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## Appeal Decision

Site visit made on 28 May 2024

**by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC**

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

**Decision date: 29/05/24**

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**Appeal Ref: APP/K5600/D/24/3338514**

**14 Denbigh Road, Kensington and Chelsea, London W11 2SN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Jo Cowan Architects against the decision of The Council of The Royal Borough of Kensington & Chelsea.
  - The application Ref PP/23/07216, dated 2 November 2023, was refused by notice dated 4 January 2024.
  - The application sought planning permission for formation of additional storage at lower ground floor front light well and bin storage to front garden with enhanced planting without complying with a condition attached to planning permission Ref PP/21/06865, dated 14 December 2021.
  - The condition in dispute is No 2 which states that: *Compliance with approved drawings. The development shall not be carried out except in complete accordance with the details shown on submitted plans JCA-0759: /101 PP LG, /102 PP GF, /109 PS BB, /110 PS BB and /111 PE FR - all Rev: P2.*
  - The reason given for the condition is: *The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.*
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### Decision

1. The appeal is allowed and planning permission is granted for Formation of additional storage at lower ground floor front light well and bin storage to front garden with enhanced planting at 14 Denbigh Road, LONDON, W11 2SN in accordance with the application Ref PP/23/07216 dated 2 November 2023 without complying with condition No 2. set out in planning permission Ref PP/21/06865 granted on 14 December 2021 by The Council of The Royal Borough of Kensington & Chelsea, but otherwise subject to the conditions set out in Appendix A.

### Main Issue

2. The main issue is whether or not the amended condition would preserve or enhance the character or appearance of the Pembridge Conservation Area.

### Reasons

3. The appeal site comprises a four storey mid-terraced building located on Denbigh Road. It lies within the Pembridge Conservation Area. The Conservation area covers a large part of the local area. It is characterised by predominantly residential buildings. I also saw that within the wider conservation area there are a number of low walls facing the highway – some

with just capping stones and others with capping stones; with railings either inserted or placed upon.

4. Put simply, the Appellant wishes to 'vary' the original drawings approved in 2021 so that the boundary wall to the front of the building is raised. This would be to a height of no greater than 950mm (as shown on drawing JCA-0759-100-PE-FR) with railings on top.
5. The Council's points out their view that the height of the existing front boundary walls within the terrace are consistent, with slight variation associated with the natural slope in the road. The proposed increase in the height of the front boundary wall at No. 14 would disrupt this uniformity, which would be further exacerbated with the addition of the proposed disproportionate, shorter, squat railings above. This would cause the front boundary to appear incongruous, visually obtrusive, and at odds with the prevailing pattern of development along this terrace, to the detriment of the character and appearance of the street scene and conservation area.
6. Whilst I note that the proposed wall would be higher than those directly adjacent, this is not an uncharacteristic feature of the wider conservation area or the locality more generally. As such, at the very least, it would preserve the character and appearance of the Pembridge Conservation Area, the duty to which is set out in s72(1) of the PLBCAA.
7. Accordingly, the proposal would accord with Policies CL1, CL2, CL3, CL6 and CL11 of the Local Plan 2019, which, amongst other aims seek to ensure that alterations and additions do not harm the existing character and appearance of the building and its context. It would also accord with the aims of the Pembridge Conservation Area Appraisal which indicates that '*For all buildings identified here as positive buildings, change must be managed to conserve and, where appropriate, enhance their significance in accordance with national and local planning policies*'. The proposal would also accord with the Policies of the National Planning Policy Framework, including those set out in Chapter 16 - Conserving and enhancing the historic environment.

## Conclusion

8. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition, but substituting it with the drawings listed on the refused decision notice of 2023, and restating those undisputed conditions that are still subsisting and capable of taking effect.

*C Parker*

INSPECTOR

## Appendix A

1. Time Limit. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - As required by Section 91 of the Town and Country Planning Act 1990, to avoid the accumulation of unexercised Planning Permissions.

2. *Compliance with approved drawings. The development shall not be carried out except in complete accordance with the details shown on submitted plans JCA-0759-001-OS-LP Rev P1, JCA-0759-002-OS-SP Rev P1, JCA-0759-100-PE-FR Rev P1, JCA-0759-101-PS-FR Rev P1.*

*Reason - The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.*

3. Planting and replanting. All tree and shrub planting forming part of the plans and details approved through this planning permission shall be carried out in the first planting and seeding season following the first occupation of the development or the completion of the development whichever is the sooner. Any trees or shrubs which, within a period of five years from the first planting and seeding season referred to above, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason - To protect the appearance and amenity of the area and to accord with policies of the development plan, in particular policy CR6 of the Local Plan 2019.

4. Black painted railings and gate. The front boundary railings and gate shall be painted black, and so maintained.

Reason - To preserve or enhance the appearance of the building and/or the character of the area, in accordance with policies of the development plan in particular policies CL1, and CL6 of the of the Local Plan 2019.

5. Materials - To match existing. All work and work of making good shall be finished to match the existing exterior of the building(s) in respect of materials, colour, texture, profile and, in the case of brickwork, facebond and pointing, and shall be so maintained.

Reason - To preserve or enhance the appearance of the building and/or the character of the area in accordance with policies of the development plan in particular policies CL1, CL2, CL3 and CL6 of the Local Plan 2019.

6. Porous surfaces. All external hard surfacing in the development shall be constructed using porous materials and so maintained thereafter. If any permeable surfaces are removed, they must be replaced only with permeable surfaces.

Reason - To reduce flood risk and to contribute to sustainability in accordance with policy CE2 of the Local Plan 2019