

Appeal Decision

Site visit made on 9 September 2024

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2024

Appeal Ref: APP/K5600/D/24/3344399

5 Shaftesbury Mews, Kensington and Chelsea, London W8 6QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by CFA Creative Ltd against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/24/01117 dated 16 February 2024 was refused by notice dated 26 April 2024.
 - The development proposed is Works to rear two roof terraces including planting etc.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located within the Edwardes Square/Scarsdale and Abingdon Conservation Area (CA). Therefore, as the proposal relates to a designated heritage asset, I have had special regard to section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act.
3. Within the appellant's application form, submitted to the Council, the description of development varies from the description within the banner heading above. It is described within the Council's decision notice as 'Works to first and third floor roof terraces at rear, to install perimeter fibreglass planters flush with parapets, with painted trellises attached; and to install timber clad waterbutts.' I consider this accurately describes the proposal before me and I note the appellant has followed this description through within their appeal form.
4. An earlier permission for the 'Erection of ground floor extension and internal alterations has been approved by the Council.¹ From my observations, the appellant has begun development on site.
5. The appellant intends to secure two flat roofs to the rear elevation with a glazed balustrade and surround the perimeter with planters and a waterbutt for collecting rainwater.

¹ Application reference PP/23/05677 Erection of ground floor rear extension and internal alterations. Approved 15 February 2024

Main Issues

6. The main issues are:

- Whether or not the proposal would harm the living conditions of the adjacent occupants by way of overlooking and loss of privacy; and
- Whether or not the proposal would preserve or enhance the character or appearance of the Edwardes Square/Scarsdale and Abingdon Conservation Area (CA).

Reasons

Living conditions

7. Given the proposed array of planters and green roof proposed, it is likely the appellant would be required to spend some extended and frequent time tending to plants and syphoning water from the waterbutt. I appreciate the appellant does not intend to use the flat roofs as recreational space. Nevertheless, as a consequence of needing to access the space to serve and maintain these features and given the doorway would provide ease of access to do so, there would be clear opportunity to overlook neighbouring properties. As No 5 sits in a position within the terrace with houses to either side, and their windows within close range, overlooking and a loss of privacy would occur to these adjacent occupants. There would also be the opportunity to overlook their private external space from this aspect to the detriment of their living conditions.
8. Therefore, to conclude on this main issue, the proposal would lead to an adverse effect upon the living conditions of the occupants of the adjacent dwellings by way of overlooking and loss of privacy. It would not comply with policy CL5 of the 2019 Local Plan and the National Planning Policy Framework that seeks to protect living conditions.

Character and appearance

9. The appeal site is a modern four storey mews development of around eight dwellings in the centre of a perimeter block of traditional mid-19th Century terraces of houses, and is largely hidden in views from the main street scene. It is located within the Edwardes Square/Scarsdale and Abingdon Conservation Area. The significance of the CA derives from its grid pattern of streets with squares and terraces, mews and mansion houses, all with a high quality materiality and aesthetic. Most houses that flank the main streets are designed to a refined Italianate characteristic, three storeys over a basement, stucco in part to yellow London stock brick with a raised ground floor. Smaller mews developments are glimpsed between terrace runs, with a distinctive and sometimes irregular plan form that as a whole contributes positively to the character and appearance of the CA.
10. Shaftesbury Mews was built around the 1960's in a contemporary style of its time. To the front and rear elevations, they all follow the same original design characteristics with large picture windows and balconies to the front and a flat roof where the houses characteristically extend outward at the rear. Some houses, in more recent times have been extended to the rear ground floor into the yard area with a flat roof over. Currently, most flat

roofs to the rear elevation are inaccessible to the occupants as only a single raised window overlooks the space, and I could see was inconvenient for people to gain access this way.

11. There is significant regularity to the development. Enclosing the flat roofs would be incongruous, even if this would be of a glass material, and whilst glass balustrades and trellis may be observed elsewhere to balconies at Shaftsbury Mews, this is not the same circumstances as the proposal. To enclose these spaces would be an anomaly to the mews development as a whole.
12. The perimeter of each flat roof would be laid out with planters. Although the appellant considers they would be movable, given the proposed arrangement and number, I do not consider them to be insubstantial in their quantity, and would have a permanence to them. They may be hidden in part behind the existing low parapet, even so, with the addition of a cladded waterbutt on the roof would, as a whole, contribute to a sense of clutter to the roof whereby there are minimal effects located to other flat roofs here. The inconsistency that would arise by virtue of the development would be detrimental to the continuity of the design aesthetic of Shaftsbury Mews.
13. The rear elevation is seen in private views within the CA. However, it would not respond positively to the character or appearance of the CA, and as a whole, it would be weakened in a small way.
14. To that end, I find the character and appearance of the CA would not be preserved or enhanced and as such be contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Balance

15. Paragraph 206 of the National Planning Policy Framework (the Framework) advises that any harm to the significance of the heritage asset should require clear and convincing justification. Also, with reference to the Framework and proposals affecting heritage assets, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the impact of the proposal, I find that the harm to be 'less than substantial' in this instance. This harm should be weighed against the public benefits of the proposal. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the Framework.
16. I appreciate the appellant seeks to achieve more planting and biodiversity opportunities to their dwelling, with water harvesting. These can have a positive effect on the environment and would be their contribution to helping to achieve a greener approach. The use of recyclable materials can also reduce carbon emissions. The effects of greenery can also have a positive effect on personal wellbeing. These are all public benefits that weigh in favour of the proposal. However, as a whole, they are insufficient to outweigh the less than substantial harm to the Conservation Area.
17. Therefore, to conclude on this main issue, the proposal would not preserve or enhance the character or appearance of the CA. This would be contrary to the requirements of the Act and Policies CL1, CL2, CL3, CL4, CL6 and CL11

of the Kensington and Chelsea Local Plan 2019 that seeks to achieve good design and local distinctiveness and preserve heritage assets. This is echoed within the objectives of the Framework.

Other Matters

18. I am aware of the support to the proposal. Despite this, as is my duty I have considered the effect of the proposal and come to my own conclusion on the matter.
19. The developments at the Mews brought to my attention by the appellant does not lead me to conclude there is a precedence for this type of proposal.
20. Any issues with regards to the Council's service should be directed to them in the first instance and is not within my remit to comment upon.

Conclusion

21. Bringing both main issues together, the proposal would conflict with the development plan as a whole and there are no other material considerations which lead me to determine the appeal otherwise than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

Alison Scott

INSPECTOR

