

Appeal Decision

Site visit made on 9 May 2017

by S Jones MA DipLP

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

Decision date: 18th August 2017

Appeal Ref: APP/K5600/W/17/3168601
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/16/07928, dated 22 November 2016, was refused by notice dated 19 January 2017.
 - The development proposed is demolition of single storey garage and redevelopment with new lower ground floor (basement) level to provide 1 bedroom flat at basement, ground and ground floor mezzanine levels.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr John Williams against The Council of the Royal Borough of Kensington and Chelsea. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposed development :
 - a) on whether it would preserve or enhance the character or appearance of the surrounding Lexham Gardens Conservation Area (CA) and the host building
 - b) on on-street parking in the area
 - c) on living conditions at 40 Lexham Gardens

Reasons

Character or Appearance

4. In determining this appeal, I have a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to whether the proposal preserves or enhances the character or appearance of the conservation area. Lexham Gardens CA was designated as a heritage asset for its mid-Victorian Italianate style development including large properties all similar in height and detailing, being mainly stuccoed with
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- Italianate decoration and with substantial porches, cornicing and cast iron railings. These matters still contribute to its significance.
5. No 40 is a substantial stucco detailed five storey building that is at the end of a short terrace of similar properties that contributes to the setting to the central gardens. Its contribution to the terrace, its prominence and its detailing mean No 40 makes a positive contribution to the significance of the CA.
 6. The appeal site is to the side of 40 Lexham Gardens on hardstanding on the corner. It is a narrow and constrained site contained by walls and railings and currently only accommodates the shed-like one storey single garage and the bins, which are relatively inconspicuous. Behind it are smaller mews houses whose own garages adjoin this garage at roughly the same height, so that it is less noticeable.
 7. The proposal comprises the construction on the garage site of a one bedroom flat that would take the form of a single storey side extension to the host building. It would not be level with the frontage of No 40 but rather would be set back with an L shaped arrangement, and would have a small front porch and detailing that reflects that found on the rest of the terrace.
 8. The houses here are imposing and large scale with distinct porches, bay windows and detailing, as referred to in the CA characteristics and its form and height would appear as a discordant addition to this relatively uniform terrace, whilst its design would raise its prominence on the corner plot. For these reasons it would materially harm the character and appearance of the CA as a whole and cause less than substantial harm to its significance as a designated heritage asset.
 9. Mindful of the requirements of paragraph 134 in the National Planning Policy Framework, the provision of an additional one bedroom flat would be a public benefit. However, it would not make a significant contribution to housing where there is not a shortfall in housing currently, and furthermore this would not outweigh the harm arising. Although there may be an element of unsightliness regarding the current site, it would not be improved by this development because it would result in a more prominent and incongruous addition than the garage.
 10. It was the subject of a previous appeal APP/K5600/W/16/3151555, which was dismissed in 2016. That scheme was for an entirely different design. This current appeal relates to a new scheme and so, in relation to this issue, the previous appeal can be distinguished.
 11. Overall the development would fail to preserve or enhance the character or appearance of the CA, and would unacceptably harm the character and appearance of the host building. Therefore it conflicts with policies in the National Planning Policy Framework which seek to conserve and enhance the historic environment and with the 2015 Royal Borough of Kensington and Chelsea Consolidated Local Plan (LP) Policies CL1 and CL2, which seek to secure that developments make a positive contribution to the townscape, views and open space in their local context by appropriate proportion, scale, width, height, rhythm and form. It conflicts with Policy CL3 which requires development to preserve or enhance the character and appearance of the CA and its setting and with Policy CL6 which requires extensions to reflect the characteristics of the host building. It conflicts with Policy CL11 insofar as it

would affect the views of the area and the gaps between Lexham Gardens and the mews behind.

On-Street Parking

12. A s106 agreement was requested to secure car free development. In the event of the Refusal, it was not completed by the Council. It was not submitted as a Unilateral Undertaking by the appellant. I appreciate that the appellant is willing to complete the s106 but one has not been submitted with the appeal, and I note the correspondence with the Council.
13. The existing garage provides for one unsecured car parking space and the development would give rise to demand for one car, at most. This would not result in any material increase in traffic congestion or harmful material increase in on-street parking either. I agree with the previous Inspector in that regard. Consequently under these particular circumstances on this particular site, I conclude that neither a s106 agreement or a Condition would be required, and there would be no conflict with Policy CT1 'Improving Alternatives to Car Use' of the LP or the Transport and Streets Supplementary Planning Document (SPD).

Living Conditions

14. The other occupants of the flats in No 40 have raised a number of objections to the development and concerns about living conditions affected by reduced privacy, light and ventilation. There are no rear windows proposed that would affect privacy in the existing rear garden. The proposed basement section would not affect any living conditions at 40 Lexham Gardens other than during construction.
15. A comprehensive professional standard technical assessment of daylight and sunlight was submitted as part of the application. This numbers the windows reviewed in the study, and I use that numbering. Two windows are specifically raised by residents:
 - i. Window 76 the ground floor flat side window at Flat D No 40

The proposed mezzanine ground floor level inserts a lightwell to secure light levels to the window. The technical assessment shows a significant reduction in available light. Whilst that is a material consideration, I conclude it is not one that makes living conditions at Flat D significantly worse overall as it is to the stair corridor and not to a habitable room.
 - ii. Window 81 the lower ground floor window at Flat E No 40.

The proposed ground floor living room is set back to allow light to continue to reach this window. The technical assessment shows a minimal effect. I conclude that the light to the obscure window to that existing lower ground floor would not be significantly worsened by the proposed development.
16. Overall, I do not find any material detriment to living conditions arising from the proposal to conflict with Policy CL5 of the LP which seeks to secure good living conditions for existing occupiers.

Conclusion

17. For the reasons given above, and having regard to all other matters, I conclude that the appeal should be dismissed.

S Jones

INSPECTOR