



Appeal Decision

Site Visit made on 8 September 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2021

Appeal Ref: APP/V5570/W/21/3269092

33-34 Myddelton Street, Islington, London EC1R 1UA

- 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 Intui Non against the decision of London Borough of Islington.
 - The application Ref P2020/2227/FUL, dated 14 August 2020, was refused by notice dated 11 December 2020.
 - The development proposed is described as conversion of the ground floor and basement into 1, one-bedroom, two-person dwelling and 1, two bedroom 3 person dwelling including the reinstatement of the front lightwell and the removal of the 1980s shopfronts.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of the ground floor and basement into 1, one-bedroom, two-person dwelling and 1, two bedroom 3 person dwelling including the reinstatement of the front lightwell and the removal of the 1980s shopfronts at 33-34 Myddelton Street, Islington, London EC1R 1UA in accordance with the terms of the application, Ref P2020/2227/FUL, dated 14 August 2020, subject to the conditions contained in the attached schedule.

Preliminary Matters

2. Since the original decision The London Plan 2021 has been published by the Mayor of London. It comprises the spatial development strategy for London and is now part of the development plan. The policies replace those of The London Plan 2016 referred to in the Council's original decision. The Council have commented that Policies D3, D4, D6 and HC1 of The London Plan 2021 are those most relevant to the appeal.
3. On 20 July 2021, the Government published its revised National Planning Policy Framework ('the Framework'). It replaces the previous version published in February 2019. The Framework represents the Government's up-to-date planning policies for England and how they should be applied. I have had regard to the Framework in reaching my decision.

Main Issues

4. The main issues are whether the proposed development would 1) preserve or enhance the character and appearance of the New River Conservation Area (NRCA), and 2) provide suitable living conditions for future occupants with specific regard to levels of light and outlook.

Reasons

Character and appearance of NRCA

5. The appeal properties comprise the ground floor and basement that are part of a three-storey terrace of properties. The terrace on which they are located is locally listed and they are within the New River Conservation Area (NRCA) that is characterised by its fine terraces and squares and its predominantly residential nature.
6. The Council consider that the loss of the existing shopfront at 34 Myddelton Street would cause harm to the character and appearance of the NRCA and the locally listed building. The evidence states that an extant planning consent exists that includes the removal of the shopfront at no. 33 but retains the shopfront at no.34.
7. I observed on my site visit that the shopfront at no. 34 was in a very poor condition and appeared to be made from poor quality materials. Both parties agree that it is not an original feature, with the appellant suggesting it dates from the 1980s. For these reasons, although it matches other shopfronts on the terrace, it is not a positive feature of the NRCA or the locally listed terrace as a whole. Its retention is therefore not justified.
8. The development proposes to replicate the appearance of the frontages of nos. 29-32, incorporating railings, lightwells, timber sash windows and brick detailing. Nos. 29-32 present a handsome frontage to the terrace that is lacking in the appeal properties, despite the reference to the shopfronts in the local list. The positive characteristics of the terrace lie in its traditional form and large windows and detailing, which will be adopted in the proposed development.
9. The removal of the existing shopfront and its proposed replacement to reflect nos. 29-32 will therefore enhance the character and appearance of the NRCA and the locally listed terrace. The development therefore complies with Policies CS8 and CS9 of Islington's Core Strategy (2011), DM2.1 and DM2.3 of Islington's Local Plan: Development Management Policies (2013) and D3, D4 and HC1 of The London Plan 2021. Collectively, these policies seek to ensure that development is of a high-quality design that conserves or enhances the historic environment.
10. The development would also comply with Islington's Conservation Area Design Guidelines (2002), which for the NRCA states, amongst other things, in considering applications for refurbishment in conservation areas, the Council will normally require the use of traditional materials. For new development, materials should be sympathetic to the character of the area, in terms of form, colour, and texture.
11. It would also comply with the Islington Urban Design Guide Supplementary Planning Document (2017) which outlines, amongst other things, that development should address the qualities of the traditional building hierarchy and respect the established order and local character.

Living conditions

12. The proposed development involves the creation of two residential units with each occupying part of the ground floor and part of the basement. The main

living rooms of both units would be located on the ground floor. They would be open-plan with an outlook onto Myddelton Street at the front and the land to the back at the rear. Bedrooms to both units would be located within the basement and would make use of lightwells to provide light. Flat 1 is proposed to have two bedrooms, one at the front and one at the rear, whereas flat 2 has one bedroom at the front.

13. When taken in isolation, due to being located in the basement and close to the retaining walls, the outlook from, and levels of light to, the bedrooms would be of notably lesser quality than the ground floor. However, these rooms, although constituting habitable rooms are primarily used for sleeping, with the ground floor rooms being used for cooking, eating, relaxing and socialising. When taking into account the fact that the main living rooms of the ground floor are dual aspect and have acceptable levels of light and outlook, I find that taking the properties as a whole, there would not be unacceptable living conditions.
14. I also acknowledge the extant planning consent allows for the creation of rooms within the basement, which despite being indicated as 'playroom', 'utility' and 'utility/storage' are not precluded from being used as habitable rooms. I also observed on my site visit that similar arrangements appear to exist elsewhere on the terrace where habitable room windows are located in the basement that incorporates a lightwell. I have also given weight to the submitted Daylight Assessment¹ that concludes that all three basement level bedrooms would exceed the levels of internal daylight as set out in the Building Research Establishment (BRE) guidance.
15. Therefore, taking all the above factors into account, I consider that the proposed units would provide acceptable living conditions for future occupants. The proposed development would comply with Policy CS12 of Islington's Core Strategy (2011), Policies DM2.1, DM3.4 and DM3.5 of the Islington Council Development Management Policies (2013), Policy D6 of the London Plan (2021) and guidance contained in the Housing SPD (2016). Collectively, these policies require development proposals to provide good quality housing with a good level of amenity including consideration of, amongst other things, outlook and light.

Other Matters

16. A Unilateral Undertaking (UU) signed and dated 31 August 2021 has been submitted by the appellant. The agreement includes, amongst other things, the payment of an Affordable Housing Contribution of £120,000 and a commitment that the development shall constitute car-free development. The Council have not commented on the UU.
17. It is necessary that I consider this obligation against the three tests set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I am satisfied that the proposed contribution and commitment that the development constitute a car free development would be necessary to make the development acceptable in planning terms. Furthermore, it would be directly related, and fairly and reasonably related in scale and kind, to the development proposed. The obligation therefore meets the relevant tests. I have therefore attached weight to this contribution in reaching my decision.

¹ Ref R20028 DS 23 July 2020

Conditions

18. I have considered the suggested conditions having regard to the tests set out in paragraph 56 of the Framework. As a result, I have amended some where necessary, or for the sake of consistency or clarity.
19. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. In the interests of the character and appearance of the NRCA conditions requiring the use of matching materials, specifying the window details, and implementation of the railings, are necessary.
20. I have attached conditions requiring storage for cycles and for refuse and recycling to promote sustainable travel and to ensure suitable provision is made. In the interests of the environmental sustainability of the development, I have also included a condition to require that it takes place in accordance with measures outlined within the submitted Design, planning, construction and sustainability statement.
21. The Council have suggested a condition requiring the submission of a Construction Method Statement. Given the scale and nature of the development, that comprises largely internal works, I consider that the requirement for a statement containing the measures as outlined would be onerous and unnecessary. The reason the Council put forward for the condition is in the interests of residential amenity, and to this end I consider a condition that would limit construction hours would be sufficient.
22. The requirement that the development is 'car-free' is secured via the UU. It is therefore not necessary to impose a planning condition as suggested by the Council.

Conclusion

23. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should succeed.

A M Nilsson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Design, Planning, Construction and Sustainability Statement ref. 1925 Rev: b, 1925 33 - OS Plan Rev B, Design & Access Statement ref. 1925 Rev: A, 1925.PP.01 Rev A – Basement Plan - Proposed, 1925.PP.02 - Ground floor Plan - Proposed, 1925.PP.03 - Front Elevation AA - Proposed, 1925.PP.04 - Rear Elevation BB - Proposed, 1925.PP.05 - Section CC - Proposed, 1925.PP.06 - Section DD - Proposed, 1925.PP.07 - Front Street Elevation EE – Proposed.
- 3) The facing materials of the brickwork to the front and rear elevation hereby approved shall match the existing building in terms of colour, texture, appearance and architectural detailing and shall be maintained as such thereafter.
- 4) The new sash windows to the front and rear elevations at ground and basement level shall accurately replicate the existing windows in terms of material, profile, reveal depth and detailing. The windows shall be painted timber, double-hung sash windows without horns, with a slim profile and narrow integral glazing bars with a putty finish.
- 5) The hereby approved iron railings to the front elevation and to the rear elevation steps and railings shall be installed prior to the occupation of the hereby approved development, and shall be painted black in colour, and retained in perpetuity.
- 6) Prior to the first occupation of the hereby approved residential units, secure cycle storage shall be provided for a minimum of 3 no. cycle shall be provided for future occupiers and retained thereafter in perpetuity.
- 7) Details of refuse/recycling store(s) shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved. The refuse/recycling store (s) shall be provided strictly in accordance with the details so approved, provided/erected prior to the first occupation of the development, and maintained as such thereafter.
- 8) The sustainability measures identified within the approved Design, planning, construction and sustainability statement (Rev: b) shall be implemented in full and retained thereafter in perpetuity.
- 9) Construction works shall take place only between 0800 and 1800 on Monday to Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.

-----End of Conditions Schedule-----