

**ROYAL BOROUGH OF KENSINGTON AND CHELSEA
REPORT BY EXECUTIVE DIRECTOR,
PLANNING AND BOROUGH DEVELOPMENT**

APP NO. PP/17/00133 /Q21

Date: 06/03/2017

This application is for a class of development which may be determined under powers delegated to the Executive Director, Planning and Borough Development. It is not an application which any Councillor has asked to be considered by the Planning Applications Committee.

RECOMMENDED DECISION: Refuse planning permission

SITE ADDRESS

Old Court House, 1A Walton Street, LONDON, SW3 2JD

APPLICATION DATED 06/01/2017

APPLICATION COMPLETE 09/01/2017

APPLICANT/AGENT ADDRESS

Mr A Frendo
Savills
33 Margaret Street
London W1G 0JD
Applicant Mr D Graham

<u>Listed Building</u>	N/A	<u>Cons. Area</u>	Hans Town	<u>Ward</u>	Brompton and Hans Town
<u>CAPS</u>	No	<u>Eng. Heritage</u>		<u>Art '4'</u>	Yes
<u>Consulted</u>	<u>Objections</u>	<u>Support</u>	<u>Petition</u>	<u>Comments</u>	
9	183	0	0	2	

PROPOSAL: Creation of single storey basement comprising swimming pool, plant rooms, home office, gym, laundry and store rooms; provision of lightwell to side of property; provision of walk on glazed rooflights in front and rear gardens and a pond to rear garden with translucent bottom; provision of cast iron spiral staircase to low level courtyard below; internal alterations at lower ground floor level to include provision of additional bedrooms in place of existing swimming pool and; planting scheme to rear garden.

RBK&C Drawing No(s): PP/17/00133

Applicant's Drawing No(s): 1000 rev E, 1000-1 rev F, 1200-1 rev C, 1500 rev F, 1501 rev E, 1503 rev E, 1504 rev E, 1505 revE, 1506 revF, 1507 rev E, 1508 rev E, 1509 rev E, 1512

rev E, 1513 rev E, 1514 rev E, 1515 rev E, 2000-1 rev H, 2500 rev Q, 2502 rev J, 2503 rev H, 2504 rev F, 2505 rev E, 2506 rev H, 2507 rev L, 2508 rev G, 2509 rev K, 2512 rev C, 2513 rev E, 2514 rev E, 2515 rev E, 2516 rev D.

REASONS FOR REFUSAL

- 1. The proposed development would introduce a further basement storey below an existing basement storey at the site. The construction of the development would therefore result in an unacceptable impact on the living conditions of neighbouring occupiers. The proposal would be contrary to the Development Plan, in particular Consolidated Local Plan policies CL5 and CL7.**

INFORMATIVES

- 1 Policies of Particular Relevance
- 2 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, and offers a pre-application advice service.

Pre-application advice was sought and provided.

Constraints

Conservation Area	Hans Town
Listed Building	N/A
Flood Zone	1
Critical Drainage Area	Sloane Square
Town Centre	N/A
TPO	No
Article 4	Number 100 (basements)
Other	N/A

Summary report on application

1. Introduction

- 1.1 The Council receives around 6000 applications under the Planning Acts each year. It is not practical for all to be determined by councillors in a public meeting. Many applications are also fairly straightforward and do not involve complex issues of wider public interest where the time and resources involved in a formal public discussion is necessary. The Council's Constitution therefore delegates authority to decide many applications to the Council's Executive Director, Planning and Borough Development. Councillors can then spend more time considering the cases of widest public importance and greatest importance to the community.
- 1.2 This application is of a nature where the Council's Constitution delegates the authority to make the decision to the Executive Director, Planning and Borough Development rather than it being decided by a committee of councillors.
- 1.3 Before preparing this summary report a planning officer has visited the application site, considered any relevant previous planning applications in relation to the development and considered any comments made by those interested in the application such as consultees with specialist knowledge and nearby residents.
- 1.4 In assessing the application, the planning officer is taking into account the information submitted with the application, any previous relevant applications, observations during the site visit, any comments received in connection with the application and any other case specific considerations which are material to the decision.

2. Reason for delegated decision

- The recommendation is to refuse.
- No councillors have requested that the case come to the Planning Committee/Planning

3. The site and its surroundings

- 3.1 The application site is a three storey property with accommodation in the roof, located on the south side of Walton Street. The property was formerly a school, then a magistrates court and is now in use as a single dwelling house.
- 3.2 The property is not listed but is located within the Hans Town Conservation Area.

4. The proposal and any relevant planning history

- 4.1 Planning permission is sought for the following works at the site:
- The excavation of a single storey basement comprising swimming pool, plant rooms, home office, gym, laundry and store rooms;
 - The provision of a lightwell to side of property;
 - The provision of walk on glazed rooflights in the front and rear gardens, and a pond to rear garden with a translucent bottom; and
 - The provision of a cast iron spiral staircase to low level courtyard below.
- 4.2 Relevant planning history is summarised in the table below:

Reference	Description	Decision	Implemented
TP/00/00065	Change of use from magistrates' court to a single family dwelling with changes to external facade, basement excavation, and addition of a rear conservatory and rebuilding of rear addition, and erection of an ancillary dwelling and swimming pool enclosure in rear curtilage.	Granted, 10 May 2000	Yes
CL/15/08071	Excavation of a single storey basement under footprint of property (Certificate of Lawful Proposed Use/Development)	Refused, 10 February 2016	N/A

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:

	Consolidated Local Plan
Conservation area	CL3,CL11
General townscape	CL1, CL6
Living conditions	CL5, CE6
Basements	CL7
Trees	CR6
Transport	CT1
Flooding	CE2

These policies can be read online at:

Consolidated Local Plan:

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

Other local strategies or publications

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

- Hans Town Conservation Area Proposal Statement
- Trees and Development
- Basements
- Noise
- Transport and Streets

These documents can be read online at:

Conservation Area Proposal Statements:

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

Other documents:

<http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/supplementaryplanning.aspx>

6. Evaluation

- 6.1 Policy CL7 of the Consolidated Local Plan provides the Council's policy on basements, and the supporting text along with the Basements SPD sets out the reasoning for the restrictions placed on development of this type. The proposed basement would not extend below more than 50 per cent of the open part of the site and would have 1m of permeable topsoil above the parts of the basement below the rear garden. The proposal would therefore comply with points (a) and (j) of policy CL7. The external manifestations of the proposal would be modest and discreetly located and as such would preserve the character and appearance of the Hans Town Conservation Area.
- 6.2 The applicants have submitted a draft Construction Traffic Management Plan, a Construction Method Statement, an Acoustic Report, an Arboricultural Assessment and a Flood Risk Assessment as per the requirements of policy CL7. The submitted documentation outlines the methodology and mitigation to be used in various aspects of the proposed development and would be satisfactory were the principle of the proposal acceptable.
- 6.3 The decisive issue in this instance is:
- i The principle of an additional storey of basement accommodation at the property;
- 6.4 In the Royal Borough, the construction of new basements has an impact on the quality of life, traffic management and the living conditions of nearby residents and is a material planning consideration. This is because the borough is very densely developed and populated, and several basement developments may be under way at any one time on a street. This is the reasoning behind point c of policy CL7. The full reasoned justification is given at paragraphs 34.3.49 to 34.3.57 of the Consolidated Local Plan. Here it is explained how basement excavation can have adverse impacts on the living conditions of neighbouring occupiers and that, consequently, only one basement storey is permitted so

as to reduce, so far as is possible, the amount of spoil removal, vehicle movements and other associated adverse impacts of the construction process. Point (c) of policy CL7 therefore requires that basement development does not *'add further basement floors where there is an extant or implement planning permission for a basement or one built through the exercise of permitted development rights.'* Furthermore, those properties which have already implemented planning permissions for basements are precluded from applying for further floors so as to ensure fairness and consistency in approach.

- 6.5 As per the above planning history, planning permission (ref. TP/00/00065) was granted at the site in May 2000 for the: *'Change of use from magistrates' court to a single family dwelling with changes to external facade, basement excavation, and addition of a rear conservatory and rebuilding of rear addition, and erection of an ancillary dwelling and swimming pool enclosure in rear curtilage'*. This permission was implemented.
- 6.6 The approved drawings for this application include existing and proposed sections of the application site. The existing sections show what appears to be a void below the ground floor level of this property. Given the depth of this void, shown as approximately 1.1m on the application drawings, this would not have constituted a habitable floor level. Additionally, it is noted that no 'existing lower ground floor' drawing was either submitted or approved with the application.
- 6.7 From inspection of the existing drawings for the current application, which show a floor level below the ground floor of the house with a floor to ceiling height of approximately 2.8m, it can be concluded the granting and implementation of TP/00/00065 resulted in the creation of a new storey of accommodation below the ground floor of the property.
- 6.8 Paragraph 34.3.46 of the Consolidated Local Plan states that *'basement development is the construction or extension of one or more storeys of accommodation below the prevailing ground level of a site or property.'* As per this definition, the additional storey created by the implementation of TP/00065 constituted basement development.
- 6.9 Consequently, the addition of a further basement storey, both below the property and below the existing basement storey, as is proposed here, would be contrary to policy CL7 (point c). The construction of the basement development approved in 2000 would have resulted in adverse impacts on the living conditions of nearby residents referenced in the reasoned justification for policy CL7. Were permission for the development now proposed granted in this instance, nearby residents would be subject to a further round of such construction impacts. As such the proposals would result in an unreasonable level of adverse impacts on the living conditions of these residents. Given this is a material consideration in the assessment of basement development proposals, the proposal for additional basement storey is therefore unacceptable.

Issues and balancing

- 6.10 The existing site already benefits from a basement storey following the granting and implementation of a previous planning permission. Consequently, the proposed development would constitute an additional basement storey. The excavation of a further basement storey at the site would result in a further round of adverse construction impacts. The proposal would therefore have an unacceptable impact on the living conditions of those living nearby and would be contrary to the policies of the Development Plan, in particular policies CL5 and CL7.

7. Necessary associated infrastructure improvements

- 7.1 If permitted and built, the additional floorspace in the proposal would require a payment of approximately £390,580.00 towards funding additional infrastructure under the Borough's Community Infrastructure Levy and a payment of approximately £33,100.00 towards funding

8. Consultations carried out

8.1 9 nearby owners/occupiers were notified directly of the application.
The application was advertised in the Kensington & Chelsea Gazette on 20 January 2017
A statutory notice advertising the application was posted near the site on 20 January 2017

8.2 183 letters were received objecting to the application, summarised as:

Comment	Response
The property already has a basement storey following the granting of permission and the further storey would be contrary to policy.	Agreed. The proposal constitutes a further basement storey and is contrary to policy CL7 of the Consolidated Local Plan
The proposal would result in unacceptable impacts on the living conditions of neighbouring properties.	An additional basement storey at the site would result in a further round of basement construction impacts which would have an unacceptable impact on the living conditions of neighbouring properties.
The construction process would cause traffic and disruption on the surrounding roads	The construction of an additional basement storey at the site would result in a further round of construction impacts, including issues of traffic and congestions on the surrounding highway network. This would be unacceptable.
The construction process would result in an increase in air pollution to the surrounding area.	An additional basement storey at the site would result in a further round of basement construction impacts, including dust generation, which would have an unacceptable impact on the living conditions of neighbouring properties.
The construction process would result in loss of revenue to small businesses in the area	This not a matter for consideration in the determination of the planning application
What plans are in place to ensure any new plant will not deliver noise in excess of expected levels. Is there a plan to monitor noise levels for a period of time?	Were the proposal otherwise acceptable conditions could be attached to the granting of the permission to ensure noise from plant is within acceptable levels.
It is unclear as to whether the existing boundary wall that has been a consistent feature and benefit of Ovington Street residents for many years may be removed or will remain?	The demolition of the boundary wall is not part of the planning application.
Having such a large construction project disrupting the area immediately adjacent to a property for such a protracted period of time will negatively affect both the value of my property and the ease of which a buyer could be found.	This not a matter for consideration in the determination of the planning application
The applicant does not live at the property or reside in the country	This not a matter for consideration in the determination of the planning application

The construction process would result in increased danger for school children going to from nearby schools	The construction of an additional basement storey at the site would result in a further round of construction impacts, including issues of traffic and congestions on the surrounding highway network. This would be unacceptable.
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8.3 1 general comment was received in relation to the application, summarised as:

Comment	Response
No problem with application	Noted

Other consultees and organisations

Consultee	Comment	Where in the report this is considered
Director of Transportation and Highways	No objection, subject to conditions	Paragraph 6.2
Director of Environmental Health	No objection, subject to conditions	Paragraph 6.2
Arboricultural Officer	No objection, subject to conditions	Paragraph 6.2

9. Recommendation

9.1 Refuse planning permission

GRAHAM STALLWOOD
EXECUTIVE DIRECTOR, PLANNING AND BOROUGH DEVELOPMENT

List of Background Papers:

The contents of file PP/17/00133 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

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