

Appeal Decision

Site visit made on 2 July 2019

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Appeal Ref: APP/C5690/W/19/3220297

89 Arbuthnot Road, London SE14 5NP

- 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 Nigel Broome against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/18/108959, dated 18 September 2018, was refused by notice dated 13 November 2018.
 - The development proposed is to construct a single storey one bedroom house attached to the basement flat.
-

Decision

1. The appeal is allowed and planning permission is granted for a single storey one bedroom house attached to the basement flat at 89 Arbuthnot Road, London SE14 5NP. The permission is granted in accordance with the terms of the application Ref DC/18/108959, dated 18 September 2018, subject to the conditions included in the Schedule at Annexe A.

Main Issues

2. The main issues are:
 - whether the proposed development would preserve or enhance the character or appearance of the Telegraph Hill Conservation Area;
 - whether the living conditions of future occupiers of the proposed dwelling would be adequate, with regard to internal space; and
 - the effect on the living conditions of occupiers of the adjoining basement flat, with regard to natural light and outlook, and on use of the shared rear garden, with regard to privacy.

Reasons

Telegraph Hill Conservation Area

3. The Telegraph Hill Conservation Area has a hillside location on the slopes of Telegraph Hill and includes a well-preserved planned development of late 19th century terraces and pairs of dwellings. The estate's original street layout remains intact and nearly all of the original 19th century dwellings survive. No 89 Arbuthnot Road is unusual in this regard in that it is a more recently built replica Victorian end-of-terrace building comprising two storeys with accommodation in the attic and basement. To the extent that it reflects the
-

largely unaltered and uniform dwellings in Arbuthnot Road and surrounding streets, No 89 makes a positive contribution to the special character and appearance of the conservation area.

4. The rear garden of No 89 is unusual in that, rather than the common linear, rectangular plot form of most dwellings in the surrounding area, the dwelling's location on a bend in the road results in a much larger than usual triangular-shaped garden. The new dwelling would be located in this area to the side of the rear part of the basement flat. Permission was granted by the Council for a similar form of building to that proposed here¹, although this involved an extension to the basement flat at No 89 rather than a separate dwelling.
5. The National Planning Policy Framework (the Framework) says that plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area². DM Policy 33 of the Council's Development Management Local Plan 2014 (DMLP) requires private back gardens to be retained in development proposals involving new separate dwellings.
6. Both main parties refer to the fact that the new dwelling would essentially maintain the same footprint and be of largely the same design and appearance as the approved extension. Aside from concerns about the principle of development in this location, the Council's other main concern is that the new dwelling's location would disrupt the perimeter form of the surrounding residential typology and would fail to provide a legible street frontage.
7. At the time of the inspection, work had begun on the construction of the approved extension and, therefore, if this appeal were to be unsuccessful, I have no reason to doubt that the appellant would continue to complete the extension as approved. As such, it represents a credible fallback that is material to my consideration of the appeal. Therefore, the built form, design and appearance of the development proposed in this case would be the same as that that is likely to be developed in any case. In terms of any different effects of a separate dwelling compared to an extension, in both cases the building would not be readily visible from the public realm; consequently, any disruption to the perimeter form would not be apparent.
8. While I accept that the dwelling would not have a legible street frontage, this is insufficient basis to conclude that there would be material harm in what is an otherwise acceptable development. For the same reasons, where there is a finding of no harm it would not be reasonable to find against the proposal on principle, particularly where the Framework's example relating to resisting inappropriate garden development concerns where such development would cause harm to the local area, which would not be the case here.
9. Accordingly, for these reasons, I conclude that the proposed development would not have a harmful effect and so would preserve the character and appearance of the Telegraph Hill Conservation Area. As such, it is not contrary to the following development plan policies: Policies 7.4 and 7.8 of The London Plan, concerning the effect of development on local character and heritage assets; Policy 15 of the Council's Core Strategy concerning design quality; and

¹ Reference DC/18/107699.

² Paragraph 70.

DM Policies 30, 32, 33 and 36 of the DMLP, which concern the effect of development on local character and heritage assets, and design quality. These policies are consistent with the Framework.

Living conditions – future occupiers

10. Policy 3.5 of The London Plan includes minimum space standards for new residential development. Policy DM 32 of the DMLP expects these standards to be applied locally. Guidance on the implementation of Policy 3.5 is included in the *Housing Supplementary Planning Guidance* (2016), which responds to national standards³.
11. The Council contends that, despite including only one bedroom, the proposed dwelling should be assessed as having two bedrooms, because the study is a habitable room that could be used as a bedroom. In this regard the Council contends that the room itself and the dwelling's overall floor area do not meet the relevant space standards.
12. The description of development applied for in this case is 'to construct a single storey one bedroom house' and this is reflected on the submitted plans, which show a double bed. As such, it is reasonable to assess the proposal on the basis of what has been applied for, which is clearly a one bedroom, two person small dwelling. I note that the appellant has reassessed the original estimate of the overall floorspace and that this now is much closer to the Council's measurement of 52.41m². In both cases, the figures exceed the minimum area of 50m² for a one bedroom two person single storey dwelling included in Policy 3.5. The bedroom itself also meets the requisite space standard.
13. Therefore, based on these findings, I conclude that the living conditions for future occupiers of the proposed dwelling would be adequate, with regard to internal space. As a result, there is no conflict with Policy 3.5 of The London Plan, Policy 15 of the Core Strategy or DM Policy 32 of the DMLP, as described above.

Living conditions – existing occupiers

14. The basement flat at No 89 includes a rear patio area and to provide access to this, glazed doors that extend across most of the width of the flat's rear elevation. The wall of the dwelling directly next to the patio area would not extend beyond the patio itself. As such, its limited depth combined with its single storey height, which would be below the level of the basement flat's roof, would not appear as dominant or overbearing from inside the flat or from the patio. Similarly, the limited scale and extent of the side wall would not materially affect the amount of natural light available through the extensive glazing that already exists to the rear of the basement flat.
15. The proposed dwelling would include a small area of garden at the rear, the rear boundary of which would be formed by an existing fence. The short area to the side between the edge of this fence and the back elevation of the dwelling would be enclosed by a two metre fence, as shown on the submitted plans. A fence of this height would provide adequate privacy and avoid mutual overlooking between the new garden and the existing communal one. The

³ Included in *Technical housing standards – nationally described space standard* (March 2015).

existing fence to the rear includes climbing plants, which will help to screen views between the two garden areas. Moreover, the communal garden on the other side of the fence is on lower ground that slopes away from the position of the new dwelling. Consequently, there would be no material harm from use of the two spaces with regard to privacy.

16. Therefore, for these reasons, I conclude that the proposed development would not have a harmful effect on the living conditions of occupiers of the adjoining basement flat, with regard to natural light and outlook; or on use of the shared rear garden, with regard to privacy. As such, there is no conflict with Policy 15 of the Core Strategy or with DM Policies 30 and 33 of the DMLP insofar as they require development to be of high design quality and to not harm the amenity of existing and future occupiers.

Other Matters

17. The Council raises additional concerns about the natural light available within the new dwelling, particularly to the bedroom due to the position of the window to the front. I note in this regard the findings of the appellant's commissioned daylight and sunlight report, which concludes that the habitable rooms meet the BRE guidance and are demonstrated to be in receipt of very high levels of natural light. This would be regarded as a high level of compliance in a dense urban environment such as this. As a result of this evidence, there is no basis to conclude that the Council's concerns on this matter will be realised.

Conditions

18. Of the Council's suggested conditions I have imposed the standard time condition and, to ensure the proper implementation of development, one requiring development to be carried out in accordance with the approved plans. It is not necessary to impose conditions as suggested specifying the materials as these are included in the application and on the plans, with which the development must conform in accordance with the permission granted.
19. There is also no requirement to limit permitted development rights, given the strict controls that exist due to the appeal site's location within a conservation area. I agree, however, that a condition is necessary to prevent use of the roof as a balcony, to avoid overlooking and loss of privacy to neighbouring occupiers.

Conclusion

20. For the reasons given above it is concluded that the appeal should succeed.

J Bell-Williamson

INSPECTOR

Annexe A

Schedule – 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: location plan, block plan, SB39.01 (floor plan) and SB39.02 (elevations).
- 3) Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the use of the flat roof on the dwelling hereby approved shall be as set out in the application and no development or the formation of any door providing access to the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area. It shall only be used in the case of essential maintenance or repair, or escape in case of emergency.

[End of Schedule]