
Appeal Decision

Site visit made on 23 September 2019 by Mariam Noorgat BSc (Hons)

Decision by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2019

Appeal Ref: APP/K2230/D/19/3230702

21 Leith Park Road, Gravesend DA12 1LN

- The appeal is made under section 78 of the Town Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Bavani Sivakolunthu against the decision of Gravesham Borough Council.
 - The application Ref 20180933, is dated 28 August 2018, was refused by notice dated 25 March 2019.
 - The proposed development is an underground extension to rear of private dwelling and associated remodelling of rear garden.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposed development on land stability.

Reasons

4. The National Planning Practice Guidance (PPG) sets out the role of the planning system in respect of land stability, including minimising the risk and effects of land stability on property, infrastructure and the public. This applies to all development. It states that if land stability could be an issue, developers should seek appropriate technical and environmental expert advice. The PPG goes on to say that a preliminary assessment of ground stability should be carried out at the earliest possible stage before a detailed planning application is prepared.
5. In this case, no information regarding land stability, other than an assertion from the Design Team regarding their confidence in the buildability of the proposed extension, has been provided. Although there is no evidence before me to suggest that this is an area where subsidence is known to occur, it is reasonable to suspect subsidence may occur in light of the fact that the development would involve excavation of a fairly steep slope. I am aware that the proposal is not unusual, and not excessive in scale, but this does not negate the need for appropriate assessments to be undertaken.

6. The appellant refers to paragraph 54 of the National Planning Policy Framework (NPPF) where it states otherwise unacceptable development could be made acceptable through the use of planning conditions, and I accept that the appellant does not suggest that they would construct the extension without conducting relevant assessments. However, I do not consider it appropriate to secure something so fundamental to the acceptability of the proposal by a condition. Indeed the advice from the PPG regarding the stage in the development process at which such information needs to be provided, supports my view. It is only after this information is provided can conditions, such as regarding mitigation or the implementation of construction methods, be considered.
7. Therefore, based on the evidence before me, I cannot be confident that the proposed development would not have significant implications for the stability of the site. Given that uncertainty, I cannot conclude that the proposal would accord with the advice in paragraphs 170, 178 and 179 of the NPPF which advise that development should not put existing development at unacceptable risk from land instability, that adequate site investigations should be undertaken, and that the responsibility for securing safe development rests with the developer and/or landowner.

Other Matters

8. In line with the duty imposed on me by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I must give due importance and weight to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Council state within their Officer Report that the proposal can be considered to preserve the character and appearance of the Conservation Area. Given the subterranean nature of the development, I have no reason to disagree.
9. I understand that the proposal is for additional living space, however, this would not outweigh the requirements for additional information in relation to land stability. I also understand that for a family, the costs that could be incurred for assessments in relation to land stability are high. Nonetheless, such costs are sometimes a necessary part of obtaining planning permission.
10. The appellant raised concerns regarding the Council's handling of the application. However this is a separate matter and does not affect my consideration of the planning merits of the appeal.

Conclusion

11. For the reasons set out above, I conclude that the appeal should be dismissed.

Mariam Noorgat

APPEAL PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR