



Appeal Decision

Site visit made on 4 June 2024

by A Veevers BA(Hons) PGDipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal Ref: APP/X5990/W/23/3332871

Flat 16, 87 St George's Drive, London SW1V 4DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs A and E Kuhn against the decision of City of Westminster Council.
 - The application Ref is 22/08389/FULL.
 - The development proposed is re-building and amalgamation of two vaults within the front lightwell; infill of lightwell under entrance and installation of entrance door screen and lowering of the vault floors. Alterations to screen door to the internal courtyard area.
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Decision

1. The appeal is dismissed insofar as it relates to the re-building and amalgamation of two vaults within the front lightwell and lowering of the vault floors.
2. The appeal is allowed insofar as it relates to the infill of lightwell under entrance, installation of entrance door screen and alterations to screen door to the internal courtyard area and planning permission is granted for infill of lightwell under entrance, installation of entrance door screen and alterations to screen door to the internal courtyard area at Flat 16, 87 St George's Drive, London SW1V 4DB in accordance with the terms of the application, Ref 22/08389/FULL, and the plans submitted with it so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin no 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: 20/2101/10 (Site Location Plan); 22/2101/01 Rev D (LGF existing plans); 22/2101/02 Rev C (LGF proposed plan); 22/2101/03 Rev H (LGF proposed plans); 22/2101/04 Rev A (LGF proposed plans sitting room); 22/2101/05 Rev B (LGF plans-proposed sections at vault) and 22/2101/06 Rev J (LGF proposed plans vaults in concrete option 4) except in respect of the internal works to the vaults shown on those plans.
 - 3) Unless indicated on the approved plans, all external materials of the development hereby permitted, including render to the infill of lightwell under entrance, shall match that used in the existing dwelling.

Preliminary Matters

3. I have taken the description of development in the banner heading above from the Council's decision notice as this more accurately describes the development and was used by the appellant for the purposes of the appeal. Consequently, I am satisfied that no party will be prejudiced by my use of it.
4. The appellant has submitted amended plans with the appeal¹ and an updated 'Proposed Sequence of Works (Rev A)'² (PSW). The plans show the location of the outer edge of the existing vaults and provide annotations to drawings. The Council has had the opportunity to comment on the amended plans and the PSW as part of the appeal process. The changes are relatively minor and do not change the nature of the development. I consider no injustice would be caused to interested parties by my consideration of the plans and PSW. I have therefore had regard to them in my decision.
5. As the proposal is in a conservation area, I have had regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

6. The main issues are:
 - whether the proposed development would accord with the local development plan strategy for basements, with particular reference to the effects of the operations involved in, and associated with, basement excavation under the highway; and,
 - the effect of the proposed development on the character and appearance of the host building, and whether it would preserve or enhance the character or appearance of the Pimlico Conservation Area.

Reasons

Basement

7. Policy 45 of the City of Westminster City Plan 2019-2040 (Adopted April 2021) (the CP) lists several criteria which basement developments in the City of Westminster are required to meet. In terms of the extent and depth of basements, criterion B.5 requires that basement development does not encroach more than 1.8m under any part of the adjacent highway and retains a minimum vertical depth of 900mm between the highway surface and vault structure. The supporting text to this policy indicates that vaults can restrict the space available for services in the highway and therefore adequate space must be available between the highway and any excavation proposed under it.
8. The existing two adjacent barrel vaults are accessed from the lightwell leading to Flat 16. Both vaults extend under the pavement on St George's Drive and a small part of the road. One of the vaults has been partially back-filled. The proposal would involve the removal of the wall between the two vaults, lowering the floor and 'squaring off' the space to create one large vault. Steps would be provided internally linking the entrance hallway of Flat 16 to the vault space and a window would be inserted into the wall of the vault to face the lightwell.

¹ Drawing Refs: 22/2101/02 Rev C and 22/2101/05 Rev B

² Fothergill Consulting Engineers - undated

9. From the information available, the location of the pavement and road is measured on the submitted plans from the surface of these highway structures. The plans indicate that there would be a 900mm depth measured between the top of the vault structure, not the ceiling, and the surface of the pavement. However, the gap would be slightly less than 900mm where the top of the vault structure would encroach under the road surface, due to the slight drop from the pavement to the road. I note that the Council's highway team have objected on this basis.
10. The appellant has drawn my attention to email correspondence with the Council which explains that a dotted line shown on section plans of the proposal represents the ceiling height of the existing vaults rather than the outer edge of the brick structure. Criterion B.5 clearly states the 900mm measurement should be from the vault structure. I consider this would be the outer edge of the whole structure and not the ceiling.
11. In this regard, Drawing No. 22/2101/06 Rev J shows the thickness of the existing brickwork of the barrel vaults. This indicates that the outer structure of the proposed vault would be no higher than the top of the existing vaults. Therefore, even though the proposed vault would be slightly less than 900mm under the road, it would be no closer to the underside of the road than the existing vaults. Furthermore, plans submitted with the appeal provide annotated clarification that the roof of the proposed vault would be chamfered to follow the outer edge of the existing vaults.
12. Nevertheless, even if the pavement along St George's Drive is wide and the kerb edge of the road may only include a storm drain, reading Policy 45 as a whole, there is no flexibility inherent within it. There is no substantive evidence before me to demonstrate why the 900mm requirement should be reduced in this case. As the plans indicate that part of the proposed vault, albeit a small part, would be marginally less than 900mm under the road, the proposal would conflict with criterion B.5 of Policy 45.
13. My attention has been drawn by the appellant to an extract of the Council's Basement Development in Westminster Supplementary Planning Document, October 2014. This indicates that the minimum vertical depth below the highway should be 'about 900mm'. However, this document pre-dates the CP and the Framework and I give it no weight in terms of the flexibility of the measurement, as it has been superseded by Policy 45 of the CP.
14. While I acknowledge the existing vaults are also located less than 900mm under the pavement and road, they were constructed prior to the adoption of the CP, indeed they were possibly even constructed when the main appeal property at 87 St George's Drive was built, prior to planning legislation. The proposed vault would also be larger and of different design than the two individual existing vaults. Thus, structural requirements would be materially different.
15. The supporting text of Policy 45 also advises that applications for basement development should be accompanied by a structural methodology statement and appropriate self-certification from a suitably qualified engineer to demonstrate the impacts of the proposed development have been understood. Criterion A.1 of Policy 45 requires that basement development incorporates the measures recommended in the structural statement in order that structural stability is safeguarded.

16. The appellant submitted an updated site set-up plan and PSW with the appeal. Although the email exchange between the appellant and the Council at application stage indicates the Council had concerns about the cumulative structural impact of the works to the vaults, no comment on this aspect has been provided by the Council.
17. I recognise the difficulties that would be involved in undertaking an assessment of underground conditions within the highway. I also acknowledge the reluctance of the appellant to undertake a detailed structural report until the principle of the development had been agreed by the Council and a contractor appointed. While the information submitted shows the sequence of proposed works, limited structural evidence has been provided. No underground assessment of current conditions or what, if any, infrastructure lies beneath the highway in the location of the proposal has been provided. Although it would be possible to manage the structural and geotechnical matters that may arise within a basement development, in view of the, albeit small, encroachment of part of the proposed vault within the 900mm vertical depth of the highway and the absence of information of what sits within it, I cannot make an exception to criterion B.5 of Policy 45.
18. To conclude on this main issue, the proposed development would not accord with the local development plan strategy for basements, with particular reference to the effects of the operations involved in, and associated with, basement excavation under the highway. It would conflict with Policy 45 of the CP. This policy seeks to ensure that basement developments are appropriately designed and do not damage existing and neighbouring structures, irreversibly alter ground conditions or increase flood risk.

Character and appearance

19. The appeal property is a lower ground floor flat located within one of the traditional mid-19th century stucco-fronted terraces within Pimlico Conservation Area (PCA). The Pimlico Conservation Area Audit Supplementary Planning Guidance (SPG) sets out a detailed appraisal of the PCA's key characteristics. It identifies St George's Drive as being amongst one of the first streets to be developed by the speculative developer, Thomas Cubitt, who planned the large and imposing terraces along straight streets and three squares.
20. The significance of the PCA derives from a combination of grand terraces that show a full range of Classical details including columned porticos, stucco, bottle balustrades, pedimented windows and dentil cornices, along with small mews terraces and parades of shops.
21. The SPG identifies St George's Drive as a 'primary route and space' within the hierarchy of the PCA. The properties along the street are generally four to five storeys with stepped entrance porticos over a basement lightwell, which form an important architectural feature of the area. The railed lightwells mark a clear physical distinction between the formal entrance to the property from street level, and the service entrance via a basement staircase.
22. While not identified in the list of buildings provided in the SPG, the appeal property is identified on the associated map as an unlisted building of merit in the PCA. Since Flat 16 shares the generally unified basement features common along St George's Drive, it contributes positively to the character and

appearance of the PCA as a whole and thereby to its significance as a designated heritage asset.

23. The existing lower ground floor window at the front of Flat 16 includes a metal security grill painted white within the window reveal. The original proposal was to remove the grill and replace it with transparent 'security glazing'. The Council contend that the retention of the existing grill would be more appropriate within the PCA than security glazing.
24. In any event, even though the plans submitted with the application were inconsistent in that one annotated security glazing and another annotated the existing grill, it is clear from the written evidence that there would be no change to the existing lower ground floor bedroom window. This has been clarified by the submission of the revised plan with the appeal. Therefore, the appearance of the building would be unchanged in terms of this window.
25. The proposed infilling of the basement lightwell underneath the stepped entrance to 89 St George's Drive would be similar in scale and appearance to other basement extensions in the PCA. The proposed window within the vault wall facing towards the main front elevation of Flat 16 would not be visible from public view, as would be the case at the rear of the property, where it is proposed to slightly enlarge the ground floor living area towards the internal courtyard, in line with existing piers. The Council has raised no objections to these elements of the scheme, subject to the imposition of conditions to require matching materials, including render.
26. On the basis of the information before me and observations at my site visit, I agree that the proposed development would not adversely harm the appearance of the building and the character and appearance of the PCA would be preserved.
27. Given the above and mindful of the duties imposed by the Act, I conclude that the proposal would not harm the character and appearance of the host building and would preserve the character and appearance of the PCA. There would be no conflict with Policies 38, 39, and 40 of the CP or the provisions of the National Planning Policy Framework (the Framework) when taken together and in so far as they relate to this main issue.
28. These say, amongst other things, that development should positively contribute to Westminster's townscape and streetscape having regard to the character and appearance of the existing area, adjacent buildings and heritage assets; heritage assets and their settings should be conserved and enhanced in a manner appropriate to their significance and that any uniformity and important architectural features should not be obscured.

Split Decision

29. I have reached different conclusions in respect of different elements of the development. Under section 79(1)(b) of the Town and Country Planning Act 1990 I have discretion to split the decision by allowing one part of a scheme and dismissing the rest.
30. I have found the proposed infill of lightwell under entrance, installation of entrance door screen and alterations to screen door to the internal courtyard area to be acceptable. These works are clearly severable both physically and functionally from the re-building and amalgamation of two vaults within the

front lightwell and lowering of the vault floors. Accordingly, it would be appropriate to use the power to split the decision in these circumstances to allow the infill of lightwell under entrance, installation of entrance door screen and alterations to screen door to the internal courtyard area but to dismiss the remainder of the proposal.

Other Matters

31. The Council's handling of the planning application has not affected my findings on the planning merits of the scheme.
32. Even if there were no unacceptable effects on flood risk, as stated by the appellant, this would be a neutral factor and would not weigh in favour of the scheme.

Conditions

33. I have had regard to the Framework and the PPG³ in terms of the use of planning conditions. I have undertaken some editing and rationalisation of the conditions suggested by the Council in the interests of precision and clarity. In addition to the condition limiting the lifespan of the planning permission I have also, in the interests of certainty, attached a condition specifying the approved plans as far as they are relevant to the permitted part of the proposal.
34. Condition 3 is necessary to safeguard the character and appearance of the area. I have dismissed that part of the proposal relating to piling and excavation of the vaults. The remaining elements of the proposal would be limited in their scope and construction methods and other controls exist outside the planning regime to control noise and disturbance. Therefore, the Council's suggested condition relating to hours of work is not necessary and has not been attached.
35. The Council's suggested condition relating to the design of the lower ground floor bedroom window is also not necessary as the retention of security bars to this window are shown on approved Drawing Nos. 22/2101/06 Rev J and 22/2101/02 Rev C.

Conclusion

36. For the reasons given above, I conclude that the appeal should be allowed in part and dismissed in part. The appeal is allowed insofar as it relates to the infill of lightwell under entrance, installation of entrance door screen and alterations to screen door to the internal courtyard area.
37. The internal works to the vaults, however, conflict with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the harm and associated development plan conflict. I therefore dismiss this appeal insofar as it relates to the internal works to the vaults.

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INSPECTOR

³ PPG Paragraph: 003 Reference ID: 21a-003-20190723