

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 23/04/2024

REPORT BY THE DIRECTOR, PLANNING AND PLACE

Application:	PP/24/01157	Agenda Item:	S42	
Address:	155 Old Church Street, LONDON, SW3 6EB			
Proposal:	Variation of Condition 2 (compliance with approved drawings) of planning permission PP/22/00074 to rebuild upper rear facade and main roof and to reintroduce historic features on front and rear elevations.			
Applicant:	On behalf of agent			
Agent:	Mr Cristofaro Desmesi Limited			
Properties notified:	Objections:	Support:	Comments:	Petition:
6	4	0	0	0
Conservation area: Chelsea Park/Carlyle				

1. Summary

- 1.1 The proposed development is recommended for approval. Although the proposed demolition would result in less than substantial harm to the heritage asset, the harm would be outweighed by the benefits brought about through improvements to the front and rear windows, doors and facades.
- 1.2 Objections received from interested parties have been taken into consideration and are addressed throughout the report and in Section 8.

It is recommended the Committee grants planning permission with the conditions listed in Section 9 of this report.

2. Reason for committee consideration

- Three or more objections were received during the consultation period and the recommendation is to grant.

3. The site and its surroundings

- 3.1 The application site relates to a part three, part four storey, semi-detached property located to the south-western side of Old Church Street.

3.2 The property is in the Chelsea Park/Carlyle conservation Area.

4. The proposal and any relevant planning history

4.1 The application seeks a minor material amendment under Section 73 of the Town and Country Planning Act 1990 by way of variation of condition 2 (Approved Drawings) of permission ref. PP/22/00074. The extant permission carries significant weight in the determination of this application. The changes to the scheme consist of:

- The demolition and rebuild of the first and second floor rear elevation and the roof of four storey element of the building.
- Alterations to the rear façade, consisting of:
 - Reducing the width of the northern end of the approved extension slightly, and lowering the whole by 150mm
 - Replacing the approved Crittall French doors with timber framed French doors.
 - Removal of a brick panel, approved under PP/22/00074, separating a new elongated window, to create a continuous glazed opening.
 - Replacing plastic ventilation grilles with air bricks.
 - Replacing concrete cills with stone versions.
 - Removing a security alarm.
- Alterations to the front façade, consisting of:
 - Replacement timber framed sash windows and French door to match the neighbouring No. 153.
 - Installation of a new lead pagoda roof which had been approved to be removed under PP/22/00074.
 - Installation of a new gate formed of railings to replace the solid gate approved under PP/22/00074.
 - Installation of a letterbox.
- Cleaning the party wall shared with No. 153 and removal of pink paint.

4.2 Officers visited the site on 10 April 2024.

4.3 The relevant planning history is set out below:

Reference	Description	Decision
PP/22/00074	Renovation of single dwelling including alterations to front garden wall, to front and rear facades, extension at ground and lower ground floor, and construction of basement extension under house and part of garden.	Granted 08/03/2022

5. Main policies and strategies relevant to the decision

The development plan

5.1 The main planning considerations applying to the site and the associated policies are:

	Local Plan
Conservation areas	CL3, CL11
General townscape	CL1, CL2, CL6, CL8, CL9
Living conditions	CL5
Basement development	CL7, CE2

5.2 These policies can be read online at:

- Local Plan:
<https://www.rbkc.gov.uk/planning-and-building-control/planning-policy/local-plan/local-plan>

- 5.3 The Council started a New Local Plan Review (“NLPR”) and consultation on Publication Policies (Regulation 19) closed on 22 December 2022. The Council submitted the NLPR for examination (Regulation 22) on 8 February 2023. Examination hearings were held in June and July 2023. The Council has received a Post Hearings letter from the Inspector requesting the Council prepare a schedule of Main Modifications. The Main Modifications identified by the Inspector to make the NLPR sound is currently being consulted on by the Council for 6 weeks (30 January 2024 to 12 March 2024).
- 5.4 The statutory starting point for determining this proposal remains the adopted policies in the development plan, including the RBKC Local Plan 2019, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, paragraph 47 of the National Planning Policy Framework, and paragraph 001 of the National Planning Practice Guidance on Plan-making. Paragraph 48 of the NPPF outlines the weight local authorities may give to relevant policies in emerging plans. The Council hopes to adopt the Plan in May/June 2024, but this depends on when we receive the Inspector’s report and may change. The emerging policies in the NLPR will be a material consideration afforded moderate weight at this stage however, where specific emerging policies are of particular relevance to the assessment, individual weightings have been given and expressed.

Other local strategies or publications

- 5.5 The main relevant supplementary planning documents adopted by the Council are:

- Chelsea Park/Carlyle Conservation Area Appraisal
- Trees and Development
- Basements
- Noise
- Transport and Streets

- 5.6 These documents can be read online at:

- Conservation Area Appraisals:
<https://www.rbkc.gov.uk/planning-and-building-control/heritage-and-conservation/conservation-areas/conservation-area>

6. Evaluation

- 6.1 The approved permission (PP/22/00074) is a material consideration for this application. There have been no material changes in policy or circumstance since the granting of this permission. Therefore, the evaluation will only consider the amendments as detail in paragraph 4.1 above. Other development already approved under the parent application, including the basement excavation and rear extension, will not be assessed.

- 6.2 The decisive issues are:

- i Whether the proposals would preserve, or take opportunities to enhance, the character and appearance of the group of buildings and the Chelsea Park/Carlyle Conservation Area (the CA).
- ii Whether the demolition of the upper rear façade and roof comply with the Council’s policies and guidance for demolition.
- iii Whether the proposal would ensure that good living conditions continue for

neighbouring occupants.

Character and appearance.

- 6.3 The proposed alterations to the front and rear elevations, and the party wall, would enhance the character and appearance of the property and, by extension, the CA. The replacement windows and doors, improved fittings such as the front gate, pagoda and cills, and minor improvements such as removal of the alarm and replacement of air bricks, mark small improvements. However, their cumulative impact would result in the enhance of the property, not only compared to the parent application (PP/22/00074), but to the existing building before the previous permission was granted.
- 6.4 The proposal states that replacement bricks would be used where possible for the reconstruction of the upper levels of the rear façade. To ensure that the replacement facades and any new bricks are a good match to the existing, and to ensure that proposed windows/doors are acceptable, the following details and samples are required as set out under recommended condition 13:
- (a) Elevation (1:10) and section (1:5) drawings of new windows and French doors with details of mouldings in section (1:1) and a plan showing locations of retained / historic doors and new doors. New windows and doors shall be made of solid timber and hand painted;*
 - (b) A sample panel of the bricks to be used in the reconstruction of the rear facade, showing the colour, size, texture and bond of brick and colour and profile of pointing. The sample panel shall be constructed and retained on site throughout the construction phase and all replacement brick work built in accordance with the panel and maintained as such.*

Demolition.

- 6.5 Policy CL3 also states that the Council will *'resist substantial demolition in conservation areas unless it can be demonstrated that:*
- i. in the case of substantial harm or loss to the significance of a heritage asset it is necessary to achieve substantial public benefits that outweigh that harm or loss;*
 - ii. in the case of less than substantial harm to the significance of a heritage asset, that the public benefits, including securing the optimum viable use, outweigh that harm;*
 - iii. the building or part of the building or structure makes no positive contribution to the character or appearance of the area.'*
- 6.6 Under the conservation area appraisal for the Chelsea Park/Carlyle CA, the building has been identified as making a positive contribution to the CA and is, therefore, a heritage asset. The cumulative impact of the proposed demolition together with the demolition previously approved under the parent application must be considered. In effect, the combined demolition would mean only the front façade would be retained.
- 6.7 The demolition would amount to less than substantial harm, thus requiring public benefit to outweigh the harm. Added to this, consideration has been given to the proposal to retain as much of the original fabric as can be salvaged. it is also factored in that the demolition is to the rear parts that would be demolished which, although of importance in their own right, are of less hierarchical importance than the publicly facing front façade.
- 6.8 RBKC design officers have provided comments stating that the demolition would have a harmful impact on the heritage asset. However, taking all aspects into account, the benefits brought through enhancement to the character and appearance of the building, as detailed in paragraph 6.3, would result in the benefits outweighing the less than substantial harm,

and the demolition would be acceptable.

Living conditions.

- 6.9 The proposal would not have a significant impact on the living conditions of neighbours and would be acceptable. Much of the objection detailed in section 8 of this report concentrates on loss of light brought about by the development. However, the application does not propose to increase the scale of the property above that already consented. The only parts that can be considered are those detailed in paragraph 2.1, none of which would result in a harmful loss of light, sense of enclosure or loss of privacy.

Issues and balancing

- 6.10 Subject to condition, the proposal would mark a small enhancement to the character and appearance of the group of buildings and the Chelsea Park/Carlyle Conservation Area and ensure that good living conditions continue for neighbouring occupants in compliance with policies CL1, CL2, CL3, CL5, CL6 and CL11 of the Local Plan 2019.
- 6.11 Considerable importance and weight has been attached to and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.

7. Community Infrastructure Levy

- 7.1 If permitted and built, the proposal would not require a payment towards funding additional infrastructure under the Borough's Community Infrastructure Levy and a payment towards funding Crossrail under the Mayor of London's Community Infrastructure Levy.

8. Consultations carried out

Comments from interested parties

- 8.1 Six nearby owners/occupiers were notified directly of the application. The application was advertised in the Gazette on 01/03/2024. A statutory notice advertising the application was posted near the site on 01/03/2024.
- 8.2 No letters were received supporting the application.
- 8.3 Four letters were received objecting to the application, summarised as:

	Comment	Response
1	This is not an application of the previous consent but an application for a much larger dwelling, particularly at raised ground floor and first floor levels.	There are no proposals to extend the size of the property under this application above that which has already been granted.
2	The extension of the ground and first floors into the garden would completely block light to neighbouring properties.	There are no proposals to extend the size of the property under this application, above that which has already been granted, and there would be no additional bulk as a result.
3	The proposal is an overdevelopment of the site.	The proposals relate to demolition and rebuilding of the roof and rear wall in the same position, plus some façade alterations which would not result in a material increase in size or bulk.

4	No daylight/sunlight report has been submitted with the application.	No report is required as the application does not propose to increase the scale of the property above that which has already been granted.
---	--	--

Other consultees and organisations

Consultee	Comment	Where in the report this is considered
Conservation and Design Officer	The demolition would result in less than substantial harm to the heritage asset.	Paras. 6.5 – 6.8

9. Recommended conditions if the application is granted

1. **Time Limit**
 The development hereby permitted shall be begun before the expiration of three years from 08/03/2022 being the date of the original permission granted under ref. PP/22/00074.
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 **EX0001, EX0002, PVG100-PL00, PVG100-PL01, PVG100-PL02, PVG100-PL03, PVG100-PL04, PVG100-PL05, PVG100-PL06, PVG100-PL07, PVG100-PL08, PVG100-PL09A, PVG100-PL10A, PVG100-PL11B**
Reason - The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.

3. **Accord with approved CTMP**
 The development shall not be carried out except in accordance with the approved Construction Traffic Management Plan approved under CON/22/01792 .
Reason - To minimise the impact of construction works upon highway safety and nearby residents' enjoyment of their properties, in accordance with the Basements SPD and policies CT1, CL5 and CL7 of the Local Plan 2019.

4. **Professional management of engineering works**
 Development shall be carried out under the supervision of Trevor Vincent Bsc C.Eng M.I.Struct.E. as confirmed in writing by the applicant.

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.

Reason - The details are considered to be material to the acceptability of the proposal, and for safeguarding the amenity of neighbouring residential properties and to comply with the Basements SPD and policy CL7 of the Local Plan 2019. It is necessary for the condition to be on the basis that "No development shall commence until" as compliance with the requirements of the condition at a later time would result in unacceptable harm contrary to the policies of the Development Plan

5. Considerate Constructors Scheme (CCS)

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.

Reason - To mitigate the impact of construction work upon the levels of amenity that neighbouring occupiers should reasonably expect to enjoy, and to comply with the Basements SPD and policy CL5 of the Local Plan 2019. It is necessary for the condition to be on the basis that "No development shall commence until" as compliance with the requirements of the condition at a later time would result in unacceptable harm contrary to the policies of the Development Plan.

6. Code of Construction Practice

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.

Note - The Council's Construction Management Team work independently of the planning department. For further information regarding the Code and how the required details should be submitted to them, the Council's Construction Management Team can be contacted on email at: dehcmt@rbkc.gov.uk or tel: 020 7361 3002

Reason - To mitigate the impact of construction work upon the levels of amenity that neighbouring occupiers should reasonably expect to enjoy, and to comply with the Basements and Transport and Streets SPDs and policies CL5, CT1, CE5 and CE6 of the Local Plan 2019. It is necessary for the condition to be on the basis that "No development shall commence until" as compliance with the requirements of the condition at a later time would result in unacceptable harm contrary to the policies of the Local Plan 2019.

7. Small-scale ground gas and vapour condition

A. Development shall be done in compliance with the small scale ground gas and vapour report approved under CON/22/03157.

B. No occupation or use of the development shall commence until the

approved RS is implemented and a Verification Report (VR) is submitted to, and approved in writing by, the local planning authority.

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

Reason – To ensure any risks from ground gas and vapours and other contamination are minimised, to comply with the NPPF and development plan policies and in particular policy CE7 of the Local Plan 2019

8. **Pumped device**

Prior to occupation of any part of the basement, a suitable pumped device shall be provided within the basement and be so maintained thereafter.

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

9. **Sustainable Urban Drainage Systems**

The development hereby approved shall be carried out in accordance with the Sustainable Drainage Systems (SuDS) Report for Planning, by Ferguson Brown, reference 2021-12-23, unless agreed otherwise in writing by the Local Planning Authority.

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

10. **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.

11. **Black painted railings**

The railings hereby approved 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.

12. **Sash windows in painted timber**

The window/windows hereby permitted, except those on the lower ground and ground floor rear extension, shall be timber framed, white painted, double hung, sliding sashes, 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, CL2 and CL3 of the Local Plan 2019.

13. **Submission of details (Full PP)**

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 and shall thereafter be so maintained:

(a) Elevation (1:10) and section (1:5) drawings of new windows and French doors with details of mouldings in section (1:1) and a plan showing locations of retained / historic doors and new doors. New windows and doors shall be made of solid timber and hand painted;

(b) A sample panel of the bricks to be used in the reconstruction of the rear facade, showing the colour, size, texture and bond of brick and colour and

profile of pointing. The sample panel shall be constructed and retained on site throughout the construction phase and all replacement brick work built in accordance with the panel and maintained as such.

Reason – To accord with the development plan by ensuring that the character and appearance of the area are preserved and living conditions of those living near the development suitably protected.

INFORMATIVES

- 1 Your attention is drawn to the Conditions of this Permission and to the Council's powers of enforcement, including the power to serve a Breach of Condition Notice under the Town and Country Planning Act 1990, as amended. All Conditions must be complied with. If you wish to seek to amend a Condition you should apply to do so under s.73 of the Act, explaining why you consider it is no longer necessary, or possible, to comply with a particular condition.
- 2 Condition Nos, 5 and 6 impose requirements which must be met prior to commencement of the development. Failure to observe these requirements could result in the Council taking enforcement action, or may invalidate the planning permission and render the whole of the development unlawful.
- 3 Planning permission is hereby granted for the development as shown on the approved drawings. Any variation to the approved scheme may require further permission, and unauthorised variations may lay you open to planning enforcement action. You are advised to seek advice from the Directorate of Planning and Place, before work commences, if you are thinking of introducing any variations to the approved development.

Advice should urgently be sought if a problem occurs during approved works, but it is clearly preferable to seek advice at as early a stage as possible. Use the following link to see how advice can be obtained: [Planning Advice Service](#)

- 4 This property is within a Conservation Area. All building works should, therefore, be completed with great care. External facing work and detailed treatment should be finished in a manner sympathetic to the existing building. If there is any doubt about the way in which work should be carried out, you should seek the advice of the Directorate of Planning and Place.
- 5 Separate approval for the works hereby granted permission/consent may be required by the Building Act 1984 and the Building Regulations 2018 (as amended), and the grant of planning permission does not imply that such approval will be given. The District Surveyor, Town Hall, Hornton Street, W8 7NX should be consulted before works commence.
- 6 You are reminded of your duties under the Party Wall Act 1996. This requires a building owner to notify and obtain formal agreement from adjoining property freeholders and leaseholders and anyone who has had an interest of 12 months or greater, where the building owner intends to carry out work which involves:
 1. Work involving an existing shared wall with another property;
 2. Building on the boundary with another property;
 3. Excavating near a neighbouring building, and that work falls within the scope of the Act

Notice should be served on neighbours at least one month before commencement of building works. Section 12(1) of the Act provides for the developer to provide security for neighbours through insurance or a security bond.

Procedures under this Act are separate from the need for planning permission and for building regulations approval. Further guidance is available at: [Party Wall Act 1996](#)

- 7 To assist applicants in finding solutions to problems arising in relation to their development proposals the Local Planning Authority has produced planning policies, and provided written guidance, all of which are available on the Council's website. A pre-application advice service is also offered.

The scheme was submitted in accordance with advice provided through pre-application discussions.

You are advised that it is the duty of the occupier of any domestic property to take all such measures available to him/her as are reasonable in the circumstances to secure that any transfer of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes. This includes waste materials produced as a result of building works. You may check whether your waste carrier is licensed on the DEFRA website. (I61)

You are reminded that, if not properly managed, construction works can lead to negative impacts on the local environment, reducing residential amenity and the safe function of the highway. The Council can prosecute developers and their contractors if work is not managed properly. For advice on how to manage construction works in the Royal Borough please see the Council's website: www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx. From this page you will also find guidance on what to include in Construction Traffic Management Plans (where these are required).

Construction and demolition work is controlled by the Council under sections 60 and 61 of the Control of Pollution Act 1974. The Council has adopted a Code of Construction Practice which sets out best practice standards expected in the borough and applies to new development projects from April 2019. Under the terms of the Code, works heard at the boundary of the site are restricted to:

Monday to Friday 8am – 6pm

Saturday, Sunday and public holidays – none permitted

The code also introduces a further set of restricted hours for high impact activities such as demolition and concrete breaking. Undertaking noisy works outside of the Code hours may be liable for prosecution and a fine of up to £5000 where a notice has been served under the Control of Pollution Act 1974.

If you are required to submit a Code of Construction Checklist and Site Construction Management Plan (SCMP), please contact the Construction Management Team on 020 7361 3002 or by email at dehcmt@rbkc.gov.uk

Your attention is drawn to Section 61 of the Control of Pollution Act 1974, which allows developers and their building contractors to apply for 'prior consent' for noise generating activities during building works. This proactive approach involves assessment of construction working methods to be used and prediction of likely construction noise levels at sensitive positions, with the aim of managing the generation of construction noise using the 'best practicable means' available. You are advised to engage an acoustic consultant experienced in construction noise and vibration assessment and prediction to complete your S.61 application. Relevant information can be found here [S.61 Control of Pollution Act 1974](#)

Documents associated with the application (except exempt or confidential information) may be viewed at www.rbkc.gov.uk/PP/24/01157. Access to computers is also available in the Customer Service Centre at the Town Hall.

Contact officer:

Mr. B. Brockey

Telephone: 07583-117-632