



Appeal Decision

Site visit made on 5 July 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2022

Appeal Ref: APP/K5600/W/21/3287136

Flat 4, 24 Coleherne Road, London SW10 9BW

- 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 Dr Novraj Dhanjal against the decision of The Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/01670, dated 12 March 2021, was refused by notice dated 18 May 2021.
 - The development proposed is described as 'new metal railing on rear extension parapet. Replace non original double glazed sash window with wood double glazed conservation type french door'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) Whether the proposal would preserve or enhance the character or appearance of the Boltons Conservation Area (CA); and
 - (ii) The effect of the proposal on the living conditions of neighbouring occupiers with particular regard to privacy and noise and disturbance.

Reasons

Character and appearance of the CA

3. The CA is mainly residential in character. Its significance largely derives from the high quality of its built environment. Flat 4, No 24 Coleherne Road sits within a distinctive Victorian five-storey terraced row. The front of this terraced row includes amongst other things recessed entrances and two-storey canted bays. The facing materials to the front include ornate stucco detailing. By contrast, the rear of the terraced row is of a more simple form and appearance. Even so, the regular pattern of closet wings projecting approximately half-way across rear elevations, predominantly traditional materials, prevailing sash window types and often repeated window proportions gives the terraced row a strong degree of order and consistency and this adds to the significance of the CA.
4. The appellant has provided an extract relating to rear elevations, taken from the Boltons Conservation Area Appraisal (2015). Even though roof terraces are not specifically mentioned as being detrimental, this does not mean they would preserve the significance of the CA in all instances. Indeed, the extract

- recognises that rear elevations of buildings in the CA often incorporate matching designs and details across the whole terrace or pair of houses and that where original form or historic uniformity remain, these make a very positive contribution to the architectural and historic character of the CA.
5. The built form of the appeal flat displays an overriding symmetry at this level with No 26 Coleherne Road in respect of the common parapet wall and the similarly proportioned sash windows to the rear of the closet wing. The replacement of this window on the host flat with French doors and the installation of metal railings would combine to differentiate this pair of dwellings and would also erode the overriding shared characteristics of the wider terrace. The formalisation of the use of the roof for sitting out would be likely to result in the placement of residential paraphrenia within this area in the longer term, further compounding the visual impact of the proposal.
 6. I accept that, as the proposal would affect only the rear of the property, it would be largely unnoticed in the majority of public views and the effect on the townscape would not be as apparent as a change to the front of the property. However, the character of the CA derives from the buildings, layout and surrounding spaces as a whole, regardless of whether particular elements are open to public view. Its significance does not therefore rely only on the elements that can readily be seen. Nevertheless, the proposal would be perceptible in oblique public views from Wharfdale Street and would also be discernible in private views from the windows and outdoor spaces serving surrounding residential properties.
 7. My attention has been drawn to several existing roof terraces in the area. This includes some within the same terraced row. Even so, there is nothing before me to suggest the roof terraces at Nos 8, 20 and 22 Coleherne Road were considered as part of a planning application. In the other cases, the introduction of roof terraces has eroded some of the original uniformity of the rear elevation albeit the example provided at No 16 Coleherne Road sits within the roofscape and is not directly comparable to the appeal proposal. In any case, these factors do not persuade me that a further proliferation of features that detract from the original form and uniformity of the rear elevation of this terraced row would preserve or enhance the character or appearance of the CA.
 8. Similarly, the casement windows at the lower ground flat of No 22 Coleherne Road and the roof terraces to the rear of other terraced rows to the opposite side of Colherne Road, on Coleherne Mews and elsewhere in the CA, are not a positive aspect of the CA which should necessarily be repeated. This is particularly the case in this instance given the identified harm to the appearance of the host flat and the terraced row that it forms part of.
 9. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 200 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
 10. The development would result in less than substantial harm to the significance of the CA. Paragraph 202 of the Framework states that where a development

proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

11. The proposal would provide a private benefit in terms of the likely improvements to the health and wellbeing of occupiers of the host flat resulting from the provision of outdoor space. However, no public benefits sufficient to outweigh the less than substantial harm to the significance of the CA have been identified.
12. I conclude, the development would not preserve or enhance the character or appearance of the CA. In that regard, it would conflict with the design, context, character and conservation requirements of Policies CL1 (Context and Character), CL2 (Design Quality), CL3 (Heritage Assets – Conservation Areas and Historic Spaces), CL6 (Small-scale Alterations and Additions) and CL11 (Views) of The Royal Borough of Kensington and Chelsea Local Plan (2019) (LP). The proposal would also conflict with the Framework which advises that great weight should be given to the conservation of heritage assets.

Living conditions of neighbouring occupiers

13. During my site visit I saw that the roof subject of the appeal proposal is already used as a terrace. However, the area can only be accessed from within the host flat by climbing through the window that sits adjacent to it. A dwarf parapet wall sits to the edge of the roof. Therefore, access to the area is somewhat constrained and anyone using the area as a roof terrace would be discouraged from approaching the edge.
14. The provision of French doors and metal railings would formalise the terrace and make it easier to access. The metal railings would also make it safer for occupiers of the flat and their guests to stand close to the edge. The oblique lines of sight would partially mitigate the overlooking impact on the nearest windows which sit level and above the host flat. However, there would be an increased perceived and actual overlooking impact into the nearest lower floor windows in the terraced row and private outdoor spaces below. This includes the vertical views that would be available into the roof light windows serving the ground floor flat at No 24.
15. The appellant suggests that any overlooking impacts could be overcome through the provision of planting. However, the maintenance of a planted screen would be difficult to monitor and enforce. Furthermore, any substantial structures or planting to form a screen could also draw additional attention to the incongruity of the proposal.
16. Given the elevated position of the proposed outdoor terrace and the close proximity of neighbouring properties within the terraced row, it is possible that there would be a heightened perception of activity upon it. This would be particularly the case during summer months when the nearest neighbouring bedroom windows may be open and socialising on the terrace might take place later into the evening. Given its modest area, only a small number of people would be likely to use the roof terrace at any one time. Consequently, it is unlikely that levels of noise and disturbance would be so significant that this would on its own warrant a refusal of planning permission. Even so, any limited

increase in levels of noise and disturbance has the potential to add to the harm already identified.

17. I conclude that the proposal would have an unacceptable impact on the living conditions of neighbouring occupiers with particular regard to privacy. There is also potential for some limited increase in levels of noise and disturbance. Overall, the proposal would therefore conflict with the requirements for new development to ensure good living conditions for occupants of neighbouring buildings in Policy CL5 (Living Conditions) of the LP. It would also be contrary to paragraph 130 of the National Planning Policy Framework which amongst other things requires that developments create places with a high standard of amenity for existing and future users.

Other Matters

18. I acknowledge that there is some third-party support. However, this does not outweigh the harm identified or conflict with the relevant policies of the development plan.
19. The appellant contends that the roof terrace is in existing lawful use and therefore that there would be no change in terms of any potential overlooking impacts. However, I have not been provided with any categorical evidence, such as a Lawful Development Certificate to confirm this. In any case, I have found that the proposed railings would facilitate the safer use of a greater proportion of the roof and consequently for its users to overlook properties to a greater extent than is presently the case. Any established use is also not comparable as it does not include the proposed alterations to the building.

Conclusion

20. The proposal would be harmful to the character and appearance of the CA. It would also have a harmful effect on the living conditions of neighbouring occupiers. The proposal therefore conflicts with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

M Russell

INSPECTOR