
Appeal Decision

Site visit made on 6 September 2016

by Elizabeth Pleasant DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 October 2016

Appeal Ref: APP/K5600/W/16/3151555

40 Lexham Gardens, London W8 5JE

- 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 John Williams against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/16/01407, dated 3 March 2016, was refused by notice dated 9 May 2016.
 - The development proposed is demolition of single storey garage and redevelopment with new lower ground (basement) level to provide one bedroom flat at lower ground floor (basement), ground floor and mezzanine levels.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As part of the appeal submission the appellant has submitted amended drawings, Refs, PL101F; PL104C; PL105F, PL003B & PL004B. A revised Construction Traffic Management Plan (CTMP) has also been provided. The Council has had an opportunity to comment on these amended plans and documents. It is only appropriate to take the amended drawings into account if no party would be disadvantaged. Having regard to *Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JPL 37*, it is necessary for me to consider whether the proposed changes would represent a substantial difference compared to the original application. It was held in this judgement that one of the main criteria is whether the development would be so changed by such amendments that to grant planning permission would deprive those who should have been consulted of the opportunity of consultation.
3. The amended drawings show the position of the existing bin store and remove the proposed parking space from within the site curtilage and replace it with a bike store. I consider this to be a minor alteration to the original scheme and I do not consider that either party would be prejudiced by my determining the appeal with regard to the amended drawings, Refs, PL101F; PL104C; PL105F, PL003B & PL004B and I have done so on this basis.
4. The Council accept that the removal of the proposed parking space would overcome reason for refusal No 5. The Council also agree with the appellant that it would be possible to impose a condition to secure the submission and

approval of a final CTMP. This would overcome reason for refusal No 3. I see no reason to disagree.

Main Issues

5. Having regard to my findings set out in preliminary matters above, I consider the main issues in this case are:

- The effect on the character and appearance of host property and Lexham Gardens Conservation Area;
- Whether or not the proposal would provide acceptable living conditions for future occupants, with particular regard to space, layout, outlook and light.
- The effect on the existing living conditions of the occupants of 40E Lexham Gardens, with particular regard to daylight and sunlight; and
- The effect on on-street parking.

Reasons

Character and appearance

6. The appeal site adjoins a short terrace of four-storey properties which also have basements and accommodation in the roof. It occupies a prominent corner position within the Conservation Area, fronting towards Lexham Gardens. Lexham Gardens Conservation Area Proposals Statement advises that the properties around the Gardens, which includes No 40, are all similar in height and detailing, being mainly stuccoed with Italianate decoration and include substantial porches, cornicing and particularly attractive cast iron railings. The terrace makes a positive contribution to the Conservation Area.
7. The appeal site is currently occupied by a single storey garage which is attached to the flank wall of No 40 and adjoins Lexham Gardens Mews. It is recessed well behind the front elevation of the terrace, and although it is not particularly attractive in appearance, by reason of its small scale, siting and dark materials of construction it does not appear visually dominant within the street scene. Moreover, by reason of its position adjoining the garages on Lexham Garden Mews, which are similar in their design and scale, it does not appear incongruous in this location.
8. The proposed development would replace the garage with a building which, although a self contained unit, would appear as an extension to No 40. The existing terrace displays a distinct robust form and rhythm which is derived by reason of its scale and distinct bay windows and porches. Furthermore its detailed string course, decorative parapets and cornice detail provide the terrace with a harmonious façade. Its overall immense scale is reinforced by the presence of the dominant porches which so clearly define each property's ground floor entrance.
9. The appeal proposal, by reason of its small scale and sunken position would not visually connect with the front elevation of the host property. Furthermore it does not display or respond to any of the host property's original design characteristics which provide the terrace with its distinct and harmonious character. Consequently the proposed building would appear as a discordant addition which would be reinforced by its contrasting rendered finish and unusual roof form on this prominent corner.

10. I have had regard to the nature of the neighbouring properties on Lexham Garden Mews and the cottage at No 1 Lexham Walk. However, these properties display their own distinct character and form which contribute positively to their respective street scenes. In contrast the appeal proposal would fail to respond to the character of the adjoining terrace and would diminish the contribution it currently makes to the overall visual qualities of Lexham Gardens.
11. I conclude that the proposed development would cause significant harm to the character and appearance the host property and Lexham Gardens Conservation Area. It would cause less than substantial harm to the Conservation Area as a heritage asset. This harm is not outweighed by any public benefits, including the social benefits of providing a new home. The proposal is therefore contrary to policies in the National Planning Policy Framework which seek to conserve and enhance the historic environment and conflicts with Policies CL1, CL2, CL3, and CL11 of the Royal Borough of Kensington & Chelsea Consolidated Local Plan, 2015 (Local Plan) which seek to ensure, amongst other criteria, that all development respects the existing context, character and appearance, contribute positively to the townscape in scale, height, rhythm and form and not harm the character and appearance of the Conservation Area and important views within it. I further find conflict with Policy CL9 of the Local Plan which seeks to ensure that extensions and modifications to existing buildings reinforce the character and integrity of the original building.

Living conditions of 40E Lexham Gardens

12. There is a window at ground level in the flank wall of the adjoining terrace which serves the kitchen of the adjoining basement flat, No 40E Lexham Gardens. It is the sole window to this room and so even though it is at a high level and fitted with obscure glass it does provide some natural light and sunlight to the kitchen and also into the central hallway within the flat.
13. The proposed flank wall to the lobby of appeal proposal would be within 2m of this window and extend above it to a height of approximately 3.5m. I have considered the results of the Daylight and Sunlight Study¹ (DSS) which has been undertaken and concludes that the proposed development would not have an adverse effect on either the daylight or sunlight received by this window. The Council have not provided any substantive evidence contrary to the findings of the DSS which appears to me to provide a full appraisal and uses the BRE 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' as a basis for assessment. I was able to enter No 40E, and although it was clear that the window does provide some natural daylight and sunlight to the kitchen, even on a bright day it was necessary to have artificial light in this room. On the basis of the evidence I have before me, and in view of the existing site circumstances, I am satisfied that there would not be a significantly harmful reduction in the amount of daylight or sunlight available to this basement kitchen.
14. I conclude that the proposed development would not cause significant harm to the existing occupants of 40E Lexham Gardens, having particular regard to daylight and sunlight. I therefore find no conflict with Policy CL5 of the Local Plan which seeks to ensure, amongst other things, that all new development

¹ Daylight and Sunlight Study, Garage at 40 Lexham Gardens, Right of Light Consulting, dated 16 February 2016

ensures good living conditions for occupants of new, existing and neighbouring buildings.

Living conditions of future occupiers

15. The appeal proposal would provide a one bedroom two person dwelling with accommodation over three floors. The Council accept that the accommodation provided would meet the space requirements for this type of accommodation as set out in The National Described Space Standards (NDSS) and London Plan, but raise concerns over its layout which they perceive to be constrained in width, outlook and light.
16. I have considered the Council's concern regarding the narrow width of the accommodation and its provision over 3 floors. However, even without the third floor the accommodation would still meet the NDSS for a 1B2P dwelling over two floors. The proposed third mezzanine floor significantly improves the standard of the accommodation by providing an additional well lit space which could be utilised for a number of purposes. Furthermore it would provide additional light to the living and kitchen area from its glazed roof elements.
17. It has been shown that the bedroom would accommodate a double bed with storage space. Although it would have a restricted outlook, there would be natural light and ventilation from the fully glazed door into the light well as well as having a roof light. It is not uncommon for bedroom accommodation to have a restricted outlook. The shower room would also have a window and be ventilated. The accommodation to the rear of the property would be restricted in width and outlook but the layout has taken account of this by utilising this space for the staircase and storage where outlook and a feeling of spaciousness are not critical.
18. I conclude that the appeal proposal would provide acceptable living conditions for future occupants, with particular regard to space, layout, outlook and light. I therefore find no conflict with Policy 3.5 of the London Plan or the Major of London's Housing Supplementary Planning Guidance, 2016 seeks to ensure that housing developments are of the highest quality internally, externally and in relation to their context and to the wider environment. I also find no conflict with Policy CH2 of the Local Plan which requires, amongst other criteria, new residential development to be designed to a minimum to achieve a number of standards, including floor space and floor to ceiling heights.

Parking

19. The appeal site has a PTAL rating of 5 and is thus a highly accessible location where residents have a good range of public transport alternatives to the private car. The Royal Borough of Kensington is subject to one Controlled Parking Zone and Council state that there are high levels of on-street parking demand in the area. Policy CT1 of the Local Plan requires that all new development be permit-free and requires it to be demonstrated that development will not result in any material increase in traffic congestion or on-street parking pressure.
20. The appeal site is currently occupied by a single garage and hardstanding area which could provide space for the parking of a car. The appellant has however made it clear that it is not used for that purpose and nor has it been so for

many years. The proposed development would prevent any cars from parking on this site.

21. In view of the existing site circumstances set out above, I am satisfied that the loss of a single unsecured car parking space would be unlikely to result in any material increase in on-street parking pressure in the Borough. Furthermore, although the application is not supported by any mechanism to prevent future occupiers from applying for and obtaining a parking permit, the appellant has stated that he would be willing to accept a condition or provide a planning obligation to secure the development as a car-free development. I am therefore satisfied that, in this instance, it would be reasonable to secure the development as a car-free development by the imposition of a negatively worded condition requiring a planning obligation or other agreement to be entered into before the development takes place.
22. I therefore conclude that subject to the imposition of a condition to secure car-free housing as set out above, the proposed development would not put harmful pressure on on-street parking. I therefore find no conflict with Policy CT1 of the Local Plan the aims of which are set out above.

Conclusion

23. Although I have found that the appeal proposal would not have a harmful effect on the living conditions of existing or future occupants, nor put harmful pressure on on-street parking, I have found that it would cause significant harm to the character and appearance of the host property and Lexham Gardens Conservation Area. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Elizabeth Pleasant

INSPECTOR