
Appeal Decisions

Site visit made on 11 May 2021

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal A Ref: APP/K5600/D/21/3266874 **18 Balliol Road, London W10 6LX**

- 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 Keith MacRae against the decision of the Council of The Royal Borough of Kensington and Chelsea.
 - The application Ref PP/20/06142, dated 1 November 2020, was refused by notice dated 17 December 2020.
 - The development proposed is the construction of a basement below the footprint of the house and 50% of rear garden.
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Appeal B Ref: APP/K5600/D/21/3266880 **18 Balliol Road, London W10 6LX**

- 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 Keith MacRae against the decision of the Council of The Royal Borough of Kensington and Chelsea.
 - The application Ref PP/20/06331, dated 13 November 2020, was refused by notice dated 12 January 2021.
 - The development proposed is the construction of basement below footprint of dwelling and 50% of the garden.
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Decisions

Appeal A Ref: APP/K5600/D/21/3266874

1. The appeal is allowed and planning permission is granted for the construction of a basement below the footprint of the house and 50% of rear garden at 18 Balliol Road, London W10 6LX in accordance with the terms of the application, Ref PP/20/06142, dated 1 November 2020, subject to the conditions set out in the schedule to this decision.

Appeal B Ref: APP/K5600/D/21/3266880

2. The appeal is allowed and planning permission is granted for construction of basement below footprint of dwelling and 50% of the garden at 18 Balliol Road, London W10 6LX in accordance with the terms of the application, Ref PP/20/06331, dated 13 November 2020, subject to the conditions set out in the schedule to this decision.

Procedural matters

3. The plans in both appeals show a ground floor extension at the rear of the main house that was not in place at the site visit nor forms part of the development sought. For the avoidance of doubt, I have assessed the proposal in each appeal solely as it is described in the above headings.
4. There are 2 separate appeals before me to determine. However, the proposals and the issues raised in each case are similar and so I have assessed them together with distinctions drawn between the schemes, where appropriate.

Main issue

5. The main issue is common to both appeals, which is the effect of the proposed development on the character and appearance of the local area.

Reasons

6. The appeal property is a mid-terrace dwelling that lies within the Oxford Gardens St Quintin Conservation Area (CA), which is mainly residential in character. The CA derives its significance as a heritage asset partly from the regimented rows of late 19th and early 20th Century residential terraces. These terraces have a broadly consistent form and design, which contribute to an attractive and generally well-mannered streetscape.
7. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In assessing the effects of the development sought on the significance of the heritage asset I have also given great weight to the asset's conservation in accordance with paragraph 193 of the National Planning Policy Framework (the Framework).
8. In each appeal, the only visual manifestation of the proposed basement at the front of No 18 would be a light well covered by a grille. The Council raises no objection to this element of the proposals. I, too, find these aspects of the development acceptable given that they would be a modest and neatly set out addition to the frontage of the appeal property and the local street scene.
9. At the rear of the building, the main visual effect of both appeal schemes would be the provision of walk-on glazed roof lights at ground level. Additionally, in Appeal B there would be an open light well with a new staircase and balustrade to provide access to the basement along one side of the back garden.
10. Although extending across almost the full width of the plot and set away from the existing house, the size, design and number of glazed roof lights would be appropriate to the scale of the host property. The external staircase and balustrade in Appeal B would be discrete and inconspicuous features close to the existing boundary wall. None of these proposals would be seen beyond the back garden of No 18 apart from a small number of windows to nearby properties. In these views, the line of proposed glazing, light well and external steps would be evident albeit glimpsed at an oblique angle and from some distance. To my mind, these new features would not draw the eye given their low-level position and modest presence within a suburban garden setting.
11. There would be some light spillage through the roof lights, open light well and staircase at night although the overall extent would be limited given the

physical containment of the back garden of No 18, which includes a brick wall around the perimeter. Given the limited views of the proposal from nearby properties, the overall effect of the proposal in each appeal would be insignificant particularly given the illumination that could also reasonably be expected after dark from the existing windows of nearby properties. In that context, the proposals would not be obtrusive. As such, there would be no discernable effect on the character and appearance of the CA, which would be preserved if either appeal scheme were to come forward.

12. The appellant has referred to several examples of the basements to properties in the local area, including 20 Balliol Road with background details and plans provided. Nevertheless, it is a key planning principle that each case should be assessed on its own merits, which I have done in this instance.
13. On the main issue, I conclude that the proposed development in each appeal would be in keeping with the character and appearance of the local area. As such, the proposals would not be contrary to Policies CL1, CL2, CL3, CL6, CL7 or CL11 of the Consolidated Local Plan (CLP) and the Council's Supplementary Planning Document, *Basements*. These policies and guidance aim to ensure that development respects local context and character; achieves the highest design quality; limits the impact of light pollution from basements; and preserves or enhances the character or appearance of the conservation area and views within them. For the same reason, there would be no conflict with the statutory duty or with the Framework insofar as it aims to ensure that places are well designed and that heritage assets are protected.

Other matters

14. Interested parties raise several additional objections some of which relate to the rear extension shown on the drawings, which is a separate matter.
15. Inevitably, there would be some impact on the local area and nearby occupiers mainly caused by noise, vibration and dust during the construction phase. However, this disruption could be managed in a way that minimises the disturbance to others and the surrounding environment through a Construction Traffic Management Plan (CTMP). A draft CTMP has been provided in line with CLP Policy CL7, the supporting text of which notes that where planning permission is to be granted, a condition will be imposed requiring a full CTMP. In those circumstances, I consider this matter can be covered by a condition that requires the submission of a full CTMP.
16. The position of the light wells and rear steps below ground level would ensure that there would be no discernable loss of light or loss of outlook to nearby properties and that overlooking problems from the extended basement towards neighbouring spaces are avoided. The Officer's report states that the Council's Arboricultural Officer considered the proposals to be acceptable in terms of their impact on trees of amenity value. Taking into account the appellant's Arboricultural Impact Assessment (AIA), I agree with that assessment. The appellant has confirmed that the property is in use as a single dwelling. I share the Council's opinion that the proposal would not take up more than 50% of the garden area.
17. While each appeal scheme would increase the amount of living space within the dwelling, the outward appearance of the property and its effect on the character and qualities of the local area would be acceptable. As such, I am

unable to share the concern of some objectors that the proposals would amount to over development of the site.

18. I acknowledge the firmly held concerns expressed by interested parties against the appeal schemes, which I have carefully considered. Having taken into account all of the evidence before me, I am not persuaded that the objections raised, taken individually or together, outweigh my findings in relation to the main issue.

Conditions

19. The conditions imposed equally relate to each appeal. In addition to the standard time limit condition, I have imposed a condition requiring that the development be carried out in accordance with the approved plans for certainty. A condition requiring the submission of a CTMP that includes measures to minimise noise and disturbance to the occupiers of neighbouring properties is necessary. The CTMP is an appropriate way to address the protection of the roadside Cherry tree and others that are adjacent to the site during the construction phase, to which the appellant's AIA refers, notably within Appendices 1 and 2.
20. To safeguard the living conditions of the occupiers of nearby properties, conditions stipulating that the development is undertaken in accordance with the Considerate Constructors Scheme and a site construction management plan are also required. The appointment of a properly qualified engineer is needed to ensure that the construction of the basement does not undermine any neighbouring buildings or adversely affect the local water environment. A condition to this effect is therefore imposed. To safeguard the health of future occupiers and users of the basement and those associated with its construction, a condition is required to deal with the risks of radon gas.
21. CLP Policy CL7 requires that basements be protected from sewer flooding through the installation of a suitable pumped device. A condition is required to ensure the submission of details of such a device in compliance with this policy. To ensure the site is properly drained and achieves the reduction of surface water run off rates sought by local planning policies, a condition is imposed in relation to surface water disposal.

Conclusion

22. For the reasons set out above and having regard to all other matters raised, I conclude that both appeals should be allowed.

Gary Deane

INSPECTOR

Appeal A Ref: APP/K5600/D/21/3266874

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: Refs EX P 100 Rev A, EX E 200 Rev A, EX E 210 Rev A, GA E 200 Rev G; GA E 201 Rev A; GA S 300 Rev G and GA P 100 Rev H, and the Site Plan and Location Plan, both of which show the site edged red.
- 3) No development shall commence until a Construction Traffic Management Plan (CTMP), has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved CTMP. A one-page summary of the CTMP shall be displayed at the front of the site for the duration of the construction works where members of the public can easily read it.
- 4) No development shall commence until details of a pumped device to protect the basement from sewer flooding has been submitted to and approved in writing by the Local Planning Authority. The approved pumped device shall be installed prior to first occupation or use of the basement. The approved pumped device shall thereafter be retained and maintained in accordance with the manufacturer's instructions. ^[SEP]
- 5) No development shall commence until a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (M.I. Struct.E) has been appointed to supervise the engineering and construction works throughout their duration and their appointment has been confirmed in writing to the Local Planning Authority. The notification of the appointment to the Council shall include the name and contact details of the person supervising engineering and construction on site for the duration of the works. If that the appointed engineer ceases to perform that role for whatever reason before the engineering or construction works are completed, those works will cease until a replacement Chartered Civil Engineer or Chartered Structural Engineer holding the afore-described qualifications has been appointed to supervise their completion and their appointment has been confirmed in writing to the Local Planning Authority. At no time shall any engineering or construction work take place unless a Chartered Civil Engineer or Chartered Structural Engineer holding the afore-described qualifications is at that time currently appointed and their appointment has been confirmed in writing to the Local Planning Authority in accordance with this condition. ^[SEP]
- 6) No development shall commence until such time as the lead contractor, or the site, is signed to the Considerate Constructors Scheme and its published Code of Considerate Practice, and the details of: (a) the membership; (b) contact details; (c) working hours as stipulated under the Control of Pollution Act 1974; and (d) Certificate of Compliance, are clearly displayed on the site so that they can be easily read by members of the public, and shall thereafter be maintained on display throughout the duration of the works forming the subject of this planning permission.
- 7) No development shall commence until a code of construction checklist and a site construction management plan for the development hereby permitted have been submitted to and approved in writing by the Council's Construction Management Team and a copy of the approved code of construction checklist

and the site construction management plan have been submitted to the Local Planning Authority to be placed on the property record.

- 8) The basement extension hereby permitted shall not be occupied or used until measures to mitigate against radon gas have been implemented and a verification report to that effect has been issued in accordance with a scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be permanently retained thereafter.
- 9) The basement extension hereby permitted shall not be occupied or used until surface water drainage works have been implemented in accordance with a detailed scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the results of an assessment of the potential for disposing of surface water by means of a sustainable drainage system. Where a sustainable drainage scheme is to be provided, the submitted details shall provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The approved details shall be permanently retained thereafter.

Appeal B Ref: APP/K5600/D/21/3266880

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: Refs GA E 201 Rev A, GA E 200 Rev E; GA S 300 Rev E; and GA P 100 Rev F, and the Site Plan and Location Plan, both of which show the site edged red.
3. No development shall commence until a Construction Traffic Management Plan (CTMP), has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved CTMP. A one-page summary of the CTMP shall be displayed at the front of the site for the duration of the construction works where members of the public can easily read it.
4. No development shall commence until details of a pumped device to protect the basement from sewer flooding has been submitted to and approved in writing by the Local Planning Authority. The approved pumped device shall be installed prior to first occupation or use of the basement. The approved pumped device shall thereafter be retained and maintained in accordance with the manufacturer's instructions. 
5. No development shall commence until a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (M.I. Struct.E) has been appointed to supervise the engineering and construction works throughout their duration

and their appointment has been confirmed in writing to the Local Planning Authority. The notification of the appointment to the Council shall include the name and contact details of the person supervising engineering and construction on site for the duration of the works. If that the appointed engineer ceases to perform that role for whatever reason before the engineering or construction works are completed, those works will cease until a replacement Chartered Civil Engineer or Chartered Structural Engineer holding the afore-described qualifications has been appointed to supervise their completion and their appointment has been confirmed in writing to the Local Planning Authority. At no time shall any engineering or construction work take place unless a Chartered Civil Engineer or Chartered Structural Engineer holding the afore-described qualifications is at that time currently appointed and their appointment has been confirmed in writing to the Local Planning Authority in accordance with this condition. [SEP]

6. No development shall commence until such time as the lead contractor, or the site, is signed to the Considerate Constructors Scheme and its published Code of Considerate Practice, and the details of: (a) the membership; (b) contact details; (c) working hours as stipulated under the Control of Pollution Act 1974; and (d) Certificate of Compliance, are clearly displayed on the site so that they can be easily read by members of the public, and shall thereafter be maintained on display throughout the duration of the works forming the subject of this planning permission.
7. No development shall commence until a code of construction checklist and a site construction management plan for the development hereby permitted have been submitted to and approved in writing by the Council's Construction Management Team and a copy of the approved code of construction checklist and the site construction management plan have been submitted to the Local Planning Authority to be placed on the property record.
8. The basement extension hereby permitted shall not be occupied or used until measures to mitigate against radon gas have been implemented and a verification report to that effect has been issued in accordance with a scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be permanently retained thereafter.
9. The basement extension hereby permitted shall not be occupied or used until surface water drainage works have been implemented in accordance with a detailed scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the results of an assessment of the potential for disposing of surface water by means of a sustainable drainage system. Where a sustainable drainage scheme is to be provided, the submitted details shall provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The approved details shall be permanently retained thereafter.