
Appeal Decision

Site visit made on 28 March 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 08 May 2017

Appeal Ref: APP/K5600/W/17/3167016

9 Seymour Walk, Kensington and Chelsea, London SW10 9NE

- 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 Petersville Holdings against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/16/03116, dated 17 May 2016, was refused by a notice dated 13 July 2016.
 - The development proposed is the demolition of derelict property whilst retaining portion of flying freehold over neighbouring property. Rebuilding a new 2 bedroom residence with basement, light well and parking on ground floor.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of derelict property whilst retaining portion of flying freehold over neighbouring property. Rebuilding a new 2 bedroom residence with basement, light well and parking on ground floor at 9 Seymour Walk, Kensington and Chelsea, London SW10 9NE in accordance with the terms of the application, Ref PP/16/03116, dated 17 May 2016, subject to the conditions set out in the attached schedule.

Procedural Matters

2. As part of the appeal submission the appellant has submitted amended drawings refs: Proposed floor plans, 30-01 Rev A; Proposed elevations, 30-02 Rev A; Proposed elevations with dimensions, 30-05 Rev A; Proposed street elevations, 20-06 Rev A. The Council has had an opportunity to comment on these amended drawings. It is only appropriate to take the amended drawings into account if no party would be disadvantaged. Having regard to *Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JPL 37*, it is necessary for me to consider whether the proposed changes would represent a substantial difference compared to the original application. It was held in this judgement that one of the main criterions is whether the development would be so changed by such amendments that to grant permission would deprive those who should have been consulted of the opportunity of consultation.
 3. The amended drawings show changes at ground floor level to the proposed entrance and garage door arrangements. These changes are minor design alterations to the original scheme and do not alter the original scale, form or layout of the proposed dwelling. I do not therefore consider that any party would be unfairly prejudiced by my determining the appeal with regard to the
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amended drawing refs: 30-01 Rev A; 30-02 Rev A; 30-05 Rev A and 20-06 Rev A and I have done so on this basis.

4. In response to the Council's second reason for refusal, a revised Basement Engineering Management Statement¹ has accompanied the appeal documentation. The Council have had an opportunity to comment on it, and I shall return to this matter later on in my decision.

Main Issue

5. The main issue in this case is the effect on the character and appearance of Boltons Conservation Area.

Reasons

Character and appearance of Boltons Conservation Area

6. Seymour Walk is a quiet residential street which is generally aligned with simple Georgian terraces which are two and three-storey in height. The Boltons Conservation Area Appraisal (BCAA) recognises that the beauty of this street relies on its simplicity, its restrained detailing and elegant proportions.
7. The appeal property is a 20th Century addition to the street, and its appearance conflicts sharply with the style and proportions of the Georgian terraces. It has a mansard style roof, and its fenestration, including window proportions, casement arrangements and a garage door at ground level all give the property a horizontal grain. Consequently the appeal property appears incongruous within this street where then properties generally display a more vertical emphasis defined by their narrow frontages, vertical sliding sash windows and the absence of any visible roof form.
8. Policy CL3 of the Royal Borough of Chelsea's Consolidated Local Plan, July 2015 (Local Plan) requires development to preserve or enhance the character or appearance of the conservation area and protect the special architectural or historic interest of the area or its setting. It further seeks to resist substantial demolition in conservation areas unless it can be demonstrated that the building or part of the building or structure makes no positive contribution to the character or appearance of the area.
9. The BCAA considers the appeal property to be a neutral contributor to the character and appearance of Boltons Conservation Area. Whilst I recognise that the appeal proposal would retain a garage at ground floor level, which the BCAA highlights as a being a harmful element within the street scene, overall the form, proportions and design the proposed dwelling would be reflective of the intrinsic character of the majority of properties within this Georgian Street.
10. I understand that the redevelopment of this site could provide an opportunity to remove the garage, the rendered finish and reconcile the property's building line with its neighbour. However, the retention of these elements within the proposal development would not in cause any additional harm to the existing character and appearance of the conservation area.
11. The design of the individual terraces and properties vary in their detailing throughout the street. Some terraces display first floor Juliette balconies,

¹ Basement Engineering Method Statement, Project: 13263, Issue 2, Prepared by Horne & Littlemore, December 2016.

others have garages at ground level and many have lined render ground floor facades, with brick above. Consequently the materials proposed in this instance and the incorporation of Juliette balconies would not be uncharacteristic in this location nor would they detract from the overall appearance of the street. Although the roof plant may be visible from the upper floor of neighbouring properties, it would not be visible from the street, and would not have any material impact on the character or appearance of the conservation area.

12. Moreover, the design of the proposed dwelling, including its height, roof form and fenestration to the upper floors, would respond well to the intrinsic character of the Georgian properties on Seymour Walk. It would display a simple vertical form and character which would make a positive contribution to the rhythm and appearance of the street and conservation area as a whole.
13. I conclude that the appeal proposal would accord with the provisions of the Planning (Listed Building & Conservation Areas) Act 1990 and preserve and enhance the character and appearance of Boltons Conservation Area. I therefore find neither conflict with the National Planning Policy Framework's Policies which seek to conserve and enhance the historic environment, nor with Policies CL1, CL2, CL3 and CL11 of the Local Plan which seek to ensure, amongst other criteria, that new development incorporates high quality design, protects local distinctiveness, and preserves or enhances the character or appearance of conservation areas, including the protection of views which contribute to the character and quality of an area.

Other Matters

14. A revised Basement Engineering Management Statement (BEMS) accompanied the appeal documentation to address the Council's second reason for refusal. Although I recognise that this information should have been provided during the application stage, the Council do not appear to dispute the contents of the BEMS or its conclusions.
15. The BEMS has been undertaken by qualified structural engineers and demonstrates that the proposed development would be designed to safeguard the structural stability of the existing building, neighbouring buildings and other infrastructure including the London Underground Tunnels and the Highway. I am mindful that the supporting text to Policy CL 7 makes it clear that the structural stability of the development itself is not controlled through the planning system but through Building Regulations and therefore, from the evidence I have before me, I am satisfied that the BEMS provides sufficient information to comply with criteria 'm' of Policy CL 7.
16. I have had regard to third party concerns over the proposed construction methods. Consequently I imposed a condition requiring a Construction Method Statement to be agreed with the Council prior to development taking place to ensure that the living conditions of neighbouring residents are safeguarded, and in the interests of highway safety.

Conditions

17. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guide. As a result I have amended some for clarity, amalgamated and omitted others.
18. I have imposed a condition specifying the approved plans as this requires certainty.
19. A pre-commencement condition is necessary to require details of the proposed materials to be agreed to safeguard the character and appearance of the conservation area.
20. Conditions are required to specify the materials and finish of the window frames and railings to safeguard the character and appearance of the conservation area.
21. I have imposed a condition to specify the use of the garage in the interests of highway safety and conditions are necessary to specify noise levels and details of plant operation to safeguard the living conditions of neighbouring residents.
22. There is some evidence that there is a potential for unknown contamination on the site and for this reason I have imposed a condition to safeguard the environment and living conditions for future occupiers.
23. A condition suggested by the Council to require the appellant to appoint a professional engineer to oversee the development is not required as structural matters would be adequately controlled by building regulations.
24. I am not convinced that a condition requiring a Construction Traffic Management Plan, as suggested by the Council, would be enforceable. Nor would it be reasonable to require the lead contractor or site to be signed to the Considerate Constructor's Scheme. However, I have imposed a pre-commencement condition to require a Construction Method Statement to be submitted which is necessary to protect the living conditions of local residents and in the interests of highway safety.

Conclusion

25. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

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 following approved plans: 10 OS Rev C; 10 01 Rev E, 10 02 Rev E; 10 03 Rev E; 10 04 Rev C; 10 05 Rev C; 11 01 Rev C; 11 02 Rev C; 11 03 Rev C; 11 04 Rev B; 20 OS Rev D; 20 03 Rev J; 20 04 Rev G; 21 01 Rev F; 30-01 Rev A; 30-02 Rev A; 30-05 Rev A and 20-06 Rev A.

- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development shall take place until full details, including a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 5) The window frames hereby permitted shall be constructed in timber with a painted finish and shall be thereafter so maintained.
- 6) The railings hereby permitted shall be black painted metal and shall be thereafter so maintained.
- 7) The garage hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.
- 8) Noise emitted by all building services plant and vents shall not exceed a level 10dBA below the existing lowest LA90(10min) background noise level at any time when the plant is operating, and where the source is tonal it shall not exceed a level 15dBA below. The noise emitted shall be measured or predicted at 1.0m from the facade of the nearest residential premises or at 1.2m above any adjacent residential garden, terrace, balcony or patio. The plant shall be serviced regularly in accordance with the manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained. If at any time the plant is determined by the local planning authority to be failing to comply with this condition, it shall be switched off upon written instruction from the local planning authority and not used again until it is able to comply.

- 9) The plant shall not operate unless it is supported on adequate proprietary anti-vibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be thereafter so maintained.
- 10) 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. The approved measures shall be implemented in full.