



Appeal Decisions

Site visit made on 7 June 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th June 2022

Appeal A Ref: APP/K5600/W/21/3272304

5-13, 17 and 19 Bute Street, South Kensington, London, SW7 3EY

- 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 Neil Nugent and Mr Peter Dass against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/20/05401, dated 25 September 2020, was refused by notice dated 26 February 2021.
The development proposed is the construction of first-floor extension at rear of block with second-floor roof terrace. Internal reconfiguration of 7 flats, including associated refuse and cycle storage
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Appeal B Ref: APP/K5600/W/21/3281492

5-19 Bute Street, Kensington, London, SW7 3EY

- 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 Neil Nugent and Mr Peter Dass against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/02808, dated 30 April 2021, was refused by notice dated 28 June 2021.
 - The development proposed is erection of first and second floor rear extensions; a mansard roof extension and internal refurbishment of existing maisonettes to create 8 self-contained residential flats arranged across first, second and third floors, including associated refuse and cycle storage.
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Appeal C Ref: APP/K5600/W/21/3281493

5-19 Bute Street, Kensington, London, SW7 3EY

- 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 Neil Nugent and Mr Peter Dass against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/02965, dated 30 April 2021 was refused by notice dated 5 July 2021.
 - The development proposed is erection of first floor rear extensions with second floor terrace; a mansard roof extension and internal refurbishment of maisonettes to reconfigure 7 self-contained flats at first and second floor level and create 3 new self-contained residential flats on third floor, including associated refuse and cycle storage.
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Decisions

1. Appeal A is allowed and planning permission is granted for construction of first-floor extension at rear of block with second-floor roof terrace. Internal reconfiguration of 7 flats, including associated refuse and cycle storage at 5-13, 17 and 19 Bute Street, South Kensington, London, SW7 3EY in accordance with

the terms of the application, Ref PP/20/05401, dated 25 September 2020 and subject to the conditions set out in the attached schedule.

2. Appeal B is dismissed.
3. Appeal C is dismissed.

Preliminary Matters

4. Each appeal relates to the same terrace in Bute Street, and are submitted by the same appellants, so they can be addressed in a single decision. However, as Appeal A does not include roof extensions, I shall address that appeal separately from Appeals B and C.
5. For Appeal A no 15 Bute Street is not part of the proposed development. I have amended the site address accordingly. As the roof extensions proposed in Appeals B and C would extend across every property from 5-19 I have used that address for that appeal.
6. Amended plans were submitted with Appeal A reducing the width of the extension to No 5 and adjusting the width and balustrade glazing to the second floor terraces. In accordance with the principles established in *Wheatcroft* I am satisfied that accepting these amended plans would not prejudice any interested parties, as they have had the opportunity to comment on the amendments.

Main Issues

7. The main issues in relation to all three appeals are:
 - The effect of the proposed development on the character and appearance of the area; and,
 - The effect on the living conditions of neighbouring occupiers.

Reasons

Appeal A – Character and appearance

8. The appeal properties comprise seven of a largely uniform row of buildings. The rear of the buildings share some common features, including size and proportions of windows and a consistent, unbroken roofline. However, there is also variety to the rear in the form of external materials and finishes, boundary treatments, and in the extent of plant, rooflights and associated ducting and pipework arrayed across the first-floor terraces.
9. While the proposed extensions would not encompass the whole of the row of buildings or form a single unified group, they would represent a significant proportion of the row. The overall uniform scale and design of the proposed extensions would present a largely cohesive group, only interrupted by No 15 which falls outside of the appellants' ownership. The extensions would be subordinate features, modest in depth and set down from the parapet of the roof to the row. The common depth and height of the extensions would preserve the architectural symmetry of the row as a whole.
10. There are no other examples of second floor terraces within the row or to the opposing property or approved Kendrick Mews development. However, the scale of the proposed development would mean that the extensions, including the second floor terraces and balustrades, would not appear incongruous.

11. For Appeal A the proposed development would not be harmful to the character and appearance of the area. It therefore accords with Policies CL1, CL2, CL6 and CL9 of the Royal Borough of Kensington and Chelsea Local Plan 2019 (the LP). Taken together these policies require that development not harm the existing character and appearance of the building and its context, and that the architectural symmetry of the group of buildings not be impaired.

Appeal A – Neighbour living conditions

12. The rear extensions would create second floor terraces to three of the reconfigured dwellings. While there may be some impact to the privacy of neighbouring occupiers from this, these terraces are already overlooked from the upper floors of the appeal properties and neighbouring properties. The amended plans submitted with the appeal propose rear privacy panels to the terraces of 1.8 metres in height, which would substantially restrict outlook from the terraces or the second floor windows. The effect would therefore not be so harmful that a refusal of planning permission could be justified.
13. The rear of No 15 would be enclosed on both sides by the proposed extensions to Nos 13 and 17. However, the extensions would be relatively shallow in depth, so would not result in such an increase in enclosure that the occupiers of No 15 would experience unacceptable harm.
14. The amended plans provided with the appeal reduce the width of some of the extensions and terraces, in particular those along the shared boundaries with Nos 3 and 21. As a consequence the extensions would not cause unacceptable harm to the outlook from those properties, nor to the extent of natural light reaching their windows.
15. The rear extensions and terraces would be set well off the shared boundary with the properties to the rear. As they would not be very deep, they would not infringe unduly on outlook from those properties, nor cause an unacceptable increase in enclosure.
16. The development proposed in Appeal A would not therefore cause unacceptable harm to the living conditions of neighbouring occupiers. It therefore accords with Policy CL5 of the LP which, amongst other criteria, requires that all development ensures good living conditions for occupants of neighbouring buildings.

Appeals B and C – Character and appearance

17. The proposed extensions for which planning permission is sought under Appeals B and C include roof extensions and, in the case of Appeal B, second floor rear extensions rather than terraces.
18. The proposed roof extensions in both cases would substantially disrupt the architectural symmetry of this group of buildings. The proposals under Appeal A do not break the established parapet roof line, and therefore remain subordinate to the appeal properties and wider row. The roof extensions in both Appeal B and Appeal C would by contrast appear incongruous and discordant, resulting in a top-heavy development not in keeping with the established character of the wider row of properties. As the roof extensions would project above the established roof line and extend across existing property boundaries they would be prominently visible in the surrounding area.

19. With specific regard to the roof extensions under Appeal C, neither the rear windows nor the third floor terraces would align well with those features on lower floors. This would introduce a further discordant element to the rear elevation of the properties which would be especially prominent given the siting of the extension above the parapet roof line.
20. My attention has been drawn to the approved roof extensions to the similar row of buildings on the opposite side of Bute Street. I do not have the details of that permission before me, but from the street these approved extensions carry across the central six of eight largely identical properties. They therefore benefit from maintaining the symmetry of that group of eight properties within the wider row on that side of Bute Street. The appeal properties are not central within their row, and while there is some variety in their appearance and the roof extensions would encompass more than half of the properties in their row, they would result in an unbalancing effect harmful to the overall character of the group.
21. The first floor extensions and second floor terrace sought under Appeal C are similar to those under Appeal A, and I am satisfied that these elements would not, in themselves, be harmful. The rear extensions sought under Appeal B would be relatively modest in depth, with the second floor extensions shallower and substantially narrower than the first floor extensions. They would also therefore not be harmful in themselves.
22. The mansard roof form is common in the wider area, and the proposed roof extensions would be seen in the context of those opposite which would balance the facing rows of properties to an extent. Nonetheless, the proposed developments in both Appeals B and C would be harmful overall to the character and appearance of the area. They therefore conflict with Policies CL1, CL2, CL6 and CL9 of the LP, relevant criteria of which are set out above.

Appeals B and C – Neighbour living conditions

23. The roof extensions sought under Appeals B and C would add to the height and mass of the appeal properties as an unbroken addition of substantial width. However, they would be mansard roofs, with shallow roof slopes and pitched walls angled back from the rear elevation of the building. The increase in height would therefore not be so significant that it would cause unacceptable harm to the outlook from properties to the rear of the appeal site.
24. The rear extensions proposed under Appeal B and extensions and terraces proposed under Appeal C would be set against the existing rear wall of the appeal properties. They would not be so deep nor so high that they would cause harm to the outlook from the properties to the rear either.
25. Consequently, neither proposed development would cause unacceptable harm to the living conditions of neighbouring occupiers. They would therefore accord with the requirements of Policy CL5 of the LP as set out above.

Other Matters

26. A legal agreement was submitted with Appeal C by the appellants. It would covenant owners and occupiers of the proposed residential units to not apply to the Council for parking permits, and to ensure that advertisement and marketing of the units advise that permits will not be issued for them. If I were otherwise minded to allow the appeal I would have had to determine whether

the agreement was acceptable. However, as I am dismissing the appeal it is not necessary to consider this matter further.

Appeals B and C – Planning Balance

27. There is a shortfall in the Council's delivery of new homes, and therefore the presumption in favour of sustainable development set out in the National Planning Policy Framework (the Framework) is engaged.
28. Appeal B would create one new dwelling and Appeal C would create three new dwellings at the appeal site. Both would therefore contribute to the Government's objective of significantly boosting the supply of homes. They both involve the redevelopment of a brownfield site and would upgrade the existing standard of accommodation within the appeal properties. Both developments would include the installation of photovoltaic panels on the roofs of the properties, contributing to reducing carbon dioxide emissions. These considerations weigh in favour of both proposed developments.
29. However, both proposals would cause harm to the character and appearance of the area. The development would extend across several properties and would be highly visible. Accordingly, the harm arising from the proposed developments would in both cases significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
30. There are therefore no material considerations to indicate that Appeal B or Appeal C should be determined otherwise than in accordance with the development plan.

Conditions

31. I have had regard to the conditions suggested by the Council in relation to Appeal A. Where necessary, I have amended the conditions in accordance with national Planning Practice Guidance.
32. I have imposed the standard conditions relating to commencement of development (1) and specifying the approved plans (2).
33. I have also imposed conditions relating to details of materials (3) and the terrace screening (4). These are to ensure that the finished appearance of the development is acceptable.
34. A pre-commencement condition requiring details of construction methods (5) is necessary to avoid construction being harmful to the living conditions of neighbouring occupiers.
35. A condition requiring details of refuse and recycling storage (6) is necessary to ensure that these matters are handled appropriately.
36. I have not imposed a condition requiring sustainable drainage measures at the site as no information about why this is necessary in this location has been provided.

Conclusion

37. For the reasons set out above, Appeal A succeeds but Appeals B and C fail.

M Chalk

INSPECTOR

Schedule of conditions for Appeal A, APP/K5600/W/21/3272304

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1:1250 Site Location Plan
 - S3424/BP Block Plan
 - S3424/01 Existing Ground Floor and Roof Plans
 - S3424/01 Existing First Floor and Second Floor Plans
 - S3424/02 Existing Elevations and Sections
 - S3424/21A Proposed Ground Floor and Roof Plans
 - S3424/22A Proposed First and Second Floor Plans
 - S3424/23A Proposed Elevations and Sections
- 3) All work and work of making good shall be finished to match the existing exterior of the buildings in respect of materials, colour, texture, profile and, in the case of brickwork, facebond and pointing, shall be so maintained.
- 4) Prior to the construction of the terraces hereby approved, full details of the screening to be provided shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the details approved and retained thereafter.
- 5) No development shall commence until:
 - A) An Appendix A Checklist and Site Construction Management Plan (SCMP) for the development have both been submitted to, and approved in writing, by the Council's Construction Management Team, and then
 - B) Copies of the approved Checklist and Plan, and their written approval, have been submitted to the local planning authority to be placed on the property record.

The development shall be carried out in accordance with the Appendix A Checklist and SCMP so approved, or in accordance with a subsequent Checklist or SCMP as may be approved under this condition.
- 6) The development shall not be occupied until a refuse and recycling storage plan has been submitted to and approved in writing by the local planning authority. The facilities approved shall thereafter be retained for use at all times.