
Appeal Decision

Site visit made on 8 February 2017

by Penelope Metcalfe BA(Hons) MSc DipUP DipDBE MRTPI IHBC

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

Decision date: 16 February 2017

Appeal Ref: APP/X5990/D/16/3162479

7 Chesham Mews, London, SW1X 8HS

- 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 Professor Jennifer Thomas against the decision of the City of Westminster.
 - The application Ref 16/06824/FULL, dated 18 July 2016, was refused by notice dated 23 September 2016.
 - The development proposed is the existing ground floor bay window and garage will be demolished (currently recessed) and replaced with an extension which will run in-line with the neighbouring properties and the retained 1st and 2nd floors above. The garage will become part of the living space. The existing cellar will be extended to form basement and lower basement levels.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The proposal was described in the application form as set out above. It was described in the Council's decision notice as *alterations to front elevation to replace garage door and bay window; excavation of two basement levels; installation of two rear windows at first floor*. This is a simpler and still accurate description of the development and I have determined the appeal on that basis.

Main issue

3. The main issue is the effect of the proposal on the aims of Part C of policy CM28.1 of the Westminster City Plan.

Reasons

4. 7 Chesham Mews is a small three storey house located in an angle of Chesham Mews. It is unlisted and lies within the Belgravia Conservation Area.
5. Policy CM28.1 is a recently adopted policy in the Westminster City Plan *Consolidated with all changes since November 2013*, adopted in November 2016. It contains a number of criteria against which all applications for basement development will be assessed. The criteria at issue in this case are contained in Part C3, which states, among other things, that such development in residential buildings will not involve the excavation of more than one storey below the lowest original floor level unless exceptional circumstances have been demonstrated. These are "that the proposal relates to a large site with high

levels of accessibility such that it can be constructed and used without adverse impact on neighbouring uses or the amenity of neighbouring occupiers”, and “that no heritage assets will be adversely affected”.

6. The proposal is for various alterations to the garage and to the front and rear elevations, and the excavation of two basement levels beneath the existing footprint and part of the land in front. The Council has raised no objection in principle to the alterations and I see no reason to disagree with this, subject to appropriate conditions being imposed on any planning permission to approve details of the design of the new windows and doors.
7. I consider that the provision of two basement levels would not have any adverse effect on any heritage asset. They would not be visible from public view and would have no impact on the character or appearance of the conservation area.
8. The issue, therefore, concerns the impact of the construction period of the basements on the amenity of neighbouring occupiers. The appeal site is very restricted and access to it is along narrow private mews roads. Chesham Mews itself is a cul-de-sac.
9. In my opinion, the proposed two storey basement would cause unacceptable harm to the amenity of neighbouring occupiers in Chesham Mews because of the disruption and traffic movements during construction. I have taken account of the appellant’s argument that the total amount of soil to be removed from the site would be less, in real terms, than single storey basements permitted nearby and that, since there are at least two levels of basement on either side, the structural works will be less risky than might otherwise have been the case. However, policy CM28.1 is clear that two storey basements will only be allowed where the site is large and there is a high level of accessibility. This is not the case here.
10. My attention has been drawn to a recent appeal decision made since the policy was adopted, relating to a proposed two storey basement at 34 Old Queen Street (ref. APP/X5990/W/16/3149719). The Inspector in that case examined at some length the reasoning behind the restriction in the policy on the acceptable number of basement levels and the apparent anomaly that a single storey basement under a building with a large footprint on one site might produce more soil, traffic movements and general disruption than a two storey basement under a building with a smaller footprint.
11. His view was that the justification for the policy maintains that there will be harm caused by the construction of a single basement, which may be considered acceptable, but that this can be differentiated from the greater harm in the case of a double basement. He found that the proposal would cause unacceptable harm to the environment and amenities of the area, contrary to policy, and dismissed the appeal.
12. The appellant has put forward detailed information regarding the duration of works compared with that of two other sites where single basements have been permitted, at 5 Belgrave Mews and 22 Eaton Mews. One of these was shorter and the other longer than that for this proposal. While it may have been considered that there would be harm in these cases it has evidently been

concluded that it would be acceptable in the context and that the developments were otherwise satisfactory.

13.I accept that the appeal site is very small and that the period of construction might be considered to result in no worse a degree of harm than those of the single storey basements. However, I consider that the corner location and restricted site area, together with the narrow dead end road, are such that any basement excavation works would adversely affect the amenities of neighbouring occupiers. While the provision of a single storey basement might be acceptable in this context, the additional harm caused by the two storeys proposed would be unacceptable.

14.I conclude that the proposal is contrary to Part C3 of policy CM28.1, because it would involve the excavation of more than one storey below the lowest original floor level, resulting in unacceptable harm to the amenity of nearby residents. No exceptional circumstances have been demonstrated to justify the development and there are no compelling reasons to allow it contrary to policy.

15.For the reasons given above the appeal is dismissed.

PAG Metcalfe

INSPECTOR