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## Appeal Decision

Site visit made on 27 June 2018

**by Andrew Owen BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11<sup>th</sup> July 2018**

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**Appeal Ref: APP/X5210/W/18/3192767**

**6 Albert Terrace, London NW1 7SU**

- 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 Mr M Golinsky against the decision of the Council of the London Borough of Camden.
  - The application Ref 2017/2819/P, dated 16 May 2017, was refused by notice dated 13 October 2017.
  - The development proposed is rebuilding of side extension and boundary wall, extension to existing lower ground level and creation of basement level with 2 No. sky lights to residential dwelling, including associated plant, landscaping and other alterations.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - i) the effect of the development on the character of the host building;
  - ii) the effect on groundwater, surface water and structural stability; and
  - iii) whether it is necessary to provide a contribution towards highway works, and a Construction Management Plan (CMP), and if so whether an appropriate mechanism for securing these has been provided.

### Reasons

#### *Character*

3. Policy A5 of the Camden Local Plan was adopted in June 2017. It advises that, in order to protect local character, basements should not comprise more than one storey. Furthermore the explanatory text states that a basement is a floor of a building which is partly or entirely below ground level. A lower ground floor with a floor level partly below the ground level will therefore generally be considered basement development. I agree with the opinion of Charles Streeten, provided by the appellant, that whether a storey which is partly below ground level is a basement is a matter of judgement. Indeed the explanatory text to the policy would not necessarily conflict with this.

4. In this case, the lowest storey at the existing house is partially below the surrounding ground level. The plans indicate that the internal height of this level is, for the most part, around 2.5 metres and I estimate that the floor level of this storey is around 1.5 metres below surrounding ground level. Using this purely numerical method, the majority of the storey is below ground level. Aside from this, when stood in the play room at this level, the view from the front windows is primarily of the retaining wall at the very front of the property, and the view from the rear is of the steps leading up to the garden which is barely above eye level. The only other window of note on this storey is a high level window on the northern face of the building, which is just above ground level. Most of the other rooms at this level have no windows, although they do only accommodate plant. Overall, I consider this lower ground floor is both quantitatively and qualitatively substantially below the surrounding ground level and hence I consider it to be a basement. Consequently the provision of another storey below this results in the property having a basement of two storeys.
5. Notwithstanding this, the plans show two new levels would be provided under the car parking area. Although one of these would be for plant and would have limited headroom, it still constitutes two new underground storeys.
6. The explanatory text to Policy A5 also explains that a single storey basement should be approximately 3 to 4 metres in height, although an extra allowance is made for swimming pools. Though the height of the new level would be around four metres, excluding the pool, the works would also involve dropping the floor level of the storey above so that the depth of the total excavation, excluding that for the pool, would considerably exceed four metres.
7. In summary, the extension would result in the property having a substantial two-storey basement which would be disproportionate, and not subordinate, to the main house. This would be harmful to its character. The proposal therefore fails to accord with Policy A5 as described above.

*Groundwater, surface water and structural stability*

8. A full Basement Impact Assessment (BIA) was submitted with the application. Policy A5 advises that such assessments may need to be independently verified, which shall be funded by the appellant. This verification is needed where a scheme requires applicants to proceed beyond the screening stage of a BIA. To ascertain if it is necessary to proceed beyond screening, the flowcharts in the Basements and Lightwells Supplementary Planning Document are used. Although most of the questions posed in the flowcharts can be answered in the negative, some cannot, for example, the site is within 5m of a highway. The result is the BIA must progress beyond the screening stage, and indeed the submitted BIA does. Accordingly, the BIA must be independently verified. This has not been done.
9. Consequently, though the BIA robustly contends that the development would not harm the structural stability of the host building or neighbouring buildings, and would not adversely affect the flow of surface water and groundwater, without verification I cannot conclude that the development would be acceptable in these respects. As such I cannot be satisfied that the development would accord with Policy A5 as described above, Local Plan Policy CC3, which seeks to ensure that proposals do not increase flood risk, and Policy

A1 of the Local Plan which aims to ensure development protects the quality of life of occupiers and neighbours.

*Highway works and CMP*

10. The Council consider a CMP is necessary due to the site's position at a road junction and along a bus route. Moreover as the provisions of a CMP can extend beyond the site, they suggest a planning obligation, as opposed to a planning condition, is the most appropriate way to secure this.
11. In addition, the Council anticipate the construction of the development would be likely to cause some damage to the footway in front of the site. They estimate it would cost just over £2,500 to repair, though I have no evidence as to how this figure was reached, and that a planning obligation is necessary to secure this.
12. The appellant does not contest either of these requirements and has provided a draft obligation. I also have been provided with a draft obligation provided by the Council. However both drafts are unfinished as, for instance, details of the highways contribution are missing. They are also both undated and unsigned by the appellant and the Council. I am therefore unable to take either into account. The procedural guide for appeals<sup>1</sup> states that obligations should be executed and copied to the Inspectorate no later than seven weeks from the start date of the appeal. This deadline has passed and there are no exceptional circumstances to indicate I should delay my decision in anticipation of a completed obligation. Consequently, I cannot conclude the proposal would accord with Policy A1 as previously described.
13. If the obligation were complete, I would need to be satisfied that it is necessary to make the development acceptable in planning terms. However, even if I were to find that the mitigation provided by the obligation is unnecessary, it could not outweigh the harms I have found in respect of the other main issues identified above.

**Other matters**

14. The site is proximate to a number of heritage assets: Primrose Hill, which is a Grade II listed park, a drinking fountain outside the entrance to Primrose Hill which is also Grade II listed, and some Grade II listed dwellings on Regents Park Road and Prince Albert Road. As the part of the development above ground level would involve demolishing the side extension and wall, and rebuilding them like-for-like, I consider there would be very little change to the appearance of the site and therefore no harm to the settings of these heritage assets.
15. The site is also within the Primrose Hill Conservation Area. However, again, as the resultant property above ground would appear very similar to the existing dwelling, no harm would be caused to the character and appearance of this conservation area.
16. I recognise the extensions would provide an enhanced living environment for the family, and that the resultant building would employ energy efficiency measures. Nonetheless, I give these issues little weight and they do not outweigh the harms I have set out above.

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<sup>1</sup> The Planning Inspectorate; Procedural Guide, Planning Appeals - England.

**Conclusion**

17. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

*Andrew Owen*

INSPECTOR