



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/23/3325275

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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/23/00483, dated 19 January 2023.
 - The development proposed is 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) elevation; 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.
3. The Council did not determine the planning application albeit their case 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; 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 is adjacent to the appeal site, separated by a narrow car park. Due to the two-storey nature of the

appeal property and blank western elevation, the occupiers of the properties to the west are afforded a good standard of privacy from their many windows facing this direction.

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 its users with direct views into the windows of properties to the west across multiple floors. 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 development would therefore 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)

8. 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.
9. 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, utilising architectural details 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.
10. The appeal property's roof line is noticeably lower than that of the surrounding buildings. The absence of more intricate architectural features further enhances its visual discordance with the overarching character of the area described above.
11. The rendering of the western elevation is not an uncommon feature of the area and would maintain the existing presentation of the of the immediate vicinity. The proposal would be of a similar scale and appearance to that of neighbouring approval PP/23/00459 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 neighbouring approval 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.

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12. 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

13. The walls of the existing dwelling are constructed of a poor quality, uninsulated brick. Given its small footprint, retrofitting insulation would require the thickening of the walls, greatly reducing the proposal's internal floor area. Full demolition would permit the insulation values of the walls to approach or match Passivhaus standards, while being of equivalent thickness to the existing walls. 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

14. 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 wall or the addition of obscure glazed panels to a height that would mitigate the overlooking of the occupiers of neighbouring properties 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

15. 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

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

John Morrison

INSPECTOR