

Appeal Decision

Site visit made on 16 July 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2024

Appeal Ref: APP/K5600/W/24/3340279

61 Addison Road, Kensington and Chelsea, London W14 8JJ

- 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 Martin Reiter against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/23/06522.
 - The development proposed is a demolition and rebuild to include provision of a basement beneath footprint of the house and part of front and rear gardens along with provision of a vehicular turntable within front garden.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition and rebuild to include provision of a basement beneath footprint of the house and part of front and rear gardens along with provision of a vehicular turntable within front garden at 61 Addison Road, Kensington and Chelsea, London W14 8JJ in accordance with the terms of the application, Ref PP/23/06522 subject to the conditions in the attached schedule.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character and appearance of the appeal building as a non-designated heritage asset and Holland Park Conservation Area (Conservation Area).

Reasons

3. The appeal property is a large, detached dwelling which is situated in an area that has comparable large dwellings, set back from the road in elevated positions. The scale of the buildings, the use of traditional materials and detailing, along with the leafy setting provided by street trees and trees in front gardens, all together make a positive contribution to the character and appearance of the Conservation Area.
4. The proposed development would result in the complete demolition of the appeal dwelling which is identified as a building that makes a positive contribution to the Conservation Area within the Holland Park Conservation Area Appraisal (CAA). The Local Planning Authority has however identified those parts of the building that were retained in the approved application for

the partial demolition and rebuilding of the building¹, as making a positive contribution to the Conservation Area.

5. These elements comprise of parts of the front elevation, around the main entrance and part of the side elevation wall. Whilst these retained elements would serve as a reminder of the original building, the proposal seeks to rebuild these elements as they currently are, with only small alterations from the existing, including an arch headed window in place of the existing entrance.
6. Although the demolition of the building would result in the loss of historic fabric, the significance of the Conservation Area, in terms of the space around buildings, and in respect of the massing and architectural design, would be preserved by the proposed scheme. Reference is made by the Council to the larger and overly formalised character of the building, but the replacement dwelling, although larger than the existing building, would still provide a gap to both neighbouring properties.
7. Similarly, despite the complete loss of a non-designated heritage asset, the proposal would sympathetically replace the existing building. Given the appearance of the proposal would reinforce the understanding of a detached villa in a form similar to those constructed in the 19th Century, I do not consider the loss would be harmful in this respect.
8. I therefore conclude that the proposal would not be harmful to the character and appearance of the appeal building and would preserve the character and appearance of the Conservation Area. As such, it would comply with Policies CD1, CD2, CD3 and CD14 of the New Local Plan Review (July 2024) and Paragraph 195 of the National Planning Policy Framework, which require, amongst other matters, for development to meet the highest standards of design and architectural quality, and to permit demolition in a conservation area where a building makes no positive contribution to the character and appearance of the area.
9. The approved planning permission¹ would if constructed provide an identical dwelling to that which is subject of this appeal. Based on this, there is a strong prospect that the appellant would utilise this fallback position, which would result in the demolition of the majority of the appeal building. This is therefore a matter which adds weight to my finding in relation to the main issue. Although various references are made to the benefits of the proposal, including the approach adopted in another appeal case, given the proposal would not lead to less than substantial harm to the significance of a designated heritage asset, it is not necessary to consider the stated benefits further.

Conditions

10. I have considered the conditions suggested by the Council and consultees, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended those suggested as appropriate.
11. I have attached a materials condition, which includes the submission of a brick panel sample and details of external windows, doors and metal

¹ LPA Reference: PP/23/00484

railings/features in the interests of ensuring the development's acceptable appearance to preserve the character and appearance of the Conservation Area. It is also necessary for this same reason for front and rear windows and doors to be timber framed and painted, the cheeks of dormer windows to be clad in lead and for rooflights to be of a traditional conservation style.

12. A condition requiring a Construction Traffic Management Plan is required as the site is in a predominantly residential area and on a busy highway. A Site Construction Management Plan, the professional management of engineering works, and the lead contractor being signed to the Considerate Constructors Scheme are required to mitigate adverse impacts from construction works on surrounding occupiers. A revised Flood Risk Assessment and revised Sustainable Drainage Systems Strategy are required to address flood risk and drainage matters. It is essential for these to be pre-commencement conditions to ensure there are no adverse effects on living conditions, highway safety or on flood risk.
13. A condition requiring the protection of trees is necessary in the interests of the character and appearance of the Conservation Area with conditions relating to ground gas and vapour required to ensure risks from these forms of contamination are minimised. There is no evidence that there is likely to be significant contamination on the appeal site and I do not therefore consider that further suggested conditions on land contamination are necessary.
14. The Framework in paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this instance, the Council has suggested a condition removing permitted development rights for any further extensions or additions. As the Council's concern relates to potential rear additions that could result in the appeal property extending further into the rear garden, I consider that it is reasonable in the interests of the character and appearance of the Conservation Area to attach such a condition, but limited to Class A, Part 1 of Schedule 2.
15. Although the proposal would not provide independently accessible parking, having regard to the number of parking spaces the current dwelling has and that the proposal provides for a single-family dwelling, I do not consider a condition requiring a revised parking layout to be necessary. The submitted scheme also illustrates there is sufficient space for a vehicle to turn on the proposed turntable.
16. Reference has been made to a need for a Dust Management Plan, but having regard to the scale of the development which involves a single dwelling, I do not consider this is necessary and nor is the suggested condition on sound insulation as the proposal replaces an existing dwelling in a residential area.

Conclusion

17. I conclude that the proposal would accord with the development plan as a whole, and there are no other considerations that indicate that I should take a decision other than in accordance with this. I conclude that the appeal should be allowed.

F Rafiq INSPECTOR

Schedule of 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:
 - ARC615-EX00 (Existing Location Plan);
 - ARC615-EX02 rev. G (Existing Lower Ground Floor Plan Sheet 1 with added demolition shown);
 - ARC615-EX03 rev. G (Existing Lower Ground Floor Plan Sheet 2 with added demolition shown);
 - ARC615-EX04 rev. G (Existing Upper Ground Floor Plan with added demolition shown);
 - ARC615-EX05 rev. G (Existing First Floor Plan with added demolition shown);
 - ARC615-EX06 rev. G (Existing Second Floor Plan with added demolition shown);
 - ARC615-EX07 rev. G (Existing Roof Plan with added demolition);
 - ARC615-EX08 rev. I (Existing Front Elevation with added demolition);
 - ARC615-EX09 rev. H (Existing Rear Elevation);
 - ARC615-EX10 rev. H (Existing South Elevation with added demolition);
 - ARC615-EX11 rev. I (Existing North Elevation with added demolition);
 - ARC615-EX12 rev. H (Existing Section A-A with added demolition);
 - ARC615-EX13 rev. H (Existing Section B-B);
 - ARC615-EX17 rev. G (Existing Street Elevation with added demolition);
 - ARC615-EX18 rev. G (Existing Townscape Gaps);
 - ARC615-PL01 rev. H (Proposed Site Plan);
 - ARC615-PL02 rev. F (Proposed Lower Ground Floor Plan Sheet 1);
 - ARC615-PL03 rev. F (Proposed Lower Ground Floor Plan Sheet 2);
 - ARC615-PL04 rev. F (Proposed Upper Ground Floor Plan);
 - ARC615-PL05 rev. F (Proposed First Floor Plan);
 - ARC615-PL06 rev. F (Proposed Second Floor Plan);
 - ARC615-PL07 rev. F (Proposed Roof Plan);
 - ARC615-PL08 rev. G (Proposed Front Elevation);
 - ARC615-PL09 rev. G (Proposed Rear Elevation);
 - ARC615-PL10 rev. G (Proposed South Elevation);
 - ARC615-PL11 rev. G (Proposed North Elevation);
 - ARC615-PL12 rev. G (Proposed Section A-A);
 - ARC615-PL13 rev. G (Proposed Section B-B);
 - ARC615-PL15 rev. F (Proposed Basement Sheet 1)
 - ARC615-PL16 rev. F (Proposed Basement Sheet 2);
 - ARC615-PL17 rev. G (Proposed Street Elevation) and;
 - ARC615-PL18 rev. G (Proposed Townscape Gaps).
- 3) No development above ground level shall take place until samples of all external facing materials have been submitted to and approved in

writing by the local planning authority in writing. The submitted details shall include:

- A) Brick sample panel featuring traditional London stock bricks closely matching those on the existing building and to include mortar and pointing details,
- B) Details at scale of 1:25 of all proposed external doors and windows, and
- C) Details at scale of 1:25 of all external metal railings and metal features.

The development shall be carried out in accordance with the approved details.

- 4) External front ground and first floor levels plus external rear first and roof level windows and doors hereby permitted shall be timber framed and painted, with the windows being double hung, white painted, sliding sashes, and so maintained thereafter.
- 5) The cheeks of the dormer windows hereby permitted shall be clad in lead and be so maintained thereafter.
- 6) The rooflights shall be of a traditional conservation type, flush with the roof and slim framed, and so maintained thereafter.
- 7) No development shall commence until a Construction Traffic Management Plan 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 carried out in accordance with the approved Construction Traffic Management Plan. 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.

8) No development shall commence until:

- A) a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (MI 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 this Authority in accordance with this condition.

9) No development shall commence until such time as the lead contractor, or the site, is signed to the Considerate Constructors Scheme (CCS) 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.

10) No development shall commence until:

- A) An Appendix A Checklist and Site Construction Management Plan (SCMP) for the development have both been submitted to, and 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.

The development shall be carried out in accordance with the Appendix A Checklist and SCMP so approved, or in accordance with a subsequent Checklist or SCMP as may be approved under this condition.

- 11) No development shall commence until a revised Flood Risk Assessment and revised Sustainable Drainage Systems Strategy with the following information is submitted to and approved in writing by the Local Planning Authority:

Flood Risk Assessment (FRA)

A Flood Risk Assessment to analyse all potential flood risks to the site and ensure that the development is protected against flood risk and will not lead to off-site flooding. Any proposed protection, mitigation and resilience measures should be shown on submitted plans.

Sustainable Drainage Systems (SuDS)

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).

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).

Section/profile drawings of the SuDS, if relevant (green roofs, blue roofs, sub-base attenuation, permeable paving, planters, species, etc.).

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 Sustainable Drainage System (SuDS) and Flood Risk measures shall be fully implemented and maintained thereafter.

- 12) For the duration of works the tree(s) existing on the site at the date of this permission shall be protected so as to prevent damage above and below ground, and no tree shall be lopped, topped, or felled, or root pruned, without the prior written approval of the local planning authority.
- 13) No occupation or use of the basement extension hereby permitted shall commence until the actions required by parts A to E below are undertaken, and any required information is submitted to and approved in writing by the Local Planning Authority.

A – Searches of readily available environmental and historical information (EHI) and soil sampling and analyses exercise (SAE) are undertaken for any garden, landscaping and or yard (GLY) area and corresponding SAE report is produced.

B – Where means concentrations of a contaminant within the soil over a part of or the whole of a site exceed generic or detailed quantitative risk assessment criteria (RAC) a remediation strategy (RS) shall be produced.

C – Any approved RS shall be fully implemented, and a verification report (VR) shall be provided.

D – A description and on site sampling and laboratory analyses of imported or site sourced soils and fills (ASF) shall be provided demonstrating that these materials are suitable for use.

E – Any unexpected contamination shall be addressed in line with the Council's CLC2 guidance.

Where physical remedial measures are implemented to protect end users of the development they shall be maintained. The EHI, SAE, SAE Report, RS, VR and ASF shall be addressed in line with the Council's contaminated land guidance for small scale ground gas and vapour protection.

- 14) A - No occupation or use of the basement extension hereby permitted shall commence until further details of the basement structure and waterproofing measures (including the details set out in the verification report section of the CLC3 guidance) is submitted and approved in writing by the Local Planning Authority.

B -Any unexpected contamination shall be addressed in line with the Council's CLC3 guidance. Where physical remedial measures are implemented to protect end users of the development they shall be maintained. The works shall be undertaken in line with the Council's contaminated land guidance for small scale ground gas and vapour protection.

- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Class A of Part 1 of Schedule 2 to the Order shall be undertaken.

End of conditions