



## Appeal Decision

Site Visit made on 19 April 2021

**by Alexander O'Doherty LLB (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 May 2021**

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**Appeal Ref: APP/F5540/W/20/3262979**

**30 Oxford Gardens, Chiswick, London W4 3BW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Andrew Farish against the Council of the London Borough of Hounslow.
  - The application Ref P/2020/0788 (00846/30/P3), is dated 4 March 2020.
  - The development proposed is described as, "Basement development with associated alteration".
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### Decision

1. The appeal is allowed and planning permission is granted for a basement development with associated alterations at 30 Oxford Gardens, Chiswick, London W4 3BW in accordance with the terms of the application, Ref P/2020/0788 (00846/30/P3), dated 4 March 2020, subject to the conditions set out in the attached Schedule.

### Preliminary Matters

2. The appeal was lodged following the non-determination of the planning application. The Council subsequently provided a copy of the decision that it would have issued on the planning application. This purported decision notice refers to the effect of the proposal with respect to potential adverse impacts on neighbouring properties and their amenities as well as the surrounding area during construction, and the lack of a Construction Method Statement. I have taken this document into account in my consideration of the appeal.
3. The Council's Officer's Report gives two reference numbers for the application, whereas the Council's purported decision notice mentions only one. For the avoidance of doubt, I have used both reference numbers in the banner header and in paragraph 1 (above).

### Main Issue

4. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers, with respect to noise and disturbance, land stability, flooding, and sewage and drainage.

### Reasons

5. The appeal property is a two-storey terraced house situated in an attractive residential area. The proposed basement extension would extend along the full length of the host property. It would incorporate a front lightwell and a rear lightwell with stairs leading into the rear garden.

6. I have very carefully considered all the evidence, including that submitted by local residents. With respect to the proposal's potential for disruption during construction, I have taken account of all of the specific concerns raised, including (amongst others), that Oxford Gardens is a narrow single lane cul-de-sac with limited parking and restricted access for emergency vehicles, the requirement for home-workers during the ongoing coronavirus (COVID-19) pandemic to have a safe, reasonable working environment free from vibration and undue noise, the presence of young children living on Oxford Gardens, and that the appeal site is located near a school.
7. I have also considered all the specific concerns raised in relation to the potential impacts of the proposal on land stability, including on the foundations of nearby properties. These concerns include (amongst others), the small size of the appeal site and its location close to a river and a railway, the age of the fully terraced housing stock on Oxford Gardens, the claims of subsidence and extensive cracking at nearby properties and the nature of their foundations, that relevant properties may have been built on clay, and the reference to instances of properties in London falling during basement construction.
8. However, grants of planning permission are not without adequate safeguards. In this respect, a Construction Method Statement could be secured by condition, as is advocated by the Council's Residential Extension Guidelines<sup>1</sup>. The planning permissions cited by the appellant<sup>2</sup> support this principle and demonstrate that this is a common accepted approach.
9. With such a condition in place, no construction works could take place until suitable methods to minimise disruption during construction were approved by the Council. Similarly, the Construction Method Statement could include details of excavation and construction methods, meaning that the Council would have scrutiny over any potential land stability impacts. The option of enforcement action would potentially be available to the Council in the event of a breach of the condition imposed.
10. The submitted Flood Risk Assessment<sup>3</sup> confirms that the site is located within an area that is at medium risk of groundwater flooding. Nevertheless, the report concludes that the proposed development could be considered suitable with appropriate mitigation measures being maintained for the lifetime of the development. As such, although local residents have raised concerns in relation to flood risk, I am satisfied on the evidence before me that the proposal would be acceptable in this respect. Details of appropriate mitigation measures could be required via a Construction Method Statement condition, and a separate condition could be imposed requiring details to be approved by the Council with respect to the lifetime of the development.
11. In the same way, the conditioned Construction Method Statement could require details which would ensure that the proposal would be safely constructed with respect to sewage and drainage at the appeal site and at neighbouring properties.

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<sup>1</sup> Residential Extension Guidelines Supplementary Planning Document: A Guide for Householders (adopted 2017)

<sup>2</sup> Including, Local Planning Authority references: 01072/26-28/P1 (Ground Floor Flat, 26 and 28 Stile Hall Gardens, Chiswick W4 3BU), 01072/32/P1 (32 Stile Hall Gardens, Chiswick W4 3BU), and 01072/38/P1 (Ground Floor Flat, 38 Stile Hall Gardens, Chiswick W4 3BU)

<sup>3</sup> Phase 1 Flood Risk Assessment (Ambiental Environmental Assessment) (dated 10 December 2019)

12. I therefore find that the proposal would not adversely affect the living conditions of neighbouring occupiers to a material degree, with respect to noise and disturbance, land stability, flooding, and sewage and drainage. It would comply with Policy SC7 of the Local Plan<sup>4</sup> which provides that basements should not harm the amenity of neighbouring residents, existing and future occupants, and the built and natural environment. The proposal would also comply with Policy EQ3 of the Local Plan which aims to ensure that flood risk is reduced by ensuring that developments are located appropriately and incorporate any necessary flood resistance and resilience measures, and that surface water is managed through an increased emphasis on sustainable drainage.
13. Policies CC1, CC2, and CC4 of the Local Plan relate to context and character, urban design and architecture, and heritage, respectively, and therefore are not relevant to this main issue. The proposal would comply with the Residential Extension Guidelines, which provides that, for basement developments, the developer will be required by condition to submit a Construction Method Statement which is certified by a suitably qualified engineer.

### **Other Matters**

14. The appeal property is within the Wellesley Road Conservation Area (conservation area). Its positive contribution to the conservation area derives in part from its appropriate scale, brickwork, and fenestration arrangements when seen in the context of other nearby properties on Oxford Gardens. Local residents have argued that there is no precedent for such development on Oxford Gardens, that the proposal would not be in-keeping with other properties nearby and the conservation area when considered as a whole, and that it would constitute overdevelopment of the site.
15. However, apart from the small front light-well, from Oxford Gardens there would be little to indicate that the property contained a basement, and as no bedrooms are proposed it would be unlikely to change the character of the area in terms of the number of residents present at the appeal property. The rear lightwell and staircase would project further from the rear wall of the host property than is recommended in the Residential Extension Guidelines. However, it would extend only marginally further than the length specified in the guidelines, and as that part of the development would not be visible from the street, this design feature would have a minimal impact on the character and appearance of the area. Accordingly, I am satisfied that the proposal would preserve the character and appearance of the conservation area and that there would be no harm to its significance as a designated heritage asset.
16. Reference has been made to the potential carbon emissions that would result from the proposal, but the evidence does not demonstrate that these would necessarily be greater than other construction projects of a similar scale. Accordingly, the proposal is also acceptable in relation to this matter.
17. As any further application would be decided on its own merits, I consider that the proposal would not set a precedent for future similar developments. Likewise, any application to remove or modify a disputed condition would be considered by the Council on its individual merits. Local residents have referred to alleged errors and omissions in the planning application, but few specific

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<sup>4</sup> London Borough of Hounslow Local Plan 2015 – 2030: Volume One (adopted 2015)

details have been provided, and I have not been able to detect any flaws in this respect. Matters relating to private insurance and any commercial intentions of the appellant cannot be considered in the context of a planning appeal. Consequently, none of these matters alters my view as to the acceptability of the proposal and its compliance with the development plan.

### **Conditions**

18. I have had regard to the conditions suggested by the Council. I have considered them against the advice on conditions set out in the Framework<sup>5</sup> and the Planning Practice Guidance. Conditions are necessary, in the interests of clarity and enforceability, setting out the timescale for the commencement of development and the approved plans, respectively.
19. A condition is necessary requiring a Construction Method Statement (requiring details to minimise noise and disturbance and details relating to land stability, flooding, and sewage and drainage impacts), to protect the living conditions of neighbouring residents. As it relates to construction matters, I have incorporated the text of the Council's suggested condition relating to the Considerate Constructors Scheme within the text of this condition. This condition must be a pre-commencement condition, to ensure that any potential impacts on neighbouring land, which may impact on the living conditions of neighbouring residents, are assessed by the Council before development takes place. As required by s100ZA(5) of the Town and Country Planning Act 1990 (as amended), the written agreement of the appellant to the terms of the pre-commencement condition has been obtained.
20. A condition is necessary requiring that the basement shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling and that it shall not be used as sleeping accommodation, to ensure that the property remains in single occupation and to protect the living conditions of neighbouring residents.
21. A condition is also necessary requiring a scheme detailing flood mitigation and resilience measures and a formal flood warning and evacuation plan to be approved by the Council and maintained thereafter, to ensure that any impacts with respect to flood risk are adequately mitigated for the lifetime of the development. Although such a condition was not specified by the Council, the need for the measures to be provided were clearly set out in the Flood Risk Assessment submitted by the appellant in support of the planning application and this appeal. Additionally, the appellant mentioned that, according to the Flood Risk Assessment, the proposed basement extension could be built subject to appropriate flood mitigation measures. Consequently, the imposition of this condition will not constitute a surprise to any party.

### **Conclusion**

22. For the reasons given above I conclude that the appeal should be allowed.

*Alexander O'Doherty*

INSPECTOR

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<sup>5</sup> National Planning Policy Framework 2019

## **Schedule**

### **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: Location Plan (1312.00), Floor Plans as Proposed (1319.107a), Site Plan & Section A-A as Proposed (1319.109), Floor Plans as Proposed (1319.110), Elevations & Sections as Proposed (1319.111).
- 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 must be certified by a suitably qualified engineer and shall provide for / contain:
  - specific details of excavation, temporary works, construction techniques and mitigation methods, including details of any potential impacts on neighbouring land (including land stability, flooding (including flood mitigation measures and adequate warning procedures), and sewage and drainage impacts) based on an assessment of the geology and hydrology of the area;
  - delivery, demolition and construction working hours;
  - routes for construction traffic;
  - the parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
  - arrangements for turning vehicles;
  - measures to protect vulnerable road users (cyclists, pedestrians, and children);
  - arrangements to receive abnormal loads or unusually large vehicles;
  - any necessary temporary traffic management measures;
  - measures to control the emission of dust and dirt during construction;
  - wheel washing facilities;
  - loading and unloading of plant and materials (including waste and construction materials);
  - storage of plant and materials used in constructing the development;
  - a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - confirmation that the person carrying out the work is a member of the Considerate Constructors Scheme and its code of practice, and that the details of the membership and contact details will be clearly displayed on the site so that they can be easily read by members of the public;
  - the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - 24-hour emergency contact number.

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

- 4) The basement hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 30 Oxford Gardens, Chiswick, London W4 3BW, and shall not be used as sleeping accommodation.
- 5) Prior to the basement use commencing, a scheme detailing flood mitigation and resilience measures and a formal flood warning and evacuation plan (as specified in the Phase 1 Flood Risk Assessment (Ambiental Environmental Assessment) (dated 10 December 2019)) shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme and thereafter shall be managed and maintained in accordance with the approved scheme.