



Appeal Decision

Site visit made on 15 June 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2022

Appeal Ref: APP/K5600/W/22/3291170

Flat A, 66 Lexham Gardens, London W8 5JB

- 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 Joseph Dan against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/04988, dated 27 July 2021, was refused by notice dated 4 November 2021.
 - The development proposed is new rear juliet balconies at ground floor level and new doors to both to replace existing windows.
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Decision

1. The appeal is allowed and planning permission is granted for new rear juliet balconies at ground floor level and new doors to both to replace existing windows at Flat A, 66 Lexham Gardens, London W8 5JB in accordance with the terms of the application, Ref PP/21/04988, dated 29 July 2021, subject to the following 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: 2025/0S; 2107/110A; 2107/111A; 2107/112A; 2107/113A; 2107/114A; and 2107/115A.
 - 3) All work and work of making good shall be finished to match the existing exterior of the building in respect of materials, colour, texture, profile and, in the case of brickwork, face bond and pointing.

Main Issue

2. The main issue is whether the proposed development would ensure satisfactory living conditions for neighbouring occupants, with particular regard to privacy.

Reasons

3. Flat A is one of several self-contained flats within this five storey mid-terraced property which has a lower ground floor with a single storey rear extension to the rear with a flat roof.
4. The replacement door openings with Juliet balconies would not allow people to stand or sit beyond the building's rear elevation. Given that the door openings would replace existing window openings that open, they would not introduce a new relationship to neighbouring occupiers' windows or amenity spaces. Hence, they would not experience a loss of privacy, noise and other disturbances, light, sunlight, or a sense of enclosure. Furthermore, there are also several

examples of balconies across the rear elevation of the terrace, including on the upper floor of the appeal property itself.

5. The Council's concern relates to the potential use of the lower ground floor extension as a roof terrace. However, this is not what has been applied for, and planning permission would be required to use the roof in this manner. I note the suggested planning condition to control the use of the roof, but it would not fairly and reasonably relate to the proposed development, and it would not be necessary to make the development acceptable in planning terms.
6. Accordingly, I conclude that the proposed development would ensure satisfactory living conditions for neighbouring occupants, with particular regard to privacy. Therefore, the proposal would accord with Policies CL5 (a), (c) and (e) of the Local Plan, September 2019. These seek all development to take into account the prevailing characteristics of the area; ensure that there is a reasonable visual privacy for occupants of existing properties affected by new development; and ensure that there is a reasonable enjoyment of the use of buildings, gardens and other spaces.

Other Matter

7. The appeal property lies within the Lexham Gardens Conservation Area. Due to the size, siting, design of the proposed Juliet balconies, and having regard to the type and style of fenestrations throughout the Conservation Area, I consider that the proposals would have a neutral effect on the significance of the Conservation Area. Hence, the Conservation Area would be preserved.

Conditions

8. I have imposed a plans condition in the interests of certainty. I have imposed a condition to make the exterior of the building good. Conditions about the door openings and railings are not necessary given the detail stated on the approved plans. A condition regarding the use of the roof of the lower ground floor extension is not necessary or relevant to the development to be permitted for the reasons set out above.

Conclusion

9. The proposal would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.
10. For the reasons given above I conclude that the appeal should be allowed.

Andrew McGlone

INSPECTOR