The Planning Inspectorate

Appeal Decision

Site visit made on 28 May 2024

by S Poole BA(Hons) DipArch MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th June 2024

Appeal Ref: APP/K5600/D/24/3339045
12 The Little Boltons, London SW10 9LP

- 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 Mrs S Watine against the decision of the Council of the Royal London Borough of Kensington and Chelsea.
- The application Ref PP/23/07238, dated 3 November 2023, was refused by notice dated 15 February 2024.
- The development proposed is described on the application form as "*Excavation under footprint of house and part of front and rear gardens to form a single basement level and lowering of the existing lower ground floor slab to improve floor to ceiling height at this level; rebuilding of the 1960s two storey rear addition at lower ground and ground floor levels; construction of a single storey side addition at lower ground level; enlargement of rear dormer window and replacement of existing dormers on the front and side roof slopes; and elevational alterations*".

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance during the construction period.

Reasons

3. The appeal property is a substantial semi-detached 4-storey house with accommodation within the roof. It is situated in a residential street comprising large semi-detached houses of similar age and appearance which, together with the mature trees in the area, make a significant positive contribution to the character and appearance of the Boltons Conservation Area.

4. The appeal proposal would include excavation below the footprint of the house and below large proportions of the front and rear gardens to enable the formation of a large basement. This would accommodate a cinema, treatment room, gym, sauna, utility and plant space and a swimming pool. The application drawings indicate that the latter would require excavation to a level in excess of 9m below rear garden level.

5. Policy CL7 of the Royal Borough of Kensington and Chelsea Local Plan (2019) (LP) set limits on the extent of basement development. The aim of this policy is set out at paragraph 22.3.53 of the LP which states:

Restricting the size of basements will help protect residential living conditions in the borough by limiting the extent and duration of construction and by reducing the volume of soil to be excavated. Large basement construction in residential neighbourhoods can affect the health and well-being of residents with issues such as noise, vibration and heavy vehicles experienced for a prolonged period. A limit on the size of basements will reduce this impact.

6. To this end LP Policy CL7 stipulates that basement development should not exceed a maximum of 50 per cent of each garden or open part of the site and should not comprise more than one storey.

7. The Council states that the basement would not exceed 50% of the garden/open part of the site. Based on my assessment of the application plans it would appear that the extent of basement development beyond the footprint of the house would be very close to this limit.

8. In respect of the one storey limitation, paragraph 22.3.52 of the Local Plan states that "*a 'single storey' is one that cannot be subdivided in the future to create additional floors*" and "*It is generally about 3 to 4 metres floor to ceiling height but a small extra allowance for proposals with a swimming pool may be permitted*".

9. The proposed basement would comprise a single storey with a floor to structural ceiling height of 3.8m. A sunken swimming pool would be created within the rear part of the basement. This would have a depth of 1.2m and the distance between the base of the pool and the structural ceiling would be 5m. It is conceivable that this space could be subdivided in the future to form two floors suitable for the provision of ancillary uses such as plant rooms and storage. In addition, the extra additional height in this area does not in my view constitute a "small extra allowance", particularly given there is no obvious functional need for 3m of headroom above a relatively small basement level, private swimming pool.

10. For these reasons I conclude that, due to its size and the consequential duration of construction activity, the proposal would have an unacceptable effect on the living conditions of occupiers of neighbouring properties and is contrary to the aims of LP Policy CL7 and the SPD cited above.

11. Each planning application and appeal needs to be considered on its individual merits. I therefore attribute limited weight to the recent planning applications and appeal cases cited by the appellant.

Conclusion

12. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should fail.

S Poole

INSPECTOR