
Appeal Decision

Site visit made on 29 March 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 25 April 2017

Appeal Ref: APP/V5570/W/16/3166032

164 Fairbridge Road, Islington, London N19 3HU

- 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 Moti Friedlander against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/0107/FUL, dated 7 January 2016, was refused by notice dated 11 July 2016.
 - The development proposed is the demolition of the existing single storey residential studio unit and the erection of a single storey residential unit plus basement with green roof.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing single storey residential studio unit and the erection of a single storey residential unit plus basement with green roof at 164 Fairbridge Road, Islington, London N19 3HU in accordance with the terms of the application Ref P2016/0107/FUL, dated 7 January 2016 and subject to the conditions set out below.

Procedural Matters

2. The Council's reasons for refusing planning permission included that in its view, the appellant had failed to provide adequate justification for removal of an adjacent tree. Since issuing its decision, and following receipt of further information demonstrating that the tree in question cannot be retained, the Council has confirmed that it does not consider the specimen to be worthy of a Tree Preservation Order and wishes to withdraw this reason for refusing planning permission. From the information before me and my visit I have no reason to take a contrary view and accordingly there is no need for me to address this matter in my decision.
3. For clarification I have altered the description of development to that given on the Council's decision notice as reflected on the appeal form.

Main Issue

4. The main issue is the effect of the development on the living conditions of future occupiers of the unit with particular regard to outlook.
-

Reasons

Living Conditions

5. The proposed new unit would incorporate a majority of habitable room accommodation at a newly excavated basement level. Accordingly there would be an absence of outlook available to future occupiers from this part of the development. However, the accommodation at present comprises a very small studio unit with an extremely confined internal area. Therefore, whilst outlook from habitable areas at basement level in the proposed unit would be compromised to a significant degree, which would be far from ideal, the proposal at least offers the opportunity to increase the overall internal space available.
6. In the context of the very limited amount of living space associated with the present unit, I consider that the compromised outlook in relation to the proposed basement accommodation would be outweighed by the benefits of increasing the overall amount of physical space available and the additional comfort and convenience that would therefore be available to occupiers. My view is strengthened by the fact that a higher standard of outlook would be available from the proposed ground level accommodation. In addition the proposal would result in a significantly better looking building, whilst substantially conforming to the scale of the existing structure when viewed externally, which would benefit the character and appearance of the wider area.
7. I therefore conclude, taking into account the specific circumstances of this case, that the proposal would result in less oppressive living conditions than in the case of the existing unit. It would not therefore result in unacceptable living conditions for future occupiers of the unit with regard to outlook from the proposed basement accommodation. Accordingly the development would not be in conflict with Policy 3.5 of the London Plan 2015 and Policy DM3.4 of the Islington Development Management Policies 2013 insofar as they seek for due consideration to be given to outlook from habitable rooms.

Other Matters

8. There have been a number of further objections raised in relation to the scheme by third parties. In terms of privacy, the proposed windows would respectively overlook the adjacent railway embankment immediately to the south-east and the public footway to the north-east. Accordingly this would not lead to private residential property being overlooked to the detriment of privacy. Whilst the roof of the unit would be marginally taller than at present, any net additional impact on natural light to nearby properties would be negligible. Whilst concerns are raised regarding structural harm to adjacent buildings, and my attention has been drawn to existing damage and subsidence experienced, I have not been provided with any evidence that the proposed scheme would lead to harm in this regard. Indeed I have had regard to a report, presented in support of the proposal, compiled by a chartered structural engineer. This report concludes that the basement could be constructed with little impact on the surrounding property and environment and does not highlight any issues of concern.
9. I acknowledge that concern has been raised that the development would lead to encroachment onto or adversely affect land in the ownership of third parties.

However, I have not been provided with evidence that any issues of this nature could not be dealt with under legislation concerned with private legal rights.

10. In terms of the availability of natural light within the proposed unit the appellant has provided supporting information to demonstrate that sufficient day light will enter the unit to meet guidelines set out in the Building Research Establishment document 'Site Layout Planning for Daylight and Sunlight: A guide to good practice'. This evidence has not been specifically challenged by the parties. With regard to ventilation the drawings indicate that windows will be operated via a remote control opening mechanism. Accordingly there is no objection to the scheme in this regard.

Conditions and Conclusion

11. For the above reasons, I conclude that the appeal should succeed and planning permission be granted.
12. Conditions specifying the plans and requiring details to be agreed of the materials to be used in the external surfaces of the development are needed to safeguard the character and appearance of the area. A construction management plan is required in the interests of highway safety and to protect the living conditions of residents.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0-01; 0-03; 0-04; 0-10; 0-11; 0-12; 1-01; 1-02; 1-03 Rev A; 1-04; 1-10 Rev A; 1-11; 1-12; 1-13; 1-14.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall provide for:
 - loading and unloading of plant and materials including delivery hours;
 - storage of plant and material used in constructing the development;
 - proposed access routes for construction traffic;
 - the parking of vehicles of site operatives and visitors;

- measures to control the emission of dust and dirt during construction;
- the hours of building operations in connection with the construction of external walls and roof, erection of scaffolding, delivery and removal of materials or other external site works involving the use of plant and machinery and
- wheel washing facilities.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.