
Appeal Decision

Site visit made on 29 October 2020

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22/12/2020

Appeal Ref: APP/K5600/D/20/3252281

4 Child's Street, London SW5 9RY

- 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 Dr Ismail against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/20/01556, dated 4 March 2020, was refused by notice dated 30 April 2020.
 - The development proposed is for the excavation of a single storey basement, formation of rear lightwell with walk on rooflight and associated alterations.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the construction works on (a) users of the highway; (b) structural stability; and (c) sewer flooding.

Reasons

Highways

3. The appeal site consists of a 3-storey terrace dwelling on a narrow cul-de-sac in a high-density, urban situation. Child's Street contains predominantly residential properties, with commercial uses on Earls Court Road. The surrounding area comprises a mixture of building styles and designs.
 4. Policy CL7 (k) of The Royal Borough of Kensington and Chelsea Local Plan September 2019 (LP) says basement development must ensure that traffic and construction activity does not cause unacceptable harm to pedestrians, cycle vehicular and road safety, or adversely affect bus or other transport operations. It should also not place unreasonable inconvenience on those living, working or visiting the area.
 5. The draft Construction Transport Management Plan (CTMP) submitted with the application indicates that no construction vehicles would enter Child's Street; instead they would use the existing loading bay nearby on Earls Court Road. Transport for London (TfL) have objected to this proposal in that suspension of the loading bay would impact businesses on Earls Court Road wishing to receive deliveries. Moreover, suspending the bay for 20-minute periods would be an insufficient amount of time to allow for the transfer of waste and materials, given the need to travel between the site and the loading bay.
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6. I am aware of the recent extension and refurbishment of the appeal property, although I note that this did not involve any subterranean work. There is mention within the officer's report that use of the loading bay has been established with TfL but I can see no confirmation of this agreement. It was open for the appellant to have contacted TfL in the above regard to clarify this matter. However, I have no direct evidence of such and, in the absence of any compelling information to the contrary, I must adopt a precautionary approach. As no suitable CTMP has been presented, I find that it has not been demonstrated that the development could proceed without other users of the highway being unacceptably affected.
7. The proposals would not accord with policies CT1 and CL7 of the LP which seek to manage traffic congestion and ensure that construction activity does not place unreasonable inconvenience on those living, working or visiting the area.

Structural Stability

8. The Council is concerned that insufficient investigation has taken place to ensure the structural integrity of buildings or infrastructure would be safeguarded. Whilst it is right that a greater level of detail should have accompanied the application, as required by policy, other regimes such as the Building Regulations and the Party Wall etc Act 1996 would prevent harmful works from progressing. On balance, there is no compelling evidence to show that the neighbouring properties would be at unacceptable risk from construction of a basement along the lines proposed and supervised by a structural engineer. I am satisfied that a comprehensive Construction Method Statement and professional supervision could be secured by condition and there would be no conflict with LP Policy CL7(m).

Sewer Flooding

9. The Council is concerned that the proposals also fail to provide adequate information on how sewer flooding would be mitigated. In this regard, I note that CS Policy CL7(n) says basement development must be protected from sewer flooding through the installation of a suitable pumped device. Although no details appear to have been provided by the appellant, in the absence of any evidence of substance to the contrary, I am satisfied that a suitably worded condition would secure the provision of a pumped device with a plan showing it installed in an appropriate location. Consequently, I find there would be no conflict with CS Policy CL7(n).

Conclusion

10. Although the proposal would comply with policy CL7 in respect of structural stability and sewer flooding, there would be harm to users of the highway. I have therefore dismissed the appeal.

C Hall

INSPECTOR