
Appeal Decisions

Site visit made on 7 August 2013

by P J Asquith MA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 August 2013

Appeal A, Ref: APP/K5600/A/13/2193645
28 Mallord Street, London, SW3 6DU

- 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 Mrs S Dunn against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref. /PP/12/04577, dated 11 November 2012, was refused by notice dated 11 January 2013.
 - The development proposed is described as the addition of a small cellar underneath the house and the reorganisation of a portion of the lower ground floor to accommodate the proposed cellar staircase.
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Appeal B, Ref: APP/K5600/E/13/2194651
28 Mallord Street, London, SW3 6DU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs S Dunn against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref. /LB/12/04578, dated 11 November 2012, was refused by notice dated 11 January 2013.
 - The works proposed are described as the addition of a small cellar underneath the house and the reorganisation of a portion of the lower ground floor to accommodate the proposed cellar staircase.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the addition of a small cellar underneath the house and the reorganisation of a portion of the lower ground floor to accommodate the proposed cellar staircase at 28 Mallord Street, London, SW3 6DU, in accordance with the terms of the application, Ref. /PP/12/04577, dated 11 November 2012, subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is allowed and listed building consent is granted for the addition of a small cellar underneath the house and the reorganisation of a portion of the lower ground floor to accommodate the proposed cellar staircase at 28 Mallord Street, London, SW3 6DU, in accordance with the terms of the application, Ref.

/LB/12/04578, dated 11 November 2012, subject to the conditions set out in the attached schedule.

Main Issue

3. I consider the main issue in these cases to be the impact of the proposals on the special architectural and historic interest of this Grade II listed building.

Reasons

4. The brick and steeply-pitched pantiled roofed house was built for the painter Augustus John in 1913/14 to the designs of Dutch architect Robert van t'Hoff. The property displays Dutch influences in its design as well as the Arts and Crafts background of its architect. A particular feature is the airy and spacious rear room with gallery designed as John's studio. John described the building as 'my new studio with living rooms', using it as his studio for some 20 years at a time when he was a leading practitioner of portrait painting. The historical importance of the building through its association with the painter is reflected not only in its listing but also in its bearing of a Blue Plaque. The building has been altered over the years but retains much of its original fabric and fitting out, now providing residential accommodation over four floors.
5. The proposal includes the creation of a new cellar underneath part of the building to house a biomass boiler and wood pellet store with the intention of reducing the property's carbon footprint. Whilst the cellar would have a floor area of over 30m² this size of space is said to be needed to accommodate fuel storage next to the boiler. To access the cellar a section of the western side of the lower ground floor would require reorganisation to accommodate a staircase. This area has previously been altered from the original layout including the addition of an extra bathroom, plant room and partition walls. These would be removed so that the plan form would more closely follow that of the original. The floors in this area of the house are not original. A window on the western side of the lower ground floor would be reinstated. The Council has not specifically commented on these aspects of the proposal. In my view the rationalization of this part of the dwelling in the manner suggested would have no material impact on the special qualities or historical significance of the building.
6. Having regard to the construction of the cellar, it would sit within all but two existing load-bearing walls. The only loss of existing fabric would be the internal toes of two lengths of corbelled brick footings which would need to be removed. Past alterations to the building are said to have left scope for the exploitation of a number of vertical voids to accommodate the boiler flue without the need for impact on the fireplace within the 'snug'. I consider the proposed works would have minimal impact on the building's original fabric and its architectural and historic significance in this regard.
7. A principal concern of the Council is the effect that the introduction of the cellar would have on the historical hierarchy of floor levels of the building. I accept that, as stated in the Council's Subterranean Development Supplementary Planning Document (SPD), the special interest of listed buildings includes matters such as the location and hierarchy of rooms and floor levels, foundations and the original purpose of the building. However, the property is not a traditional 18th or 19th century London townhouse with a firm demarcation between 'upstairs' and 'downstairs' and separation of fine living

- accommodation on ground and first floors and with plainer staff and functional accommodation in the basement and attics. It was principally designed as a studio on the lower ground floor with living accommodation above (although the original plans show kitchen and pantry on effectively the same level as the large studio). There were no separate staff quarters. The studio is now occupied as a large living area.
8. The cellar would be wholly contained within the footprint of the building, occupying less than about 17% of it. There would be no alteration of the relationship of the building to its site. The cellar is not designed for residential occupation but simply as a plant room for a biomass boiler and would be a subservient and largely discrete element of the property. I disagree that in these circumstances the provision of the cellar would have any materially harmful impact on the hierarchy of the historic floor levels or would be detrimental to historic integrity, scale or layout of the building.
 9. Whilst the SPD indicates that proposals for subterranean development will normally be resisted I consider that, for the reasons given, this is a case where this presumption is not applicable. Similarly, I am satisfied from the evidence provided, including clarification regarding the submitted Construction Method Statement, that the building works to create the cellar could be carried out without resulting in any material harm to the fabric of the building.
 10. The Council is further concerned that there has been a failure to demonstrate that the works needed to meet the requirement of achieving the BREEAM 'very good' assessment level would not cause harm to the building. However, a BREEAM pre-assessment and Standard Assessment Procedure for energy rating of dwellings calculations were included with the application and demonstrate how a BREEAM 'very good' rating would be achieved. The appellant accepts that a number of the credits can be difficult to achieve without causing harm to listed buildings. However, this is stated as being a reason for the addition of the biomass boiler; it would increase the environmental performance of the building without the need for more invasive and potentially damaging improvements to important elements of the original fabric of the building. The 'very good' rating can be achieved through the use of the boiler, high levels of insulation to the proposed cellar, and improvements to insulation within the roof structure that is said to have been redeveloped in the 1990s.
 11. The National Planning Policy Framework indicates that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and this should be in a manner appropriate to its significance. As a grade II listed building this is an important heritage asset. However, for the reasons given I consider that the significance of the asset would not be materially harmed by the proposals and its architectural and historic interest would be preserved. Subject to the imposition of appropriate conditions the scheme would not conflict with Policies CL2, CL4 or with the thrust of Policy CE1 of the Council's Core Strategy, adopted in 2010. These respectively seek to ensure modifications to existing buildings are of the highest architectural and urban design quality, the special architectural or historic interest of listed buildings is preserved or enhanced and proposals have due regard to sustainability. As already noted, it is my view that in the circumstances of this case there would no conflict with the thrust of the SPD on subterranean development.

12. I have taken account of all other matters raised, including the fact that the appeal property lies within the Chelsea Park/Carlyle Conservation Area. Given the nature of the proposed works they would have no impact on the appearance and character of this area. Overall, I therefore consider the proposal to be acceptable.

Conditions

13. I shall impose conditions along the lines of those suggested by the Council in the event of permission and consent being granted¹ and in respect of which the appellant has not specifically commented. A condition is necessary specifying the plans to which the permission and consent relate, for the avoidance of doubt. To protect the special interest of the building and its appearance conditions are necessary to require: works to be carried out in strict accordance with the plans; finishes to match existing original work; details to be provided of methods of removal of spoil in the construction of the cellar and the installation of the boiler flue; details and prior agreement of joinery and existing features to be removed; and notification to be provided of the start of work in order for the Council to be able to monitor this.
14. Given the nature of the work involving excavation beneath the building, I shall impose the Council's suggested condition requiring supervision by a suitably qualified engineer. Because of the location of the site directly fronting onto a residential street, and to protect highway safety and neighbouring amenity, conditions are required to secure the agreement of a Construction Traffic Management Plan and for the site or lead contractor to be signed to the Considerate Constructors' Scheme. To ensure that environmental impact is mitigated, a condition is necessary requiring the development to achieve a BREEAM 'very good' rating.

P J Asquith

INSPECTOR

Schedule of conditions

Appeal A – planning permission

- 1) The development hereby permitted shall begin not later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in strict accordance with the following approved plans: 200P Rev P1, 211P, 212P, 213P, 299 Rev P2, 300 Rev P2, 311P, 312P Rev P2, 313P.
- 3) All work and work of making good shall be finished to match the existing original work in respect of material, colour, texture and profile and, in the case of brickwork, bonding and pointing.

¹ Applicable to the planning permission and listed building consent as appropriate.

- 4) Detailed drawings or samples of materials as appropriate in respect of the following shall be submitted to and approved in writing by the Local Planning Authority before the relevant part of the work is begun and the works shall not be carried out other than in accordance with the details so approved:
 - a) A detailed method statement and relevant drawings for the removal of spoil;
 - b) A detailed method statement and relevant drawings for the installation of the biomass boiler flue.
- 5) The development hereby permitted shall not be implemented until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan should include:
 - a) routeing of demolition, excavation and construction traffic;
 - b) access arrangements to the site;
 - c) the estimated number of vehicles per day/week; details of any vehicle holding area; details of any vehicle call-up procedure;
 - d) estimates for the number and type of parking suspensions that would be required; details of any diversion, disruption or other abnormal use of the public highway during demolition, excavation and construction work;
 - e) work programme and/or timescale for each phase of demolition, excavation and construction works; and
 - f) a plan showing any site layout on the highway including the extent of hoardings, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.

The development shall not be carried out except in accordance with the approved Construction Traffic Management Plan.

- 6) The subterranean development hereby permitted shall not be used until the entire dwelling has achieved a BREEAM Domestic Refurbishment rating of 'very good' with 40% of credits achieved under the Energy, Water and Materials sections and a Post-construction Review Certificate or a Post-construction Letter of Compliance for the dwelling issued certifying that a 'very good' rating has been achieved.
- 7) The development hereby permitted shall not commence until a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (MI Struct.E) has been appointed to supervise the construction works throughout their duration and their appointment confirmed in writing to the Local Planning Authority. In the event that the appointed engineer ceases to perform that role for whatever reason before the construction works are completed those works shall cease until a replacement chartered engineer of one of the afore-described qualifications 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 is 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 be carried out 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 hereby approved.

Appeal B – listed building consent

1. The works hereby authorised shall begin not later than 3 years from the date of this consent.
2. No works shall commence before written notification of the intended start of works has been provided to the Local Planning Authority with such notification providing not less than fourteen days notice of the commencement of works.
3. The works hereby authorised shall be carried out in strict accordance with the following approved plans from which there shall be no variation without the prior written approval of the Local Planning Authority: 200P Rev P1, 211P, 212P, 213P, 299 Rev P2, 300 Rev P2, 311P, 312P Rev P2, 313P.
4. Notwithstanding the approved plans, the consent hereby approved does not cover the removal or alteration of any currently hidden features of interest that may be revealed during the course of building works, unless otherwise specifically agreed in writing by the Local Planning Authority.
5. All work and work of making good shall be finished to match the existing original work in respect of material, colour, texture and profile and, in the case of brickwork, bonding and pointing.
6. Detailed drawings or samples of materials as appropriate in respect of the following shall be submitted to and approved in writing by the Local Planning Authority before the relevant part of the work is begun and the work shall not be carried out other than in accordance with the details so approved:
 - a) A detailed method statement and relevant drawings for the removal of spoil;
 - b) A detailed method statement and relevant drawings for the installation of the biomass boiler flue.
7. Notwithstanding that which is specifically indicated on the approved plans, no existing joinery, cornices, fireplaces, floorboards, lath and plaster or other architectural fixtures or surfaces shall be removed from the building unless details have first been submitted to and approved in writing by the Local Planning Authority.

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