
Appeal Decision

Site visit made on 29 October 2020

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26/01/2021

Appeal Ref: APP/K5600/W/20/3249893

7 Kramer Mews, London SW5 9JG

- 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 Nanik Daswani against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/19/07479, dated 4 November 2019, was refused by notice dated 26 February 2020.
 - The development proposed is for the erection of a five storey building comprising one studio and four self-contained one-bedroom residential units with communal patio space and Juliet balconies, involving demolition of the existing building.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a five storey building comprising one studio and four self-contained one-bedroom residential units with communal patio space and Juliet balconies, involving demolition of the existing building at 7 Kramer Mews, London SW5 9JG in accordance with the terms of the application, Ref PP/19/07479, dated 4 November 2019, subject to the conditions in the attached schedule.

Preliminary Matter

2. An application for costs was made by Mr Nanik Daswani against the decision of 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 development on (a) the character and appearance of the area, including the adjacent Philbeach Conservation Area; and (b) the living conditions of the occupants of neighbouring dwellings with regard to light and outlook.

Reasons

Character and appearance

4. The appeal site relates to a two-storey dwelling in a high-density, urban backland situation. The surrounding area consists of residential and commercial uses, and comprises a mixture of building styles and designs, including a 1970s sheltered housing development and late Victorian terraced properties. The site lies immediately adjacent to, but not within, the Philbeach Conservation Area (PCA).

5. The appeal proposal is for a 5-storey residential building that would be of a size and design similar to others in the locale. The Council comments that this would be unacceptable; the site is currently occupied by a modest, low-level building that fits comfortably in this irregular shaped and constrained area of land. The new building, by matching the scale of those around it, would appear cramped and out of place.
6. I am not persuaded that this would be the case. The shape of the building responds to the site characteristics, and would not be incongruous given the variety of built form present in the neighbourhood. I note that the height of the building would be below that of the property at the corner of Warwick Road and Brompton Road, and would otherwise be analogous with those in the surrounds. I consider this to be an acceptable juxtaposition that would assimilate harmoniously with the rooflines in the locality. Overall, whilst the surroundings of a short length of this urban environment would be changed, it would not be unduly enclosed, and bearing in mind the form of development to either side, I do not consider that in this respect the appeal proposal would cause harm to the character and appearance of the area.
7. Although the appeal site is not within the PCA, I have considered the effect of the proposal on views into and out of it. I have also read the Heritage Representations document provided by Pegasus Group. I appreciate the value of gaps within the bounds of Conservation Areas and the importance of dividing lines between old and new.
8. On my site visit, I observed the gap between the buildings of 1 Warwick Road and 294 Old Brompton Road from the east. Although the proposal would fill this gap, it would not alter the alignment of the streetscene. When viewed from the busy intersection to the east, it would be set substantially behind the front elevations of the adjoining buildings, and therefore the articulation and separation between the built form would be maintained.
9. When seen from Kramer Mews, the sheltered housing development and the rear amenity spaces and openings of properties fronting Warwick Road and Old Brompton Road, the closure of the gap would be far more evident. However, there is no compelling evidence before me to suggest that the gap plays an important role in maintaining the historic settlement pattern at the rear, or that its retention is in any other way necessary. Consequently, I do not find that its loss would be materially harmful to the locality.
10. To my mind, the impact on the architectural or historical interest of the PCA is therefore likely to be minimal. Overall, given my reasoning above, I do not consider that the proposal would have an adverse effect on the significance of the heritage asset.
11. I conclude on this issue that the proposal would not have a harmful impact on the character and appearance of the area, including the adjacent PCA. It would be in accordance with policies CL1, CL2, CL3 and CL11 of the The Royal Borough of Kensington and Chelsea Local Plan September 2019 (LP), which, amongst other things, require development to respect the existing context, character and appearance, be of the highest architectural and urban design quality, preserve or enhance the character or appearance of conservation areas and protect and enhance gaps that contribute to the character and quality of the area. I do not deem CL9 to be of relevance as it relates to the extensions and modifications of existing buildings.

Living conditions

12. In order to consider the effect of the proposed development on the outlook and shading at 1 Warwick Road and 296 Old Brompton Road, a Daylight and Sunlight Assessment (DSA) conducted by AWH was provided with the planning application. This accords with the Building Research Establishment (BRE) Report 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice', which I accept is an established document to consider the impact of new development on daylight and sunlight.
13. The DSA demonstrates that daylighting has been assessed to windows that subtend within 45 degrees of the proposed development. The results show that the appeal scheme will allow for good levels of daylight and sunlight to be received to the surrounding properties; the BRE would classify the development as having a minor adverse effect thereon. One window would receive reduced daylighting, however when the results for this opening are compared with the Daylight Distribution results, internal daylighting to the room served by this window is of a good level, as such making the failure immaterial.
14. I have been provided with a review of the results by XCO2. This contests the findings of the AWH assessment, and concludes that there are notable adverse impacts in terms of daylight and sunlight access on neighbouring properties and that the proposed development is very dense and awkwardly located in the existing context.
15. To my mind, the proposed development would undoubtedly result in a degree of further reduction in light and outlook to windows at 1 Warwick Road and 296 Old Brompton Road. However, its projection outwards would not be to any deleterious extent that there would be material loss of light to the internal rooms of these properties. From 1 Warwick Road, the primary outlook towards no. 5 Kramer Mews and the sheltered housing development would be retained.
16. The occupants of no. 296 Old Brompton Road already endure a substantial sense of enclosure at the rear of the property. The appeal scheme would unlikely contribute to a material worsening of the sense of enclosure from that which already occurs.
17. These circumstances, together with the conclusions of the sunlight and daylight assessment, are factors that lead me to conclude that the loss of light and outlook to the occupiers of surrounding properties as a consequence of the proposed development would not be of such a significant detrimental extent to warrant the dismissal of this appeal.
18. I note the contents of the XCO2 evaluation. I am satisfied with the appellant's explanation and rebuttal to the report, including the reasoning behind the lack of assessment of 294 Old Brompton Road. I consider that there is no compelling evidence before me to alter my findings.
19. I therefore conclude that the proposal would not result in material harm to the living conditions of the occupants of neighbouring dwellings with regard to light and outlook. It would be in accordance with policy CL5 of the LP which requires all development to provide good living conditions for occupants of neighbouring buildings.

Other Matters

20. The appellant has submitted a Unilateral Undertaking agreeing to restrict the issue of car parking permits for the future residents of the proposed residential accommodation. The accompanying plan clearly identifies the appeal site and the Undertaking is dated, signed and witnessed. I am satisfied that the Undertaking would meet the requirements for planning obligations set out in Regulation 122(2) of the Community Infrastructure Levy Regulations (2010).
21. I note the third-party objections to the proposal, in particular with regard to access to the site, privacy, security, loss of view, drainage and the need for a comprehensive construction management plan. However, these issues have either been addressed in the planning officer's report or can be secured via condition. Therefore whilst I can understand the apprehension of local residents, their concerns are not supported by any substantive evidence that would justify the dismissal of the appeal on these grounds.

Conditions

22. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the National Planning Policy Framework. I have altered the wording of some of the conditions suggested by the Council in the interests of clarity and necessity. In addition to the standard implementation condition, the approved plans are listed for certainty. Conditions concerning the submission of external materials and preventing roof structures and appliances would ensure the satisfactory appearance of the development.
23. Conditions relating to the provision of a flat for wheelchair access, cycle parking and refuse and recycling storage are necessary to ensure provision of such elements on the site. I note that a Construction Traffic Management Plan was submitted as part of the application, however this is in draft form and therefore a condition requiring submission of a final Plan would minimise the impact of works in the interests of the living conditions of the occupants of local properties and highway safety.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed.

C Hall

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P100; P101; P102; P103; P104; P105; P106; P107; P108; P109; P110.

- 3) Except for demolition, no development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority (LPA). Development shall be carried out in accordance with the approved details.
- 4) No water tank, lift motor room, or other structure or appliance shall be erected upon the roof of the building hereby permitted.
- 5) The flat to be provided at ground floor level shall be designed and constructed to comply with the full requirements of Approved Document M - Access to and use of buildings; Volume 2 - Buildings other than dwellings of the Building Regulations 2010. Thereafter the unit shall be permanently retained in this form thereafter.
- 6) The development shall not be occupied until details of the proposed bicycle parking facilities have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details prior to occupation of the units and retained thereafter.
- 7) The development shall not be occupied until details of the proposed refuse and recycling storage facilities have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details prior to occupation of the units and retained thereafter.
- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) the erection and maintenance of security hoarding;
 - e) wheel washing facilities;
 - f) measures to control the emission of noise, dust and dirt during construction;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - h) delivery, demolition and construction working hours; and
 - i) site contact details in case of incident.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.