



Appeal Decision

Site visit made on 5 December 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2024

Appeal Ref: APP/K5600/W/23/3321981

61-65 Kensington Church Street, Kensington and Chelsea, London W8 4BA

- 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 Bristol Properties against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/22/07694, dated 13 December 2022, was refused by notice dated 10 March 2023.
 - The development proposed is a rear extension at first floor level to create additional office space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. All references to the Framework in this decision relate to the revised document. Both main parties have been given the opportunity to comment on the revised Framework. I am satisfied that there are no material changes relevant to the substance of this appeal and therefore no party would be prejudiced by the changes to the national policy context.
3. The Council has advised that the examination of the New Local Plan Review is ongoing, and it attaches limited weight to the emerging policies. Based on the evidence before me, I see no reasons to disagree and therefore I also afford limited weight to the emerging policies drawn to my attention.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of nearby properties, with particular regard to light spillage and outlook.

Reasons

Light spillage

5. The proposed office is designed with relatively large windows, particularly the window in the west facing elevation. The appellant has assessed the effects of artificial light spilling out of the windows in the proposed office and onto nearby properties using the Institute of Lighting Professionals (ILP) guidance notes for the reduction of obtrusive light. This assessment shows that even if the lighting array within the proposed office was designed to be 'shielded', light spillage from the windows of the proposed office would be at brightness levels

exceeding the recommended maximum post-curfew level in the ILP guidance at certain windows in Number 31 Campden Grove and in the Bullingham Mansions building that face the appeal site. The evidence suggests these properties are occupied as residential units. The brightness levels of the predicted light spillage would therefore be expected to result in disturbance and have an adverse effect on the living conditions of the occupiers of those properties during post-curfew hours.

6. To ensure that light spillage onto the windows in the affected properties would accord with the ILP guidance, the evidence suggests that certain mitigating measures would be necessary. These include the detailed design of the interior lighting, which could include 'dark zones' near windows where lighting units could not be installed, the fitting of window blinds and controlling the hours of use.
7. Limited details are before me to demonstrate how 'dark zones' could be achieved. Restricting the hours of use of the proposed office would not guarantee that artificial lighting would be switched off when the proposed office was not in use. Office lighting might be necessary for activities such as cleaning, which would be likely to be carried out when the proposed office was not in use. As such, I am not satisfied that restricting the hours of use of the proposed office would be effective in mitigating the effects of light spillage.
8. Requiring the relatively large office windows to be fitted with blinds could be secured by condition. However, imposing a condition that requires those window blinds to be operated to ensure they were closed at the requisite times each day to mitigate light spillage would place an unreasonably onerous and lasting burden on future occupiers of the proposed office, and thus would fail the test of reasonableness in the Planning Practice Guidance¹. I have limited details of how the window blinds could be mechanically automated, which together with concerns over the potential failure of automation, casts significant doubt over their lasting effectiveness in mitigating the harm.
9. For these reasons, I am not satisfied that the imposition of planning conditions would be either reasonable or effective in preventing harmful light spillage and resultant disturbance and harm to the living conditions of the occupiers of those nearby properties. Given the proposal's effects on the living conditions of the occupiers of those nearby properties, and the importance placed on providing good living conditions for existing occupants by Policy CL5 of the Royal Borough of Kensington and Chelsea Local Plan September 2019 ("the RBKCLP"), it is necessary to take a precautionary approach to this issue.
10. Taking all the above into account, I therefore find that the proposed development would have a significantly adverse effect on the living conditions of the occupiers of those nearby residential properties with particular regard to light spillage.

Outlook

11. The proposed development would be visible from the rear windows in the host building, which the evidence suggests serves residential units. It would also be visible from the gardens and several windows in the residential properties that front onto Campden Grove, and those in Bullingham Mansions, which overlook

¹ Paragraph: 003 Reference ID: 21a-003-20190723

the appeal site. I have had regard to photographs showing views of the appeal site from several flats within Bullingham Mansions.

12. A narrow flat roofed wing projects from the rear wall of Number 32 Campden Grove (Number 32). This wing would substantially screen the proposed extension in views from the rear facing lower floor windows in Number 32. Views of the proposal from the upper floor windows in Number 32 would be mostly over its roof. For these reasons, the appeal proposal would not be dominant or overbearing in views from Number 32.
13. The evidence suggests that 31 Campden Grove (Number 31) contains upper and lower maisonettes. There are several clear glazed windows in the rear and side elevations of this building that appear to serve habitable rooms. Views out of the bottom floor windows and doors in Number 31 have a clear view of the existing ground floor wall of the appeal property at short viewing distances, resulting in a somewhat restricted outlook. In this context, the walls of the proposed extension, which would be set back from the existing ground floor wall of the appeal property and of a modest height and massing, would not appear dominant or overbearing to the occupiers' outlook in views from the bottom floor windows and doors in Number 31.
14. The proposed extension would be broadly level with a rear facing sash window in Number 31, and rear and side facing windows serving a 3-angled bay at the rear of that property. Although the proposed extension would narrow the field of vision from the room served by the rear facing sash window to Number 31, it would be set back a sufficient distance from this window, which together with its modest massing, would avoid an oppressively overbearing effect on the occupiers' outlook from the room served by this window.
15. The windows and glazed door in the bay window to the rear of Number 31 gives occupiers a relatively wide field of vision from the room it serves. The proposed extension would be seen at a direct angle in views from out of the side window in this bay. It would also be visible in more oblique angle views from out of the rear window in this bay, and from out of the doors and window above it. However, the distances of separation between those windows and the proposed extension, together with its modest massing, would be sufficient to avoid an overbearing effect on the occupiers' outlook from the rooms served by those windows. The bay is also served by a broadly west facing window that would face away from the proposed extension.
16. Several windows in the lightwell of Bullingham Mansions would be more or less level with the south facing wall of the proposed extension and therefore occupiers would have a broadly direct angle view of the proposed extension from their flats. However, the wall of the proposed extension is not particularly tall. The modest massing of its built form would be set back from those windows by distances sufficient to avoid an oppressively overbearing effect on the occupiers' outlook from the rooms they serve.
17. The proposed extension would be set back from the outer wall of the existing flat roofed ground floor wing of the host property. In this position, the modest massing of the proposed extension would not be dominant or overbearing in views from out of the rooms served by the lightwell windows in the lower floors of the Bullingham Mansions building. The proposed extension would be set well below the lightwell windows in the upper floors of the Bullingham Mansions building. As such, views from out of those windows would generally be across

the roof of the proposed extension and it would not have a dominant or overbearing effect on the occupiers' outlook from their properties.

18. Facing the appeal site are several relatively narrow sash windows that are set in a white painted wall in the Bullingham Mansions building. These windows would be separated from the proposed extension by distances sufficient to avoid an oppressively overbearing effect on the occupiers' outlook from the rooms served by those windows.
19. Given the heights of the surrounding buildings, occupiers of nearby properties would already experience a discernible sense of enclosure from their relatively small and narrow gardens within this relatively densely built-up area. Views of the appeal site from nearby gardens, particularly those closest to it, are partially enclosed by the existing single storey rear wall of the appeal building. Although the proposed extension would occupy a visibly elevated position on top of the roof of the rear wing, it would be set back from the outer walls of the existing ground floor wing and its massing would be modest. Furthermore, it would be seen against the backdrop of the considerably larger and taller host building. As such, it would not be significantly dominant or have an oppressively overbearing effect in views from the nearby gardens.
20. In reaching a conclusion on this main issue, I conclude that light spillage from the proposed development would significantly harm the living conditions of the occupiers of the aforementioned residential properties, contrary to Policy CL5 of the RBKCLP, insofar as it seeks to ensure that good living conditions are achieved for the occupants of existing buildings. Although the appeal proposal would not harm the outlook of the occupiers of nearby properties, an absence of harm in this respect does not outweigh the harm arising from light spillage that I have identified.

Other Matters

21. The appeal site is located within the Kensington Conservation Area ("the CA") and in determining this appeal, I shall have regard to my statutory duty under Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ("the Act"), to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
22. The CA encompasses the appeal site and a large area beyond it. Based on the evidence before me, including the Kensington Conservation Area Appraisal 2017 ("the CAA"), the character and appearance of the CA appears to be derived from its densely built-up urban form, consisting mostly of substantially sized period style buildings, often with highly detailed exteriors set in rows fronting the streets. The different and often unique designs to the buildings across the CA contribute to an architecturally rich and formal character and appearance to the CA. The architectural style of the appeal building's façade is identified in the CAA as contributing positively to the character or appearance of the CA.
23. The proposed extension would be a modestly scaled and subservient addition to the large host building. Set at the rear of the building it would not be likely to be visible from a publicly accessible vantage point, nor would it encroach into the important townscape gap between the appeal building and the studio house, which is identified in the CAA. In views from nearby private properties, the simple flat-roofed form and horizontal emphasis to the proposed extension

would be sympathetic to the architectural style of the host building. The materials for its exterior surfaces would harmonise with the host building and those surrounding it.

24. For these reasons, the proposed development would not erode the positive contribution made by the host building to the character and appearance of the CA. I therefore conclude that the proposal would preserve (leave unharmed) the character or appearance of the CA as a whole. However, this is a neutral factor that weighs neither in favour nor against the proposal.
25. The proposed development would contribute positively to the economy through delivering office floor space in a location where such uses are supported, in principle, by policies of the development plan, and in a location where accessibility by public transport is very good. However, those benefits would be outweighed by the proposal's harmful effect on the living conditions of the occupiers of nearby residential properties, and the conflict with RBKCLP Policy CL5, which expects development to ensure that good living conditions are achieved for occupants of existing buildings. Although I have not identified any other harms, an absence of harm does not weigh positively in favour of the proposal.

Conclusion

26. The proposed development would harm the living conditions of nearby occupiers and I give significant weight to the appeal proposal's harm and resultant policy conflict in this regard. This results in conflict with the development plan as a whole and there are no material considerations of sufficient weight to outweigh this conflict. Therefore, the appeal should be dismissed.

G Sylvester

INSPECTOR