roof terrace to neighbouring windows would have a different orientation and proximity compared to other windows and outdoor spaces, to the extent that the relationship would lead to a level of harm that would exceed what would be acceptable.
8. I therefore conclude that the proposed development would have an unacceptable effect on the living conditions of nearby residents, with particular reference to privacy and noise and disturbance. The appeal scheme would therefore run contrary to Policy CL5 (a)(c)(e) of the Local Plan 2019, that amongst other considerations, require developments to ensure that living conditions of residents are not harmed in terms of privacy and noise. The proposal would also fail to meet the requirements of the National Planning Policy Framework (the Framework), where it seeks to protect the amenities of existing and future residents.

Character and appearance

9. The CA largely comprises residential streets containing well preserved Victorian housing with original architectural details. The rear of Lonsdale Road and the other terraces in the perimeter block are more functional in appearance, historically being secondary facades away from the public domain. Views of the rear of the appeal site and a number of the adjoining terrace properties are largely concealed by the existing modern apartment development a short distance to the rear. Despite this, the scale of the buildings, their rear closet wings and inverted pitched roofs combine to create a relatively consistent elevation in terms of form and appearance. Therefore, in so far as it relates to this appeal, the CA derives some of its significance from the terrace's uniformity and original architectural features.
10. The railings that would surround the proposed roof terrace would be relatively short, have thin metal spindles and would match the adjacent enclosure around the appeal property's existing roof terrace. The existing window above the

closet wing would be replaced with large patio doors that would also match the opening onto the adjacent roof terrace. The changes would have a balanced and symmetrical appearance whilst also being visually unobtrusive. Moreover, they would be largely obscured from medium to long range views toward the appeal property by the apartment development nearby.

11. A tall vertical window positioned between the two patio doors leading to the roof terraces would provide light to an internal staircase. Although its elongated height contrasts with the shorter windows along the rear of the terrace, it would be largely obscured by the projecting closet wings either side as well as the overall mass of the adjacent apartment development to the rear.
12. Taking the above into account, the proposed changes do not alter the character of the appeal property and terrace to any appreciable degree. The changes are relatively minor in terms of their scale and appearance while being visually unobtrusive in the context of the building and area's character. Moreover, those features which contribute to the significance of the CA at this location would not be altered or have their appearance eroded to the extent that they would be harmed.
13. For the above reasons, I conclude that the proposed development would not harm the character and appearance of the host dwelling or the surrounding area, including that of the CA. It would therefore accord with Policies CL1, CL2, CL3, CL6, CL8, CL9 and CL11 of the Local Plan 2019. Collectively, these require, amongst other things, that proposals respect and contribute positively to the character of the dwelling and the area having regard to original architectural features, while preserving or enhancing the character or appearance of conservation areas.

Conclusion

14. Even though I have found that the proposal would have an acceptable effect on the character and appearance of the host building and the surrounding area, including the CA, this would not overcome my concerns in terms of its effect on the living conditions of nearby occupiers and the conflict with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

RE Jones

INSPECTOR