Planning Inspectorate

Appeal Decision

Site visit made on 31 January 2025

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2025

Appeal Ref: APP/K5600/D/24/3354547
42 Chepstow Villas, Kensington and Chelsea, London W11 2QY

- 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 Senan against the decision of the Royal Borough of Kensington and Chelsea Council.
- The application Ref is PP/24/04318.
- The development proposed is for alterations and extensions, comprising the addition of mansard accommodation at roof level, a new single-storey basement level, the demolition and replacement of the secondary entrance porch on Denbigh Road and the comprehensive repair and restoration of all aspects of the house and studio, including replacement of the existing windows with slimline double-glazing and minor alterations to the Denbigh Road and rear elevations.

Decision

1. The appeal is allowed and planning permission is granted for alterations and extensions, comprising the addition of mansard accommodation at roof level, a new single-storey basement level, the demolition and replacement of the secondary entrance porch on Denbigh Road and the comprehensive repair and restoration of all aspects of the house and studio, including replacement of the existing windows with slimline double-glazing and minor alterations to the Denbigh Road and rear elevations at 42 Chepstow Villas, Kensington and Chelsea, London W11 2QY in accordance with the terms of the application, Ref PP/24/04318, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposal on:

   - The living conditions of neighbouring residential occupiers; and
   - The character and appearance of the appeal dwelling and that of the local area, with reference to the Pembridge Conservation Area (the CA).

Reasons

Living Conditions

3. The appeal dwelling is a Mid-19th century detached three storey double fronted house located at the junction of Chepstow Villas with Denbigh Road. The proposals include a new basement level below the existing lower ground floor. Over the majority of the proposed basement, the floor to structural ceiling height of the proposed basement would be approximately 3.8 metres. However, in the rear part,

the height from the base of a proposed swimming pool and service trench to the structural ceiling would be approximately 5.2 metres.

4. Policy CD11 of the of the Royal Borough of Kensington and Chelsea New Local Plan Review (2024) (the Local Plan) requires that all new basement development does not comprise more than one storey. Paragraph 6.95 of the Local Plan defines a single storey for basements as being one that cannot be subdivided in the future to create additional floors and is generally 2 to 4 metres floor to ceiling height, but a small extra allowance for proposals with a basement swimming pool may be permitted.

5. Given the extent of the proposed basement, the 3.8 metres height of the majority of the proposed basement would appear to be proportionate to that area. Whilst the proposed swimming pool and service trench would bottom out at approximately 1.4 metres below this, the majority of the basement could not be subdivided to create 2 additional floors. Whilst Policy CD11 states that a small extra allowance may be permissible for basements with swimming pools, the limit of this extra allowance is not stated.

6. The appellant has drawn my attention to a recently allowed appeal[1], for a proposal for a new basement with swimming pool. This allowed appeal decision makes reference to Policy CL7 of the previous local plan; however, this was carried over unaltered from the previous local plan to become Policy CD11. The proposal in that instance is very similar to the basement with pool element of this appeal proposal.

7. I concur with the Inspector for the allowed appeal's reasoning that, whether or not the extra depth proposed for proposals with a pool is within the terms of the relevant policy, is a matter of judgement. I also concur with the inspector, in finding that the policy wording is not clear enough on its own to assess compliance with the policy, and likewise, I look to the underlying aims of the policy with regard to the living conditions of neighbours.

8. For these reasons, whilst considering the appeal proposal on its own individual merits, which is a main tenet of the planning system, I have given this allowed appeal substantial weight in my considerations.

9. The appellant has stated that the construction of the appeal proposals would take approximately 60 weeks. The appellants statement shows that this would sit within the construction period for similar extensive proposals for extension and alteration in the council area, including those with basements.

10. Further, the council acknowledges that the appellants draft Construction Traffic Management Plan (CTMP) indicates that the Proposal is acceptable with regard to part K of Policy CD11, in that it would not result in unsafe traffic and construction activity, affect other transport operations, or place unreasonable inconvenience on those nearby. Submission and approval of a final CMTP prior to the commencement of development can be made the subject of a suitable condition attached to an approval.

11. Likewise, the Council has accepted that the appellant's draft Construction Method Statement was acceptable and provides details that demonstrate how noise, dust and vibration would be adequately controlled throughout the duration of the works,

[1] Appeal Ref: APP/K5600/D/24/3338165

thereby indicating that the proposal would accord with part L of Policy CD11. Submission and approval of a final Appendix A Checklist and Site Construction Management Plan, prior to the commencement of development, can be made the subject of a suitable condition. Suitably worded conditions relating to ongoing noise and vibration levels can also be attached to an approval.

12. Given the scale of the proposal and that it appears that the construction period would be in excess of a year, it would undoubtedly have some effect on the living conditions of neighbours, as would be expected of a development of the scale proposed. However, given the detached nature of the appeal dwelling, its access to two street frontages, the majority of the construction activities will be more containable on the site, with construction traffic having good street access and choice of access to the wider road network.

13. Further, given the methodologies and undertakings required by any approved CTMP and final Appendix A Checklist and Site Construction Management Plan, I find that the effect on neighbours would not be unreasonable or have an unacceptable effect on their living conditions. Further, from my site visit, it does not appear that the proposal would add to the construction activity on nearby properties, to the extent that would result in an unacceptable cumulative effect on living conditions.

Character and Appearance

14. Chepstow Villas is a treelined street, predominantly made up of generously proportioned 19th Century stucco fronted residential properties. It is located within the CA, which is recognised as a heritage asset through its designation by the Council. The Pembridge Conservation Area Appraisal (2017) sets out that the significance of the CA rests in its good quality late Georgian and Victorian residential architecture set within a verdant street scape. The appeal dwelling is identified as making a positive contribution to this significance.

15. In line with the duty imposed on me by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have given considerable importance and weight to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

16. The proposed enlarging of the existing 2 front light wells, which currently just serve windows in the lower ground floor, involves extending them forward from the front elevation. These enlarged lightwells would be further excavated to serve 2 windows to the proposed basement, but only to the width of the existing lightwells. These deeper elements of the lightwell would be topped by a metal grill at ground floor level.

17. At ground floor level the proposed widening of the 2 front lightwells would appear to reflect the width of lightwells to the front of larger houses, similar to the appeal dwelling, in the street and in the local area. The proposed metal grill topping the proposed basement level of the lightwell, would also result in the 2 lightwells appearing to reflect the lower ground floor depth of the lightwell as existing when viewed on the appeal site. Given the distance from the street and the upstand wall that would enclose the extended lightwells, the new basement level would not be apparent in street views of the property. As such, the proposed enlarged and deeper front lightwells, would result in no detriment to the character and

appearance of the appeal dwelling or that of the local area, thereby preserving the significance of the CA.

Other Matters

18. Other objectors have raised concerns with regard to the structural effect of the proposal on nearby properties. Whilst a condition can be applied to an approval to require adequate and continued supervision of construction activity by a suitable qualified professional, the works would be governed by the Party Wall Act[2], that regulates excavations near to property boundaries. Concerns have also been raised with regard to the flood risk to neighbouring properties. The appellant's submitted Flood Risk Assessment is considered by the Council to have identified the level of flood risk. I see no reason to demur from this conclusion.

19. For the reasons given above, I find that the proposed development would not result in any significant harm to the living conditions or neighbouring residential occupiers and would not be harmful to the character and appearance of the host dwelling and that of the local area, thereby preserving that of the CA. This would accord with Policies CD4, CD9 and CD11 of the Local Plan. These collectively seek to ensure that development ensures good living conditions for neighbouring residential occupiers, is one storey at basement level and does not result in lightwells that would harm the character and appearance of the locality and preserves or enhances the appearance or character of conservation areas.

Conditions

20. I have had regard to the Council's suggested conditions and the appellant has raised no issues with these conditions. I have attached conditions set out in the attached schedule, including pre-commencement conditions, that I regard as being necessary to make the development acceptable.

21. Along with the standard condition relating to the timing of implementation, I have attached a condition to ensure design quality that requires compliance with the approved drawings and matching materials to existing. To ensure design quality and the preservation of the significance the CA, I have also attached conditions requiring submission and approval of drawings of identified construction details.

22. To minimise the effect of construction on the occupiers of neighbouring properties and for the effective and safe use of the highway during construction, I have conditioned the submission and approval of a Construction Traffic Management Plan, confirmation that the lead contractor, or the site, is signed to the Considerate Constructors Scheme and that an Appendix A Checklist and Site Construction Management Plan (SCMP) for the development have both been submitted and approved.

23. Regarding safety, and given the below ground and structural effect of the development, I have also attached a condition that it shall not commence until 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 that no construction work takes place unless this continues to be the case.

[2] The Party Wall etc. Act 1996

24. To protect the living conditions of neighbouring occupiers from potential noise nuisance and vibration, I have attached conditions requiring compliance with measures outlined in the submitted Plant Noise Assessment and the use of anti-vibration mounts. To ensure that any contamination including scale ground gas and vapour found on site during construction is appropriately managed, I have attached a condition requiring compliance with the submitted Pre-Planning Ground Investigation Report and approval of and compliance with a follow up verification report.

25. To mitigate the risk of flooding, I have attached a condition requiring implementation and maintenance of the submitted Sustainable Urban Drainage System (SuDS). To ensure that trees on the site are not damaged and survive, I have attached a pre-commencement condition requiring submission and approval of measures to be taken for their protection. To secure the biodiversity and amenity of the appeal site I have attached conditions requiring approval of details of the proposed green roof and hard and soft landscaping and their maintenance.

Conclusion

26. For the reasons given and with regard to all other matters raised, I conclude that the appeal should be allowed.

Victor Callister

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: 156/PA/11F, 156/FA/12H, 156/FA/14C, 156/FA/15H, 156/FA/16F, 156/FA/17C, 156/FA/18E, 156/FA/19H, 156/FA/20G, 156/FA/21F, 156/FA/24D, 156/FA/46C, 156/FA/50D, 156/FA/48 and 156/FA/51C

3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those in the existing building including through making good.

4) Notwithstanding the generality of condition 3) above, no materials shall be incorporated into the external surfaces of the development hereby permitted until full particulars of the following have been submitted to and approved in writing by the local planning authority and the development shall not be completed otherwise than in accordance with the details so approved:

(a) Detailed section and elevation drawings (scale 1:50) of the replacement boundary walls;

(b) Detailed section and elevation drawings (scale 1:50) of the relocated porch;

(c) Detailed section and elevation drawings (scale 1:50) of the new mansard roof (including materials); and

(d) Detailed section and elevation drawings (scale 1:50) of the new and replacement windows and doors (including their glazing, materials and design)

5) No development shall commence until full particulars of the method(s) by which all existing trees on the site and adjacent land are to be protected during site preparation, demolition, construction, landscaping, and other operations on the site including erection of hoardings, site cabins, or other temporary structures, shall be submitted to and approved in writing by the local planning authority and the development shall be carried out only in accordance with the details so approved.

6) Prior to first occupation of any part of the development hereby permitted, full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the implementation programme approved by the local planning authority. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives prior written consent to any variation.

7) 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.

8) No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. 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.

9) 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.

10) 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.

11) The noise mitigation measures as specified in the Plant Noise Assessment by 24 Acoustics, Ref: R10389-2 Rev 1 and Dated: 13 March 2024 shall be adopted and implemented in full .

Noise emitted by all building services plant and vents shall not exceed a level 10dBA below the existing lowest LA90(10min) background noise level at any time when the plant is operating, and where the source is tonal it shall not exceed a level 15dBA below. The noise emitted shall be measured or predicted at 1.0m from the facade of the nearest residential premises or at 1.2m above any adjacent residential garden, terrace, balcony or patio.

If at any time the plant is determined by the local planning authority to be failing to comply with this condition, it shall be switched off upon written instruction from the local planning authority and not used again until it is able to comply.

A post installation noise assessment shall be made to show compliance with this condition and submitted to the local planning authority. .

12) The plant shall not operate unless it is supported on adequate proprietary anti-vibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter.

13) During construction of the development hereby permitted the submitted Sustainable Urban Drainage System (SuDS) shall be fully implemented and maintained thereafter.

14) No occupation of any part of the development hereby permitted shall commence until the land contamination related recommendations of the GEA Pre-Planning Ground Investigation Report dated 12th March 2024 Rev 0 have been fully implemented and a Verification Report (VR) is submitted to, and approved in writing by, the local planning authority.

No occupation or use of the development hereby permitted shall commence until imported and site sourced soils have been verified in line with the Council's CLC5 guidance for the Testing of imported and reused soils and fills and the results and assessment have been submitted to, and approved in writing by, the local planning authority.

Any unexpected contamination or ground conditions shall be addressed in line with the Council's CLC3 guidance for small-scale ground gas and vapour protection and presented in the VR.

Where physical remedial measures are implemented to protect end-users of the development they shall be maintained. The VR and details relating to unexpected contamination shall be prepared in line with the Council's CLC3 guidance for small-scale ground gas and vapour protection.

End of Schedule