



Appeal Decisions

Site visit made 19 April 2011

by **John G Millard DipArch RIBA FCI Arb**

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

Decision date: 5 May 2011

Appeal A Ref: APP/K5600/E/11/2143666
37 Kensington Park Gardens, London W11 2QT

- 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 Socomex Properties Ltd against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref: LB/10/02677 dated 26 August 2010 was refused by notice dated 26 November 2010.
 - The work proposed is the formation of a new part basement level with minor internal alterations to lower ground floor level to provide access.
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Appeal B Ref: APP/K5600/E/11/2144699
37 Kensington Park Gardens, London W11 2QT

- 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 Socomex Properties Ltd against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref: LB/10/02681 dated 26 August 2010 was refused by notice dated 03 December 2010.
 - The work proposed is the formation of a new part basement level with minor internal alterations to the lower ground floor level to provide access and the lowering of the floor level of the existing rear lightwell (part).
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Appeal C Ref: APP/K5600/A/11/2143665
37 Kensington Park Gardens, London W11 2QT

- 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 Socomex Properties Ltd against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref: PP/10/02680 dated 26 August 2010 was refused by notice dated 03 December 2010.
 - The development proposed is the formation of a new part basement level with minor internal alterations to lower ground floor level to provide access and the lowering of the floor level of the existing rear lightwell (part).
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Decisions

Appeal A Ref: APP/K5600/E/11/2143666

1. I dismiss the appeal.

Appeal B Ref: APP/K5600/E/11/2144699

2. I dismiss the appeal.

Appeal C Ref: APP/K5600/A/11/2143665

3. I dismiss the appeal.

Preliminary Matters

4. The descriptions of work or development given on the three application forms are as noted above, with the lowest level of the existing property described as 'lower ground floor' and the proposed new subterranean level as 'basement'. In the Council's decision notices and on the appeal forms these same two levels are described as 'basement' and 'sub-basement' respectively. In the interests of clarity and the avoidance of doubt I shall use the terminology used in the decision notices, that is 'basement' and 'sub-basement'.
5. All three appeals relate to the same works save that Appeals B and C include an additional element, being the deepening of part of the existing rear light well and the provision of two new windows to light the sub-basement. The issues and considerations will therefore be much the same for each appeal and, for this reason, I shall deal with the three appeals together, referring where necessary to the particularities of each.

Main Issues

6. The main issue in Appeal A is the effect of the proposed works on the special architectural or historic interest of the listed building. In Appeals B and C, the main issue is the effect of the proposal on the special architectural or historic interest of the property and its setting, and on the settings of adjacent listed buildings. A second main issue in Appeal C is whether the proposal would preserve or enhance the character or appearance of the Conservation Area.

Reasons

7. The appeal property is situated within the Ladbroke Conservation Area and is one of fourteen consecutive Grade II listed mid 19th century stuccoed terrace houses on three storeys plus attic and basement, together occupying the whole of the north side of Kensington Park Gardens between Stanley Gardens and Kensington Park Road. The brief description in the Statutory List notes that the terrace forms part of a formal group with buildings in Stanley Crescent and Ladbroke Grove and has been subject to considerable alterations.
8. Notwithstanding the reference in the List description to 'considerable alterations', there is nothing before me to suggest that No 37 has been extensively altered and it appears to me that the form and layout of the basement and ground floors remain much as originally built. The proposal is to excavate beneath the rear two thirds (approx) of the existing basement to create a new sub-basement gymnasium, with ancillary accommodation, accessed by way of a new staircase

beneath the existing basement access stair. The Appeal B and C proposal includes, in addition, a vertical extension of part of the rear lightwell, down to sub-basement level, to accommodate two new sash windows to light the gymnasium.

9. The LDF Core Strategy (CS) was adopted on 8 December 2010 and supersedes the Unitary Development Plan Policies referred to in the decision notices. CS Policy CL 2 indicates, at paragraph g(i), that subterranean extensions involving excavation underneath a listed building are not acceptable whilst the adopted Supplementary Planning Document – *Subterranean Development* (May 2009) (SPD) notes that the Council will normally resist proposals for such development under listed buildings. In submitting the original applications, the appellant provided detailed structural analyses and method statements, on the basis of which I am satisfied that, carefully constructed in accordance with the engineers' advice, the proposed works would have minimal impact on the stability of the subject property or adjacent buildings.
10. In view of its listed status, however, there remain concerns as to the proposals' effect on the special interest and setting of the building and the terrace. Whilst I note the appellant's suggestion that the special interest is limited to those items mentioned in the List description, this is clearly not the case as such descriptions are given mainly to aid identification and do not seek to provide a comprehensive record of all features of importance. The absence of any particular feature from the description does not indicate that it is of no interest.
11. Apart from its plan form and external appearance, the special interest in this case includes such features as the disposition and hierarchy of rooms and floor levels, the foundations, the size and location of the original basement, the relationship between the building and its site and the integrity of the historic structure, all of which contribute to the building's historic character. Sub-basements are not an original feature of these terrace houses and, in a wider context, I have been offered no evidence to support the appellant's contention that, *'historically . . . sub-basements were a normal part of large houses . . .'*
12. To my mind, the addition of a sub-basement storey, even one with a smaller footprint than the remainder of the house, would be to introduce a disruptive and historically inappropriate element that would materially alter the building's historic form and detract from its established hierarchy of spaces and floor levels. In doing so it would conflict not only with paragraph g(i) of CS Policy CL 2, but also with Policy CL 4 which requires development to preserve or enhance the special interest of listed buildings. The fact that the harm would not be perceived by the general public would not make it acceptable as buildings are listed for their intrinsic qualities, and the extent to which they can be seen from any particular viewpoint, or indeed at all, carries only limited weight when considering the effect of works to them on their special architectural or historic interest.
13. In like manner, the formation of a sub-basement level lightwell would introduce an alien element into the plan form and the formal composition of the rear elevation, to the detriment of its historic integrity and the unity of the terrace, where single storey depth lightwells are the norm, in a repeating and rhythmic pattern. The Subterranean Development SPD states that lightwells must not

exceed a depth of one storey below ground level and the proposal here would clearly conflict with that requirement.

14. This is one of a number of locations within the Conservation Area in which the rear elevation faces directly onto a shared garden area and is correctly noted by the Council, in its adopted 1989 Conservation Area Proposals Statement (CAPS), to have been designed to be of equal importance to the street facade. Because of its depth and the presence of surrounding foliage, the effect of the modified lightwell would only be visible from very close quarters, and not at all by the public at large, but this is not sufficient to overcome the harm it would cause to the listed building and the terrace. I therefore conclude that this aspect of the Appeals B and C proposal would conflict with CS Policy CL 4.
15. For the above reasons, it is my overall conclusion on all three appeals that the introduction of a sub-basement would fail to preserve the special architectural or historic interest of the building, in conflict with CS Policies CL 2 and CL 4. In respect of Appeals B and C, the formation of a second level subterranean lightwell would detract from the setting of the subject property and the terrace, in further conflict with the above Policies. Furthermore, and despite the relatively discreet nature of the proposals, I conclude that the harm that would be caused to the settings of the listed buildings would detract from the character and appearance of the Conservation Area in conflict with the requirements of CS Policy CL 3 and CAPS advice.
16. I have been referred by both parties to various previous appeal decisions but have not found these sufficiently similar to the appeal schemes to carry significant weight either in favour of or against the proposals. My attention has also been drawn by the appellant to the Council's recent decision to grant listed building consent for a basement and sub-basement beneath the private rear garden of No 21 Kensington Park Gardens. However, as the works proposed at No 21 are entirely outside the footprint of the listed building, apart from a modest link in the south-eastern corner of the existing lower ground floor, the approved scheme is in no sense comparable to the proposal at No 37
17. Whilst I have had due regard to these decisions, I have considered the appeal proposals on their merits, and in accordance with current national and local policies, and have reached my conclusions on that basis.
18. I have also had regard to the appellant's suggestion that the extension would enhance the accommodation within the property to bring it into line with the requirements of contemporary life. This is, however, a substantial family house and I am unaware of any deficiency in the quality or quantity of the accommodation it provides such as to justify the harm that would be caused to the listed building and the Conservation Area if listed building consent and planning permission were to be granted.
19. Accordingly, and having considered all other matters raised, I conclude that the proposals are unacceptable and that all three appeals should be dismissed.

John G Millard

INSPECTOR

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