



Appeal Decision

Site Visit made on 9 November 2021

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2021

Appeal Ref: APP/K5600/D/21/3281992

33 Pangbourne Avenue, London W10 6DJ

- 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 Davide Mantegazza against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/04016, dated 17 June 2021, was refused by notice dated 24 August 2021.
 - The development proposed is erection of a single-storey rear extension and rear outbuilding; construction of a single-storey basement below the footprint of the property with lightwells to front and rear, improvements to front elevation and increase of green spaces, including other associated works.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single-storey rear extension and rear outbuilding; construction of a single-storey basement below the footprint of the property with lightwells to front and rear, improvements to front elevation and increase of green spaces, including other associated works at 33 Pangbourne Avenue, London W10 6DJ, in accordance with the terms of the application, Ref PP/21/04016, dated 17 June 2021, subject to the conditions set out in the schedule to this Decision.

Main Issue

2. The main issue is whether the development would preserve or enhance the character or appearance of the Oxford Gardens – St Quintin Conservation Area.

Reasons

3. The appeal site lies within the Oxford Gardens – St Quintin Conservation Area (the CA). For the purposes of this appeal, the CA derives some of its significance from its predominantly residential character and the tightly knit, but low rise buildings with spacious garden settings. I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
4. The appeal property comprises a two-storey, mid-terrace dwelling of early/mid twentieth century origins located on the western side of Pangbourne Avenue. These properties are set back from the road behind short front gardens enclosed by low walls and hedges. At the back the properties have reasonably long fence-enclosed gardens, which back onto a private lane and a bowling club beyond. Many of the properties have been extended to the rear with full-width, single-storey extensions and dormers, and also contain outbuildings of different form and size at the bottom of the gardens.

5. The Council's delegated report advises that a separate planning application for a single-storey rear extension similar to that proposed in this scheme has recently been approved¹. Furthermore, it advises that the replacement outbuilding and works to the front of the property are sensitively designed and are therefore not objected to. I find no reason to reach alternative conclusions regarding these separate aspects and their effects on the character and appearance of the appeal site and its surroundings. Therefore, my considerations in this appeal shall be principally confined to what the Council has termed 'the external physical manifestations' associated with the basement addition in the rear garden. These include a set of walk-on rooflights, a covered light well, steps up to the garden and associated metal balustrade.
6. Policy CL7 of the Royal Borough of Kensington and Chelsea Local Plan 2019 (the LP), in conjunction with the Basements Supplementary Planning Document 2016 (SPD), recognise that the impact of basement development needs to be managed carefully, including in respect of the scale and design of any visible elements. Specifically, Policy CL7 states, among other things, that basement development must not exceed a maximum of 50 per cent of each garden, and that external elements such as light wells, roof lights and means of escape are sensitively designed, discretely sited, and limit the impact of light pollution.
7. The visual elements of the basement development would extend into the rear garden beyond the proposed extension. Nonetheless, the scale of these features would in themselves be modest, and significantly, would not exceed 50 per cent coverage of the garden space. Although the balustrade to the steps would project above ground level, this would only be for a short extent, and at just over 1m in height, would be lower than the boundary fencing it would be located close to. Furthermore, these external elements would not be widely visible beyond the rear garden of No 33, apart from the upper windows of a small number of neighbouring properties. However, given their high quality design and modest scale, height and coverage, they would not draw the eye or appear overbearing and out of character within this suburban garden setting.
8. Internal lighting would be evident through the rooflights and open light well at night, but not to any great extent given the modest scale of the development and physical containment of the back garden. Moreover, in the context of illumination that could reasonably be expected from existing windows and outdoor lighting in this suburban setting, including from the large openings in the rear extension, the effect from the basement would be insignificant.
9. Overall, I am satisfied that the external manifestations of the basement at the rear of the property would be of an appropriate scale, sensitively designed and discretely sited. As such, the proposal would not detract from the elements which contribute positively to the significance of the CA.
10. I therefore conclude that the character and appearance of the CA would be preserved. The proposal also complies with Policies CL1, CL2, CL3, CL6, CL7 and CL11 of the LP, as well as the SPD guidance. Among other things, these policies and guidance aim to ensure that development respects local context and character; achieves the highest design quality; limits the impact of basements; and preserves or enhances the character or appearance of the conservation area and views within them. Similarly, the proposal complies with

¹ LPA ref: PP/21/02970

the provisions of the National Planning Policy Framework (The Framework) with regard to the need for high quality design and the protection of heritage assets.

Other Matters

11. I have also had careful regard to the variety of other issues raised by interested parties that have not already been encapsulated above. This includes concerns over noise and disruption from construction, the effect on drains and flooding, and structural stability. These matters were before the Council when it determined the appeal planning application and did not feature in the reasons for refusal. Based on the evidence before me, I have no reason to disagree with the Council in regard to these matters and I am satisfied that any effects can be made acceptable through appropriate planning conditions, as suggested in the Council's appeal questionnaire. Consequently, whilst I appreciate the genuine concerns of the interested parties, none of the other issues raised alter or outweigh my findings on the main issue.

Conditions

12. I have considered the planning conditions that have been suggested by the Council against advice in the Framework and the Planning Practice Guidance, making amendments where necessary to ensure they meet the relevant tests. I have also sought specific agreement to any pre-commencement conditions where necessary.
13. In addition to the statutory time limit, a condition listing the approved plans is necessary in the interests of certainty.
14. A condition requiring the external materials of the extension to match the existing building is necessary to ensure a satisfactory appearance of the development.
15. To protect the living conditions of neighbouring occupiers, it is necessary to impose numerous conditions relating to construction practices.
16. For the avoidance of any unintended surface water flood risks and to protect the basement from flooding, conditions requiring approval and implementation of sustainable drainage systems and details of a suitable pumping device are necessary.
17. In the interests of the safe and efficient operation of the highway network, it is necessary to condition the approval of a Construction Traffic Management Plan.
18. In the interests of human health, a condition is necessary to deal with any unexpected ground contamination.

Conclusion

19. For the reasons given, and subject to the imposed conditions, I conclude that the appeal should succeed.

A Caines

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: PL_001 Rev P1; PL_110 Rev P1; PL_111 Rev P1; PL_112 Rev P1; PL_113 Rev P1; PL_115 Rev P1; PL_116 Rev P1; PL_120 Rev P1; PL_125 Rev P1; PL_130 Rev P1; PL_135 Rev P1.
- 3) The external surfaces of the extension hereby permitted shall match those used in the existing building.
- 4) No development shall commence until details of a pumped device to protect the basement from flooding have 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 and shall thereafter be retained and maintained in accordance with the manufacturer's instructions.
- 5) No development shall commence until a Sustainable Drainage Systems Strategy with the following information is submitted to and approved in writing by the Local Planning Authority:
 - A. A detailed analysis of surface water run-off and attenuation volume (to demonstrate how the proposed measures will aim to comply with Local Plan Policy CE2 (g), which is to achieve a reduction of 50% of existing rates including climate change in the calculations and factoring in all flows into the sewer system including groundwater or other flows).
 - B. Information about the proposed SuDS types, their location, attenuation capacity, specification, structural integrity, construction, operation, access, and maintenance. (More sustainable green SuDS should be favoured over attenuation tanks).
 - C. Section/profile drawings of the SuDS, if relevant (green roofs, blue roofs, sub-base attenuation, permeable paving, planters, species, etc.).
 - D. Drainage plans to show clearly how surface water run-off will be conveyed to the SuDS and any connections to the sewer system if necessary.

During construction of the development hereby permitted the approved SuDS shall be fully implemented and maintained thereafter.
- 6) 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 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; and
- J. 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 development shall be constructed in accordance with the approved CTMP. A one-page summary of the requirements of the approved CTMP shall be affixed to the frontage of the site for the duration of the works at a location where it can be read by members of the public.

7) No development shall commence until:

- A. A Chartered Civil Engineer (MICE) or Chartered Structural Engineer (M.I. Struct.E) has been appointed for the duration of building works and their appointment confirmed in writing to the Local Planning Authority, and
- B. The name, and contact details of the person supervising engineering and construction on site for the duration of building works have been confirmed in writing to the Local Planning Authority.

In the event that either the Appointed Engineer or Appointed Supervisor cease to perform that role for whatever reason before the construction works are completed, those works shall cease until a replacement chartered engineer of the afore-described qualification or replacement supervisor 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 and supervisor are at that time currently appointed and their appointment has been notified to the Local Planning Authority in accordance with this condition.

- 8) 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: (i) the membership; (ii) contact details; (iii) working hours as stipulated under the Control of Pollution Act 1974; and (iv) Certificate of Compliance, are clearly displayed on the site so that they can be easily read by passing members of the public, and shall thereafter be maintained on display throughout the duration of the works forming the subject of this permission.
- 9) No development shall commence until:
 - A. A Code of Construction Checklist and Site Construction Management Plan for the development have been approved, in writing, by the Council's Construction Management Team, and then
 - B. Copies of the approved Checklist and Plan, and their written approval, have been submitted to the local planning authority to be placed on the property record.
- 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.

End of schedule