

Appeal Decision

Site visit made on 9 September 2024

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2024

Appeal Ref: APP/K5600/D/24/3344877

33 Charles II Place, Kensington And Chelsea, London SW3 4NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Savills against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/23/08027 dated 1 December 2023 and was refused by notice dated 13 March 2024.
 - The development proposed is Installation of a timber trellis fence, iron railings and planters to accommodate use for part of rear first floor level as amenity terrace.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- The effect of the development on the character and appearance of the local area; and
- Whether or not the proposal would harm the living conditions of the adjacent occupants by way of overlooking and loss of privacy and sense of enclosure.

Reasons

Character and appearance

3. The appeal site forms part of a modern development of residential dwellings located behind Kings Road. Number 33 Charles II Place is a corner plot and benefits from larger grounds than some of the attached neighbours. There is significant consistency and continuity to the development of Charles II Place arising from materiality and overall design of properties, despite extensions that have largely occurred at ground floor level. The development is surrounded by commercial units on Kings Road and other mid-19th Century houses to Smith Terrace and Radnor Walk. The rear elevation is only seen in private views from these residential properties.

4. The ground floor has been extended in more recent times by way of an enlarged kitchen that extends into the rear garden area with a flat roof over, and low parapet surrounding the flat roof. As part of this permission, a condition was imposed to prevent its use as external amenity space for the appellant, in order to safeguard the living conditions of adjacent neighbours.
5. The appellant proposes to enclose all of this space but retain about one third of the space as a non-accessible maintenance area, with the rest to be used as an external terrace space for their personal use. To facilitate this, both timber trellis and iron balustrade would be used as a means to safely enclose the space.
6. From my observations, there are various forms of enclosure to external terrace spaces, more acutely to houses beyond the curtilage of Charles II Place. I could see that the rear elevations of a number of houses at Charles II Place have small canopy style projections, or small timber framed and unenclosed lightweight canopies that exists to the first floor. Therefore, I am aware that there are currently houses within this development with external first floor space, albeit at a small scale. I also note these are built, as far as I could see, without railings and a greater element of yellow brickwork forms part of their structure. Overall, they broadly follow the distinctive characteristics of the Charles II Place development as a whole.
7. The appellant's external terrace space would be much greater in size, even without the maintenance area. The planters proposed to its far boundary would have a permanence to them given their size and number and position in front of the proposed railings where they would not be easily movable.
8. Whilst there is a set-back proposed to the railings with these planters in front, all the external space would be entirely enclosed by perimeter treatment, taking in the maintenance area. This would result in a very long and visually exposed form of boundary treatment that would introduce new materials and planter effects to this modern group of houses. I appreciate the efforts of the appellant to provide some urban greening, however, as a combination of effects, it would introduce clutter to the external space that is not a characteristic of the upper floors of this specific group of houses.
9. This new boundary enclosure material would also extend to the timber trellis at approximately 1.8m high and extending along the side with Number 27 ½ Smith Terrace, nearly to the far corner of the terrace space where it would tie into the lower railings. As a combination of differing uncharacteristic materials and heights, as a whole, the proposal would not respect the characteristics of the development and would have a negative effect upon the character and appearance of the host dwelling, and local area as a consequence.
10. Therefore, to conclude on this main issue, having had regard to the policy aims for development to respect context and character and seek to achieve good design, the proposal would fail to comply with policies CL1, CL2 and CL6 of the 2019 Local Plan.

Living conditions

11. There is an element of mutual overlooking that exists internally from the appeal site to the surrounding dwellings, including external terraces. In particular, I could see the overlooking experienced from the drawing room of the appeal site towards the large rear bedroom window and terrace of Number 27 ½ Smith Terrace. Nevertheless, this is an extant situation.
12. The large expanse of terrace area would allow its users a closer physical encounter with these neighbouring dwellings. The mitigation proposed by way of the trellis would come some way towards preventing overlooking to the bedroom and terrace of Number 27 ½ Smith Terrace, and improve upon the internal overlooking from the appeal site.
13. However, the terrace space would be a large expanse for the appellant to enjoy. I am not convinced that the position of the trellis would effectively mitigate the effects of overlooking and loss of privacy to these neighbouring occupants from all of the terrace space. Indeed, given its generous size and potential for larger groups of people to congregate, and could include the use of amplified music to this space, would have the potential to harm the living conditions of adjacent occupants in close quarters.
14. The proposed trellis would be positioned close to the boundary with the sunken garden of Number 27 ½ Smith Terrace. Their garden is enclosed on all sides by high masonry walls and timber panelled fence. I am not convinced that the proposed trellis along the side of the terrace space would lead to any greater sense of enclosure from within the garden than the current situation. As the trellis would be positioned to the west side of the terrace space at No 33, there could be some additional loss of light to this sunken garden. However, it would be for a limited period of time and I am not persuaded it would result in significant harm to the occupants' living conditions.
15. However, it would be a large and intrusive object when seen from the terrace and bedroom of No 27 ½, made more severe given the close relationship between the two and the change in levels. Even though it would not extend the full length of the terrace space, nevertheless, the neighbouring outlook from these spaces would be adversely affected by way of the close position of the trellis and its height.
16. To conclude on this main issue, the proposal would not safeguard the living conditions of adjacent neighbours and would therefore fail to comply with policy CL5 of the 2019 Local Plan that seeks to protect living conditions.

Conclusion

17. Bringing both main issues together, the proposal would conflict with the development plan as a whole and there are no other material considerations which lead me to determine the appeal otherwise than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

Alison Scott INSPECTOR

