

Appeal Decision

Site visit made on 18 October 2016

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 November 2016

Appeal Ref: APP/K5600/D/16/3156880

4 Sheffield Terrace, London, Kensington and Chelsea W8 7NA

- 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 Mr Gordon Holmes against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/16/01853, dated 24 March 2016, was refused by notice dated 22 June 2016.
 - The development proposed is the creation of single-storey basement under the existing footprint of the house and 50% of the front garden and 50% of the rear garden, the extension and squaring-off of the lower ground floor to the rear of the property and the reorganisation of the rear elevation.
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Decision

1. The appeal is allowed and planning permission is granted for the creation of single-storey basement under the existing footprint of the house and 50% of the front garden and 50% of the rear garden, the extension and squaring-off of the lower ground floor to the rear of the property and the reorganisation of the rear elevation at 4 Sheffield Terrace, London, Kensington and Chelsea W8 7NA in accordance with the terms of the application, Ref PP/16/01853, dated 24 March 2016, subject to the conditions contained within the Schedule attached to this decision.

Procedural Matter

2. I have also dealt with two other appeals, Ref APP/K5600/D/16/3156875 and APP/K5600/D/16/3156878, on this site. These appeals are the subject of separate decisions.

Preliminary Matter

3. The Council have cited a number of policies that they consider to be relevant to the proposal, including Policies CL1, CL2, CL3, CL5(c), CL9 and CL11 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan (LP) 2015. In addition to these, interested parties have also referred to Policy CL7 of the LP, which relates to basements. As a copy of this policy accompanied the Council's Appeal Questionnaire, I do not find that my consideration of it would prejudice any parties.
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Main Issues

4. The main issues are the effect of the development on the living conditions of the occupants of neighbouring residential properties, in particular No 6 Sheffield Terrace, with regard to privacy; and, whether the development would prejudice the future utilisation of the public highway.

Reasons

Living Conditions

5. The Council's concern relates to the proposed terrace at ground floor on the rear of the property and the level of overlooking of the neighbouring property that could be achieved from it. There is an existing external staircase providing access from the rear garden to the ground floor. The proposed terrace would be slightly higher than the landing at the top of the staircase. It would be the full width of the existing three/four-storey closet wing and it would project as far as the rear elevation of the single/two-storey extension.
6. The existing wall and trellis on the boundary with No 6 Sheffield Terrace currently restrict any significant views into the neighbouring rear garden or windows in the single-storey rear addition, even when standing on the landing of the external staircase. Although the boundary wall and trellis would remain higher than the terrace and restrict any overlooking, an appropriately worded condition securing additional screening would ensure that there is no significant adverse overlooking. Therefore, I am satisfied that there would not be any significant overlooking into the neighbouring rear garden and windows and as a result would not be significantly harmful to the occupants of the neighbouring dwelling.
7. I note that No 6 Sheffield Terrace has an existing terrace above a single-storey extension to the rear. Whilst clear views of the neighbouring terrace would be possible from the proposed terrace, it would not significantly increase the existing level of overlooking from the windows in the rear elevation of the appeal property. I have also had regard to the use of the terrace creating noise and disturbance. However, I do not find that this would be significantly greater than if the occupants used the existing rear garden area. In addition, the size of the terrace would also limit its usability.
8. I have also had regard to the effect of the proposed terrace on the living conditions of the occupants of No 2 Sheffield Terrace. However, I am satisfied that due to its size, location and distance from the adjoining property, it would not have any significantly harmful overlooking effect.
9. I find therefore that the proposed terrace would not have any significant harm on the living conditions of the occupants of the neighbouring residential properties with regard to privacy. As such, it would comply with Policy CL5(c) of the LP, which seeks to ensure that there is reasonable visual privacy for occupants of existing properties affected by new development.

Effect on the Public Highway

10. The proposed one-storey basement extension would extend beyond the front boundary of the property, underneath the public highway, by approximately 1.8m. I note that the Council's Transportation Department have raised no

objection to the proposal. Furthermore, there is no evidence of any utility providers raising objection to the proposal.

11. The Council's second reason for refusal states that the basement extension 'would remove space from the public realm and would likely compromise the present and future utilisation of this underground space for public benefit'. In support of this reason they have cited Policy C1 of the LP. The Council have offered no further substantive evidence in support of this reason for refusal.
12. There is no evidence before me with regard to what existing utilities are currently beneath the affected area of the highway. Should any utilities be found that would be affected by the proposal, there is no evidence before me that suitable mitigation could not be implemented through cooperation with the utility provider.
13. The appellant has referred me to the National Joint Utilities Group (NJUG) guidelines on the positioning and colour coding of underground utilities' apparatus (October 2013). This sets out the depth of utility installation from the surface. Generally, these would be between 250mm to 750mm under the footpath. The proposed basement extension would be 1m below the footpath and therefore, based on the evidence before me, it would not interfere with existing or future utility installations. I have not been presented with any substantive evidence to the contrary.
14. I find therefore, based on the evidence before me, the proposal would not have any significant harm on the present or future utilisation of the highway. As such, it would comply with Policy C1 of the LP, which seeks to ensure that there is adequate infrastructure to serve developments.

Other Matters

15. I appreciate the concerns raised by local residents in respect of whether the principle of the basement extension is acceptable. Policy CL7 of the LP sets out criteria that all basement development must satisfy. The basement extension would cover less than 50% of the front and rear gardens. 1m of topsoil would be placed on top of the rear section, with the exception of where there would be roof lights. To the front, as the basement would be underneath the existing entrance to the property and the light well, there would not be 1m of topsoil. However, as it would be beneath what is already an impermeable surface, I am satisfied that there would not be any significant harm to existing surface water drainage.
16. Criterion c of Policy CL7 states that further basement floors should not be added where there is an extant or implemented planning permission for a basement or one built through permitted development rights. Whilst the property has an existing basement floor, described as the lower ground floor, this appears to be part of the original dwelling. Therefore, as stated in the explanatory text to Policy CL7, this restriction does not apply. Overall, I am satisfied that the proposal would meet the requirements of Policy CL7.
17. The appeal site lies within the Kingston Conservation Area (CA). The Council have raised no objection to the proposal in respect of whether it preserves or enhances the character or appearance of the area. The proposed alterations on the rear elevation of the property would be sympathetic to the scale of the original property and the neighbouring properties, in particular No 2 Sheffield

Terrace, improving the overall appearance of this elevation. The fenestration alterations would respect the original window proportions and positioning and the squaring off of the existing closet wing would make an improvement to the rhythm of the rear additions on the terrace.

18. The basement extension would accord with the requirements of Policy CL7 of the LP and I do not find that it would have any harmful effect on the character or appearance of the CA. Although there would be alterations to the front garden area, in particular the replacement of the existing staircase, its design would be in keeping with the existing staircase and railings. In addition, the large rooflight, due to the differences in ground levels, would be well concealed. Overall the proposal would not appear incongruous or out of character with the existing dwelling or the CA. I find therefore that it would preserve the character and appearance of the CA.
19. Whilst I note the concerns raised by interested parties with regard to the risk to the structural integrity of the neighbouring properties, the Construction Method Statement submitted with the application indicates that it could be constructed without causing material harm to the neighbouring properties. I find insufficient reason to set aside the appellant's professional evidence that significant risk should not be posed to the stability of nearby properties, such that planning permission should be refused.
20. I also acknowledge the apprehension of local residents in respect of noise and disturbance and traffic management during the construction of the proposal. However, such effects would be temporary and I am satisfied that these effects could be adequately managed through the use of appropriately worded conditions.
21. I have considered the argument made that the proposed basement extension would set a precedent for similar developments on the street. However, the Council has raised no objection in principle to the basement extension. Based on the evidence before me and that it would only require the excavation of a single-storey, I find no reason to disagree with the Council's view.
22. I also note the comments made regarding the use of the basement extension. The basement would be used for a play/media room, utility, gym/studio bedroom and a wet room. The Council have raised no objection to its use for such purposes and based on the evidence before me I find no planning reason as to why the basement would not be suitable for these uses.

Conditions

23. I have had regard to the conditions presented in the Council's Committee Report. Whilst I note that the appellant has not provided any response to these conditions, they were submitted with the Council's submissions and therefore I do not find that my consideration of them would prejudice any relevant parties.
24. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. In the interests of safeguarding the living conditions of the occupants of the neighbouring residential properties and highway safety a Construction Traffic Management Plan is required. In the interests of public health a condition regarding unexpected land contamination is necessary. A condition is

necessary requiring the presence of a chartered civil engineer in the interests of protecting the structural integrity of the building and neighbouring buildings. In the interests of the character and appearance of the area conditions regarding materials, windows and balconies are required. Furthermore, a condition is necessary to prohibit the use of the flat roofs as terraces in the interests of the living conditions of the occupants of the neighbouring residential properties.

25. I have also imposed a condition regarding screening to safeguard the living conditions of the occupants of the neighbouring residential properties. Furthermore, I find that a condition requiring the development to be carried out in accordance with the recommendations of the submitted Construction Method Statement is necessary in the interests of public health and to protect the existing and neighbouring properties.
26. I do not find that the imposition of a condition regarding the Considerate Constructors Scheme to be necessary in order to make the development acceptable and would therefore fail to meet the tests set out in paragraph 206 of the Framework.
27. It is essential that the requirements of conditions 4 and 6 are agreed prior to the development commencing to ensure an acceptable form of development in respect of highway safety, to safeguard the living conditions of the occupants of the property and the structural integrity of the existing and neighbouring properties.

Conclusion

28. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 100, 101, 102, 103, 104, 110, 111, 120, 121, 122, P3.202, P3.203, P3.204, P3.205, P3.210, P3.211, P3.300, P3.301, P3.302, P3.303, P3.310, P3.311, P3.320, P.3 321 and P3.322.
- 3) Prior to the first use of the terrace hereby approved, details of a screen to be erected on the western boundary of the terrace shall be submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented prior to the first use of the terrace hereby approved.
- 4) No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The statement should include:
 - a) routing of demolition, excavation and construction vehicles, including a response to existing or known projected major building works at other sites in the vicinity and local works in the highway;

- b) access arrangements to the site;
- c) the estimated number and type of vehicles per day/week;
- d) details of any vehicle holding area;
- e) details of the vehicle call up procedure;
- f) estimates for the number and type of parking suspensions that will be required;
- g) details of any diversion or other disruption to the public highway during preparation, demolition, excavation and construction work associated with the development;
- h) work programme and/or timescale for each phase of preparation, demolition, excavation and construction work associated with the development;
- i) details of measures to protect pedestrians and other highway users from construction activities on the highway;
- j) a strategy for coordinating the connection of services on site with any programme work to utilities upon adjacent land; and
- k) where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, position of nearby trees in the highway or adjacent gardens, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.

The approved Construction Traffic Management Plan shall be adhered to throughout the construction period of the development.

- 5) If during development, contamination not previously identified is found to be present at the site, development work shall cease and not be recommenced until a report indicating the nature of the contamination and how it is to be dealt with has been submitted to, and approved in writing by, the local planning authority.
- 6) No development shall commence until a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (MI Struct.E) has been appointed to supervise the construction works throughout their duration and their appointment confirmed in writing to the local planning authority. In the event that the appointed engineer ceases to perform that role for whatever reason before the construction works are completed those works will cease until a replacement chartered engineer of the afore-described qualification has been appointed to supervise their completion and their appointment confirmed in writing to the local planning authority. At no time shall any construction work take place unless an engineer is at that time currently appointed and their appointment has been notified to the local planning authority in accordance with this condition.
- 7) All work and work of making good shall be finished to match the existing exterior of the building in respect of materials, colour, texture, profile and, in the case of brickwork, facebond and pointing, and shall be so maintained.
- 8) The windows hereby permitted shall be timber framed, white painted, double hung, sliding sashes, and shall be retained as such thereafter.

- 9) The railings to the terrace and balcony shall be painted black, and shall be retained as such thereafter.
- 10) The roof of the extensions forming the subject of this planning permission shall not be used at any time as a terrace.
- 11) The development shall be carried out in accordance with the recommendations contained within the Construction Method Statement, dated March 2016, carried out by James Frith Ltd.