
Appeal Decision

Site visit made on 20 October 2021

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2021

Appeal Ref: APP/K5600/W/21/3270723

14A Elgin Crescent, London W11 2HX

- 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 E H & M Services (Kensington) Ltd against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/20/03373, dated 22 June 2020, was refused by notice dated 22 September 2020.
 - The development proposed is described as 'application for the side and rear extension of the upper two storeys of this three storey building and internal reconfiguration in order to increase the number of residential units within the building from two under-sized units to three new units – constituent of 2 no single-bedroom units and 1 no. three-bedroom unit. In addition a small roof terrace is proposed to the rear of the property at first floor level'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description on the appeal form is different to the application form but it is stated that no change has been agreed. There are also various iterations of the appeal site address within the submitted documentation. Therefore, I have taken the description of the development and the address from the application form and determined the appeal accordingly.
3. After the determination of the application a new London Plan March 2021 (LP 2021) has been adopted. In addition, on 20 July 2021 the Government published a revised National Planning Policy Framework (the Framework). Both main parties have been given the opportunity to comment on these documents and I have considered the appeal in light of them.

Main Issues

4. The main issues are:
 - whether the development would preserve or enhance the character or appearance of Ladbroke Conservation Area (LCA);
 - the effect of the development on the living conditions of surrounding properties with particular regard to light, enclosure, overlooking, noise and disturbance; and

- whether or not a mechanism to control parking is necessary to protect the area from parking pressures

Reasons

Character and appearance

5. No 14A Elgin Crescent is the upper two storeys of a three-storey end of terrace property at the corner of Elgin Crescent and Kensington Park Road. The ground floor of the building has a larger footprint than the upper floors. At this level the shop front carries around the corner adjacent to the footpath with a chamfered corner entrance detail. The two upper floors have a single aspect with windows facing Elgin Crescent and rendered largely plain side wall which faces Kensington Park Road. To the rear the building has a brick façade with butterfly roof detail.
6. Elgin Crescent is a street of mostly similarly designed terraced properties with commercial uses to the ground floor and residential uses above. The appeal building is surrounded by other terraced properties but to the rear facing Kensington Park Road is the Notting Hill Community Church (the Church) which dates from the 1870's.
7. The significance of the LCA derives from its design in the Italianate style by a number of different architects and builders who varied their designs whilst using a common palette of materials and details. There is a predominance of terraced properties resulting in uniform streetscapes despite different parts of the streets and terraces often having different buildings. Ends of terraces are significant for the care taken with their decoration or their neat finish either with plain brick or stucco elevation or with a simple amount of detailing or an array of blind windows. Historic roof lines include butterfly roofs concealed by continuous parapets. Churches are a key part of planned Victorian developments, designed by architects rather than speculative builders and have a high significance in the LCA.
8. The Ladbroke Conservation Appraisal adopted 15 October 2015 (LCA appraisal) acknowledges that the later terraces at Elgin Crescent close to Portobello Road are distinctly plainer and smaller than the rest of the Ladbroke Estate. It indicates that all side elevations can be harmed by insensitive alterations or loss of historic features. Gaps between buildings create a high-quality environment and several important gaps are specifically recognised in the LCA appraisal. It also highlights that the appeal site and the surrounding buildings make a positive contribution to the historic and architectural character and appearance of the LCA, and change should be managed in accordance with national and local policy.
9. The drawings indicate that the side and rear elevations of the existing building would be completely subsumed within the new side and rear extensions. In addition, upper floor windows would be repositioned to accommodate the new three bay elevation and a quoin detail is proposed vertically along the boundary line between the appeal property and the attached property, No 12. The substantial changes to the three main elevations of the building are unlikely in my view, to be achieved without most of these three walls being removed. Even so, in terms of the historic significance of the LCA overall the loss of historic fabric would be relatively modest, and I agree with the appellant that in

the terminology of the Framework the demolition would amount to less than substantial harm.

10. Although the larger more ornate buildings within the LCA provide the most striking expression of the special interest of the LCA, the modest architecture of Elgin Crescent and the regular plot widths of the properties along the terrace row are reflected by the balanced rhythm of frontages. The paired fenestrations on the upper levels highlight this treatment and contributes to the significance of the LCA. The appeal site frontage follows the rhythm of the terrace. The increase in width of the property along the frontage and the elevational changes would disrupt the balanced appearance of the group and detract from the character and appearance of the LCA.
11. The plot depth of the appeal site reflects the more modest approach to development in this part of the LCA and marries with the depth of development on the opposite side of Elgin Crescent. These side elevations are prominent in views from Kensington Park Road and are therefore sensitive to change. Although the side elevation of No 14A has been poorly maintained the set back of this elevation provides notable views of the large stock brick Church.
12. The details of the former appearance of No 14 confirm that the side elevation was simply detailed. The proposal to extend its width and depth, its chamfered corner detail and elevational treatment would be incongruous with the intentional modesty of the original architecture and would obscure views of the church from the street. I accept that the space between the church and the appeal building is not one of the important gaps identified in the LCA but the LCA recognises that gaps between buildings create a high-quality environment giving a feeling of spaciousness and glimpses of other buildings and, having regard to this, I am also mindful of the high significance placed on churches in the LCA appraisal and the limited other public views of it.
13. The appellant considers that the design of the proposal would be consistent with the approach to the design of the building at the Portobello Road end of the terrace. However, the detailed design of that building is markedly different, it is clearly distinguishable from character of the rest of the terrace and does not set a precedent for the design of development on the appeal site which has a different immediate context. With regard to the development at 100 Portobello Road, there is little direct comparison to be made with the appeal proposal as the previous structure on that site did not contribute to the street scene.
14. The appeal building would benefit from general repair and maintenance, and there are elements of the elevation changes to Elgin Crescent such as the window surrounds that could be sympathetic, but I am not convinced that overall, the detailed fenestration changes have sufficient regard to the appearance of the original building to collectively constitute an enhancement to the building's Elgin Crescent elevation.
15. For all the above reasons, I conclude that the proposed development would not preserve or enhance the character or appearance of the LCA. It would conflict with Policies CL1, CL2, CL3, CL6, CL9 and CL11 of the Royal Borough of Kensington and Chelsea Local Plan (the Local Plan) in so far as these require development to respect existing context, character, and appearance, be of the highest architectural and urban design quality, preserve conservation areas, reinforce the character and integrity of the original building, or group of

buildings and protect and enhance views that contribute to the character and quality of the area.

16. In the context of the LCA as a whole the proposal would be modest, but given the likely extent of the demolition, the effect on the views of the church and the harmful effect of the scheme's design, I consider that on the scale of less than substantial harm the proposal would be at the higher end. Paragraph 199 of the Framework is clear that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to the asset's conservation.
17. Paragraph 202 of the Framework states that where a development proposal would lead to less than substantial harm to the significance of heritage assets, that harm should be weighed against the public benefits of the proposals including, where appropriate, securing its optimum viable use.
18. The Planning Practice Guidance (PPG)¹ advises that the optimum viable use is the use likely to cause the least harm to the significance of the asset and may not necessarily be the most economically viable one. The building is currently two dwellings and there is limited evidence that without the proposed development it would not be viable to use these.
19. However, the additional dwelling would make a small contribution to the delivery of housing and to the economy. The change in mix of housing and additional dwelling would provide some small social benefits. In the absence of any evidence that the existing sliding sash timber windows cannot be retained or reused there are very limited public benefits associated with replacement timber sash windows. The re-introduction of detail around the windows on the front elevation and the replication of this detail elsewhere is a small benefit. Although the appearance of the gable wall could be improved, its removal to be replaced with the development does not weigh in favour of the scheme. Overall, these limited public benefits would not outweigh the great weight to be attached to the conservation of heritage assets and the proposal would therefore conflict with the Framework.

Living conditions

20. The rear of Elgin Crescent faces north and is near the Church so that there is reduced natural light to the rear space between the buildings and limited light into rear facing windows. No 12 has 4 windows in the rear elevation, the two nearest the joint boundary with No 14 serve a kitchen/living area and a bedroom. The kitchen is dual aspect, while the bedroom is only lit from the rear.
21. The proposed two storey extension would be sited immediately adjacent to the boundary close to the kitchen and bedroom windows. Due to its depth and overall height the proposed rear extension would dominate the outlook from these windows, introduce a sense of enclosure and reduce natural light into the rooms. The effects of the extension would be more limited at first floor because of the dual aspect of the living space but the extension would be particularly oppressive to the occupiers of No 12 when using the bedroom and detrimental to their living conditions.

¹ Paragraph: 015 Reference ID: 18a-015-20190723

22. The balcony would be close to the small outside space and entrance to the church. With open railings separating the balcony from the adjacent church, the balcony would overlook and be a source of noise and disturbance to its neighbour. This would be intrusive, and would detract from the community use of the adjacent building.
23. The proposed extension would include new habitable room windows to the Kensington Park Road frontage. At the opposite side of the road there is existing living accommodation at the upper floors which have large windows facing the site. While the outlook from these properties would be changed, due to the intervening space between the existing and proposed dwellings, I am satisfied that the proposal would not harmfully detract from the outlook, light, or privacy for these properties.
24. I acknowledge that there has been a previous approval for a two-storey extension and balcony to the appeal property². This earlier permission has expired and was for a modest extension of a similar depth to the proposal but lesser overall height and width. The balcony was also set further from the joint boundary. In these circumstances, the previous scheme does not represent a credible fallback or lead me to a different conclusion.
25. I also accept that other two storey flat roofed extensions are within the terrace row to the rear. I am not aware of the effect of these on neighbouring living conditions and these other extensions do not affect my conclusions on the appeal proposal.
26. Overall, I conclude that the development would harm the living conditions of surrounding properties with particular regard to light, enclosure, overlooking, noise and disturbance. Consequently, there would be conflict with Policy CL5 of the Local Plan where it seeks to ensure good living conditions for occupants of existing and neighbouring buildings.

Parking

27. Policy CT1 of the Local Plan requires that all new additional residential development be parking permit-free. The development includes one additional dwelling which the policy would seek to exclude from the controlled parking zone. The appellant accepts the requirement that the additional dwelling be permit-free and indicates a willingness to provide the necessary mechanism to achieve this through either a unilateral undertaking or legal agreement.
28. I have no evidence to suggest that the Council's policy is not relevant or inappropriate in this case, however, in the absence of a mechanism to ensure the additional dwelling is prevented from applying for a parking permit I find that the proposals would conflict with Policy CT1 of the LP.

Planning Balance and Conclusion

29. The appellant alleges that the Council cannot demonstrate a 5-year housing land supply. This is not disputed. The evidence before me indicate that the shortfall is substantial. The failure to demonstrate a 5-year supply of deliverable housing sites engages paragraph 11 d) of the Framework.

² Local planning Authority ref PP/13/07023

30. I have concluded that the proposal would cause less than substantial harm to the LCA and the public benefits of the proposal do not outweigh that harm. Footnote 6 of Paragraph 11 d) i) states that the application of policies in the Framework that relate to the protection of designated heritage assets can provide a clear reason for refusing a proposed development. I have found that to be the case here. In such circumstances the presumption in favour of sustainable development does not apply.
31. Whilst the additional dwelling and the mix of dwelling types would make a small contribution to the shortfall of housing with associated social and economic benefits. These limited benefits do not outweigh the harm I have identified.
32. The proposal would conflict with the development plan when taken as a whole and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise than in accordance with it, therefore the appeal is dismissed.

Diane Cragg

INSPECTOR