



Appeal Decision

Site visit made on 4 March 2022

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2022

Appeal Ref: APP/K5600/D/21/3286536

24 Pembroke Gardens, London W8 6HU

- 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 H Willis against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/04244, dated 28 June 2021, was refused by notice dated 25 August 2021.
 - The development proposed is the formation of rear extensions to lower ground and ground floors, with terraces at first and ground floors across full width of rear elevation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I undertook the site visit at the same time as another appeal relating to this property (APP/K5600/D/21/3286534) for an additional storey to the closet wing and to raise the rear wall. This other appeal is the subject of a separate decision.
3. Planning permission has recently been granted for lower and ground floor extensions across part of the rear and a Juliet balcony to first floor, internal reconfiguration, and replacement windows– Council reference PP/21/04138. At the time of my site visit renovation works were taking place at the property and it was enclosed to the front by hoarding and scaffolding, however the rear and side of property was fully visible.

Main Issues

4. The main issues are the effect of the development on: -
 - i) the character and appearance of the property and the Conservation Area; and
 - ii) the living conditions of the occupiers of neighbouring properties with reference to privacy, and noise and disturbance.

Character and Appearance

5. The end of terrace four storey property is located within the Edwards Square, Scarsdale & Abingdon Conservation Area (CA) and as such I have a statutory duty under section 72(1) of the Act to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The CA

covers a wide area and in my view its significance is derived from the formal layout of the streets and squares, and the rich historic and architectural quality of the period properties within it.

6. No.24 forms part of a terrace of Victorian properties (Nos.24 -30) which together with other villas and terraces in Pembroke Gardens and Warwick Gardens create a triangle of perimeter development with a central area of gardens containing several trees. Immediately to the side of No.24 is a gated driveway, and the gardens of Nos.21-23 Pembroke Gardens which are orientated at a right angle to the appeal site. Due to the break in the built form the whole of the flank elevation is visible from the street, including that of the rear closet wing.
7. The Council's concerns are restricted to the proposed railings to the first-floor roof terrace. Railings are an existing feature to the front and rear of properties in the terrace, and whilst now removed, photographs¹ show that No.24 had railings to a rear ground floor terrace. The proposed railings would define a terrace on the roof of the upper ground floor extension, which has been approved under PP/21/04138 and will be positioned between the property's closet wing and that of No.25.
8. I accept due to the increased height, railings at first floor level would be more visible. However, the form and design would effectively replicate the feature present at No.26, and other properties in the terrace exhibit railings at varying heights. The Council explain that the similar features present at Nos 25 and 26 are historic and precede current policies. Be that as it may, they are an established part of the visual appearance of the terrace (in particular the subgroup of Nos.24-27) and, in my view, they would not be highly conspicuous or out of keeping with the prevailing pattern of development.
9. The railings would not be visible from the street and in private views they would be seen in the context of the property and the wider terrace. In my opinion, given their modest scale and position the railings would have a neutral impact on the significance of the CA, and its character and appearance would be preserved.
10. Accordingly, the proposal would comply with the requirements of policies CL1, CL2, CL3, CL6 and CL11 of the Kensington and Chelsea Local Plan (Local Plan). Collectively, these policies seek to ensure developments are of a good quality design that protect and promote the special qualities, character and distinctiveness of the local area including the CA and buildings of architectural or historic importance.

Living Conditions

11. Notwithstanding my findings in relation to the appearance of the railings, the Council also consider that the enclosure of the roof spaces and use as amenity space would lead to harm to the living conditions of neighbouring residents by way of overlooking and noise and disturbance.
12. While the proposed first floor terrace would be of a reasonable size it would be in a recessed position and the direction of outlook would be restricted by the closet wings. The existing closet wings have windows to the rear elevation and there are terraces to other properties in the immediate locality. I also agree

¹ Design & Access and Heritage Statement

with the appeal decision² (referenced by the appellant relating to No.27), that raised terraces are becoming a feature of the urban environment to which there will be varying levels of inter-visibility. As such, and due to the scale and density of properties in Pembroke Gardens there is an existing level of mutual overlooking. The proposed first floor terrace would be accessed via an office and other external amenity spaces are available to the occupiers. As a result, I am not persuaded that disturbance or overlooking from this terrace would be materially harmful to the neighbouring occupiers.

13. A separate upper ground floor terrace has already been permitted³ adjacent to No.25. This proposal seeks to create an extended terrace across the full width of the property in front of the closet wing. The adjacent rear gardens to Nos.21-23 Pembroke Gardens, which share the northeast boundary, are on lower ground and the roof of the extension forming the terrace would be positioned above the existing boundary wall. Nevertheless, the depth of the projection along this boundary is limited and given its layout the potential for gatherings leading to unacceptable levels of noise and disturbance are limited.
14. However, the elevated position projecting beyond the closet wing, would allow for views over the boundary wall into the gardens, conservatories and rear windows of Nos.21-23 which are a limited distance away. I accept that the proposed trellis to the side would provide some screening, but it would also create a high boundary feature and not restrict all views, including those from the rest of the terrace. While I acknowledge tree coverage would filter some wider views, I find, contrary to the appellant's position, the proposed terrace would materially change the outlook towards the neighbours. Furthermore, the existing outlook from the neighbouring properties towards No.24 is to a blank façade, and, in my view, the presence of the external amenity space is likely to give rise to a perceived loss of privacy.
15. The appellant has referred to other terraces in Pembroke Gardens as precedent, however, these relate to mid terrace properties and Nos.26 and 27 have large rear gardens. Thereby, the relationship to the neighbours is significantly different and each proposal is to be considered on its own merits.
16. In conclusion, whilst I find that the first-floor terrace would not result in material harm from overlooking or noise and disturbance, the upper ground floor terrace would not ensure that visual privacy is retained to the detriment of the neighbouring occupiers' (Nos.21 -23) reasonable enjoyment of their property and garden. Thus, the proposal would be contrary to Local Plan policy CL5 which seeks to maintain good living conditions for the occupiers of neighbouring properties.

Conclusion

17. I have found the first-floor terrace and associated railings would not be harmful to the character or appearance of the area or living conditions, however, the ground floor terrace would have an unacceptable impact on the occupiers of Nos.21 -23 Pembroke Gardens, and there are no other matters which outweigh the conflict with the development plan and harm that I have found. The appeal is therefore dismissed.

² APP/K5600/W/15/3010733 – 27 Pembroke Gardens

³ PP/21/04138

G Ellis

INSPECTOR