



Appeal Decision

Site visit made on 31 October 2023

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2023

Appeal Ref: APP/K5600/W/23/3325575

38 & 38A Kelso Place, London W8 5QP

- 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 Ms Irani against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/22/00139, dated 12 December 2021, was refused by notice dated 12 January 2023.
 - The development proposed is demolition of two houses and replacement with one house and one flat, including extension and basement.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Procedural Matters

3. The name of the appellant is given as Kelso Nominees Ltd on the appeal form whereas the name that appears on the planning application form is Ms Irani. As the right of appeal rests solely with the original applicant, I have proceeded on the basis that Ms Irani is the appellant.
4. The Council made its decision on the basis of amended plans. My decision is made on the same basis.
5. An appeal (ref: APP/K5600/W/19/3228320) for a similar scheme at the site was dismissed in September 2019. I have taken it into account where relevant.

Main Issue

6. The main issue in this appeal is the effect of the development on the character and appearance of the area.

Reasons

7. As set out in the previous appeal decision, the appeal site comprises two townhouses situated at the end of a short and staggered terrace of properties on the north side of Kelso Place, which is a private cul-de-sac. The existing four-storey houses are late 20th Century modernist red brick buildings which feature heavily fenestrated mansard roofs and horizontal window proportions. No 38a is set back noticeably from Nos 38 and 39. The dwellings on the south side of Kelso Place have a more regular alignment apart from Nos 37 and 37a

at the end of the terrace which are stepped forward towards the appeal site. At the head of the cul-de-sac is a large Silver Maple tree (T5 in the appellant's Tree Report) which is protected by a Tree Preservation Order, and a small unprotected Cherry tree (T7).

8. The surrounding area is dense and mostly residential, although directly to the west of the site, beyond the cul-de-sac, is the Copthorne Tara Hotel which is a domineering modern high rise building. To the east and south, the area is characterised by attractive terraced Georgian properties as well as more modern apartment complexes. To the north is the railway line.
9. The proposal involves demolition of Nos 38 and 38a and the subsequent erection of a building comprising of one 5-bedroom house from basement level through to the 2nd floor, and one 3-bedroom flat on the top storey. Tree T7 would need to be removed to accommodate the development, but tree T5 would be retained.
10. From the evidence before me, the design of the scheme has evolved significantly since the previous appeal. Most notably, the front façade would now retain the appearance of two separate townhouses, reflecting the neighbouring building proportions, roof form, and materials. Differences would remain in the fenestration design, but the overall composition would be well balanced and reflects the traditional vertical window proportions found throughout the wider area. I note that the Council did not find the design objectionable in these regards, and I see no reason to disagree.
11. Nonetheless, the identity or character of a place comes from the way that buildings, streets, and spaces combine together and how people experience them. It is not just about how the buildings look.
12. I saw that the entrance to this part of Kelso Place is tightly constrained by the height and proximity of the adjacent buildings, but opens out more towards the end of the cul-de-sac. The current setback of No 38a is an important component of this character and serves to provide some welcome spatial relief in this very enclosed built context, including by compensating for the stepping out of the buildings opposite.
13. However, the proposal would project around 2.5m into the area in front of No 38a. Although this would not completely remove the stepping effect in the terrace, the setback provided would be small, and not sufficient to break up the combined mass and bulk of the development when viewed from within Kelso Place. This would be even more apparent without the softening effect of tree T7.
14. As a result, the street scene at the end of the cul-de-sac would feel materially more enclosed and unduly dominated by the surrounding development compared to the existing situation, to the extent that it would feel almost claustrophobic for the occupants and users of this space. In this regard, the proposal could be fairly labelled as an overdevelopment of this constrained site. I note that the Council's Design and Conservation Section felt that the design improvements of the scheme balanced out the reduction in the setback. However, I see no good reason why the development should not be aesthetically pleasing while also ensuring that the spatial qualities of the area are maintained. These are mutually supporting factors to ensure achievement of a well-designed place.

15. Therefore, despite the revisions that have been made to the scheme, I find that the proposal would have a significant adverse impact on the character and appearance of the site and its immediate surroundings. This is contrary to Policies CL1 and CL2 of the Royal Borough of Kensington and Chelsea Local Plan 2019 (the LP), in so far as they require development to contribute positively to the townscape, the area, and the way it functions, addressing matters such as bulk, mass, building lines, and street form, amongst other things. It is also contrary to paragraph 130 of the National Planning Policy Framework which seeks developments that are visually attractive as a result of good architecture, layout, and landscaping; establish a strong sense of place, using the arrangement of streets, spaces and building types to create attractive, welcoming and distinctive places; and add to the overall quality of the area.

Other Matters

16. The De Vere Conservation Area lies a short distance to the east of the appeal site. Its special architectural and historic interest is derived partly from the age and quality of the terraces and villas in the area. I have considered the effect of the proposal on this heritage asset, but due to the limited intervisibility with the appeal site, I am satisfied that its setting and significance would not be adversely affected by the proposal, notwithstanding my findings above.
17. The Council did not identify harm in relation to a number of other concerns raised by a neighbouring resident. As I am dismissing the appeal for other substantive reasons, it has not been necessary to consider those matters any further in this Decision.
18. Planning permission was recommended to be granted by Council planning officers and due consideration has been given to the contents of their report. I also note that the appellant engaged with the Council in pre-application advice and made amendments to the scheme in line with the officers' requests. However, I concur with the Council's ultimate decision for the reasons set out above.

Conclusion

19. I have found conflict with relevant policies of the LP and consider that the appeal proposal through the identified conflict does not accord with the development plan as a whole. There are no material considerations which indicate that planning permission should be granted for the development which is in conflict with the development plan. Accordingly, the appeal should be dismissed.

A Caines

INSPECTOR