



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/23/3323393

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 is PP/23/00448, 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) elevation; and erection of an additional storey.
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Decision

1. The appeal is allowed and planning permission is granted for development 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) elevation; and erection of an additional storey at 2B Lexham Mews, Kensington and Chelsea, London W8 6JW in accordance with the terms of the application, ref. PP/23/00448, dated 19 January 2023, subject to the conditions set out in the attached schedule.

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 they have confirmed 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 have formed the main issues below.

Main Issues

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

daylight and sunlight; and c) whether the proposed demolition of the existing dwelling is sufficiently justified.

Reasons for the Recommendation

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

5. 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.
6. 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 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.
7. 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.
8. The rendering of the western elevation is not an uncommon feature of the area and would maintain its existing presentation of the immediate vicinity. The proposed lightwell to the basement would be of small scale, adjoining the northern elevation, discretely located to as to limit any visual impact, particularly from the public realm.
9. The proposal would be of a similar scale and appearance to that of nearby approval PP/23/00459. 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.
10. The proposal would therefore preserve the character and appearance of the CA. Accordingly, the proposal would comply with Policies CE1, CL1, CL2, CL3, and CL11 of the Royal Borough of Kensington and Chelsea Local Plan 2019 (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.

Living Conditions

11. 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.

12. 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.
13. 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.
14. 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.
15. For the above reasons, the proposed development would be acceptable in terms of its effect on the living conditions of the occupants the surrounding occupiers with particular regard to privacy and daylight. Accordingly, it would comply with Policy CL5 of the LP which requires new development to ensure good living conditions for occupants of neighbouring buildings.

Justification for Demolition

16. The existing dwelling was formerly a single storey garage and the walls constructed are 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

17. A Geotechnical Study was submitted as part of the original application utilising information from boreholes drilled in the surrounding area. The Council has assessed this information and found that the proposal would safeguard the structural stability of neighbouring properties and that of the archway where Lexham Mews joins Lexham Gardens. Land or building ownership issues are a private civil matter.

Conditions

18. The standard time limit condition necessary for certainty. I have set out that development should be carried out in accordance with the materials and details shown on the approved plans and application form. This is for enforcement purposes and given they are acceptable for the site's situation in the CA.

19. The appeal site is constrained and within close proximity to surrounding properties and trees. It is therefore reasonable and necessary to impose a condition requiring the submission of a construction management plan, including measures concerning construction traffic and the protection of trees. These details are required prior to the commencement of development as they will be fundamental to how it is carried out. This condition is also in response to the concerns in regard to shortcomings and ambiguities in the management plans submitted with the original application. These include, but are not limited to, the method of concrete supply, whether a skip will be placed within the highway and if a roadway closure and crane lifts are required. With this in mind, a condition requiring the submission of a considerate constructor's scheme, separate dust management plan and details of the professional management of engineering works are unnecessary.
20. Details of refuse and recycling arrangements are necessary in the interests of the living conditions of surrounding residents, and the character and appearance of the area and it would be sufficient to have them agreed prior to the first use/occupation of the proposed development. For functioning purposes and to encourage sustainable transport modes, cycle parking arrangements are required. It would be sufficient to also agree these prior to the first use/occupation of the proposed development. A compliance condition is required to ensure the development is carried out in accordance with the Tree Survey, Arboricultural Impact Assessment and Method Statements to safeguard the wellbeing of surrounding trees.
21. A condition is required to secure the submission of a Sustainable Drainage Systems Strategy in accordance with the requirements of the development plan which, amongst other things, requires basements to include a sustainable drainage system and for all minor development to achieve a reduction of 50% of existing run-off rates. These details are required prior to the commencement of development given what might be required to satisfy a successful scheme.
22. No compelling evidence has been presented as to require the submission of a Land Contamination Site Investigation prior to the commencement of development. Nevertheless, in the event unexpected contamination is encountered, a condition is justified to ensure this is appropriately managed, in the interests of controlling potential sources of pollution.
23. Given the proposal's proximity to the front elevation of No. 34, a condition is required to secure obscure glazing and non-opening below 1.7 metres of the windows within the northern elevation, as proposed in the Planning Statement, to limit overlooking to an acceptable level.

Conclusion and Recommendation

24. The appeal scheme would comply with the development plan and there is nothing sufficiently weighty to lead me to recommend a decision other than in accordance therewith. As such, I recommend the appeal be allowed, subject to the conditions set out below.

N Unwin

APPEAL PLANNING OFFICER

Inspector's Decision

25. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed, subject to the stated conditions.

John Morrison

INSPECTOR

SCHEDULE OF 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 materials specified within the application form and approved plans A100; A101; DMBE (2b) - P100; DMBE (2b) - P101; DMBE (2b) - P102; and DMBE (2b) - P103.
- 3) No development shall commence, including any works of demolition, excavation or bringing of materials to the site until a Construction Management Plan, including measures for construction traffic and the protection of any affected trees, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved plan.
- 4) Prior to the first use/occupation of the development hereby permitted, a scheme for the storage of refuse and recycling shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to the first use/occupation of the development hereby permitted and shall thereafter be retained and maintained as such.
- 5) Prior to the first use/occupation of the development hereby permitted, details of cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be implemented in full prior to the first use/occupation of the development hereby permitted and shall thereafter be retained and maintained as such.
- 6) The development hereby permitted shall be carried out in accordance with the Tree Survey, Arboricultural Impact Assessment and Method Statements refs: 17513/A3_AIA and 17513/A4_AIA.
- 7) No development shall commence until a Sustainable Drainage Systems Strategy has been submitted to and approved in writing by the local planning authority. The approved strategy shall be implemented in full prior to the first use/occupation of the development hereby permitted and thereafter retained and maintained as such.
- 8) In the event that any unexpected ground contamination is found, work shall be suspended on the part of the site affected, and it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must then be undertaken and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 9) The windows within the northern elevation hereby permitted shall be fitted with obscured glazing, and no part of the windows that is less than 1.7 metres above the floor of the room in which they are being installed

shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.