



Appeal Decision

Site visit made on 5 October 2023 by N Unwin BSc (Hons) MSc MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2024

Appeal Ref: APP/K5600/W/23/3323394

2B Lexham Mews, Kensington and Chelsea, London W8 6JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Nanik Daswani (EcoProperties (UK) Ltd) against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/23/00490, dated 19 January 2023.
 - The development proposed is described as the Demolition, excavation to form a new underground floor level below the footprint of premises to provide additional residential floorspace; elevational alterations comprising the installation of replacement/new windows on the front (east) elevation; and the rendering and installation of new windows on the rear (west) and side (north) elevations; and erection of an additional storey and a sunken roof terrace.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Council did not determine the planning application albeit their cases sets out that they would have refused planning permission for reasons relating to the character and appearance of the conservation area, living conditions of neighbouring occupiers and justification for the demolition of the existing dwelling. These matters have informed the main issues.

Main Issues

4. There are three main issues. These are a) the effect of the proposal on the living conditions of the surrounding occupiers with particular regard to privacy, daylight and sunlight; b) whether the proposal would preserve or enhance the character or appearance of the Edwards Square/Scarsdale and Abingdon Conservation Area; and c) whether the proposed demolition of the existing dwelling is sufficiently justified.

Reasons for the Recommendation

Living Conditions

5. The appeal site is within close proximity to a four-storey residential development to the west, on the corner of Earls Court Road and Lexham

Gardens. The eastern elevation of these properties contains multiple windows and is separated from the appeal site by a narrow car park. The front elevation of No. 34 Lexham Mews is located to the north of the appeal property, on the opposite side of a slender walkway. A substantial skylight and chimney stack provide adequate screening of the dwellings to the west and No. 34 respectively, from those utilising the existing roof terrace of the appeal dwelling. Furthermore, due its two-storey nature, and blank western and northern elevations, the occupiers of the properties to the west and no. 34 are afforded a good standard of privacy.

6. The proposal would introduce an additional storey with a sunken roof terrace above. The proposed terrace would be approximately 1.1 metres below the maximum height of the roof, providing little screening and affording its users with direct views into the windows of properties to the west across multiple floors, in addition to those of No. 34 to the north. Combined with its close spatial relationship to these window openings, the proposal would result in unacceptable levels of overlooking, harming the privacy of the occupiers of these properties.
7. The proposed windows within the northern elevation would provide future occupiers with direct views into the front elevation window openings of No. 34, having an unacceptable impact on the living conditions of the occupiers. Nonetheless, this can be overcome through the imposition of a condition requiring these to be obscure glazing and non-opening below 1.7 metres.
8. The proposed window within the western elevation is to a small landing and as such, a non-habitable room. Therefore, any impact on the privacy of the occupiers to the west from this proposed opening would be limited.
9. The proposal would be of a similar height to that of the existing chimney stack and would therefore maintain the existing levels of daylight and sunlight received by the occupiers of No. 34.
10. These latter matters aside, for the above reasons and taken as a whole, the proposed development would have an unacceptable impact on the living conditions of the surrounding occupiers with particular regard to privacy. Accordingly, it would conflict with Policy CL5 of the Royal Borough of Kensington and Chelsea Local Plan 2019 (LP) which requires new development to ensure good living conditions for occupants of neighbouring buildings.

The Edwards Square/Scarsdale and Abingdon Conservation Area (CA)

11. The appeal property forms part of a flat roof, two-storey terrace of three dwellings on the corner of Lexham Mews and Lexham Gardens. When discussing architectural details, the CA Appraisal identifies mansard roofs as being one of a number of original roof forms which make an important contribution to the character of the CA.
12. Mansard roofs form a notable design feature of the area, including a number of dwellings along Lexham Mews and properties to the west. There is a homogeneity in the dwellings adjoining this section of Lexham Mews with most appearing traditional in nature with detailing such as arched brick lintels above openings. As such, when the appeal property is observed from the surrounding public viewpoints, it is done so in the context of this ubiquitous style and architecture.

13. The appeal property's roof line is noticeably lower than that of the surrounding buildings, with the skylights and large chimney stack appearing alien to the area. The absence of more intricate architectural features further enhances its visual discordance with the overarching character of its surroundings described above.
14. The proposed rendering of the western elevation is not an uncommon feature of the area and would maintain the existing presentation of the immediate vicinity. The proposed lightwell to the basement would be of small scale, adjoining the northern elevation, discretely located so as to limit any visual impact, particularly from the public realm.
15. The proposal would be of a similar scale and appearance to that of nearby approval PP/23/00459 No. 1 Lexham Mews, albeit marginally taller with a slight variation in the upper roof shape. In the context of the development as a whole, these minor variations from the approval at No. 1 would appear inconspicuous. Likewise, the proportions and design of the proposal would reflect the style of the surrounding properties, particularly No's 31 – 33 Lexham Mews. When combined with the proposed mansard roof, which would provide a further visual connection to the roof scape of the area, the proposal would complement the existing built environment and this part of the CA. Due to its sunken design, the use of the proposed roof terrace would appear unobtrusive when viewed from the street, mitigating any impact on the public realm.
16. The proposal would therefore preserve the character and appearance of the CA. Accordingly, it would comply with Policies CE1, CL1, CL2, CL3, and CL11 of the LP which, when read together and amongst other things, require new development to respond to its local context and preserve or enhance the character or appearance of the Conservation Area.

Justification for Demolition

17. The existing dwelling was formerly a single storey garage and the walls constructed of a poor quality, uninsulated brick. Given its small footprint, retrofitting insulation would require the thickening of the walls, compromising the proposal's internal floor area. Full demolition would permit the proposed replacement dwelling to be specifically designed to achieve high standards of energy efficiency, such as permitting the insulation values of the new walls to approach or match Passivhaus standards while being of equivalent thickness to that of the existing. As such, the initial carbon footprint of the demolition of the property would be outweighed by the long-term energy efficiency of the building design. The proposal would therefore comply with Policy CE1 of the LP which requires the reduction of carbon dioxide and other greenhouse gas emissions through, amongst other things, energy efficient building design, construction, and materials.

Other Matters

18. The description of development above includes a roof terrace. A condition that would prohibit the use of the roof as a terrace would therefore contradict a planning permission and therefore be unreasonable. In addition, any increase in height of the western and northern walls or the addition of obscure glazed panels to a height that would mitigate the overlooking of the occupiers of properties to the west and No. 34 neighbouring properties and would not sit

appropriately with the host building or the wider area given its size and location. It would likely have an unacceptable impact on the character and appearance of the area.

Conclusion and Recommendation

19. My findings on the second and third main issues would amount to a lack of harm which, by definition, cannot be used to weight against harm. They would accordingly be neutral. The appeal scheme would conflict with the development plan taken as a whole and there are no material considerations worthy of sufficient weight that would indicate otherwise. I therefore recommend the appeal be dismissed.

N Unwin

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

John Morrison

INSPECTOR