

Appeal Decision

Site visit made on 9 May 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 2 June 2017

Appeal Ref: APP/X5210/W/17/3170747
166 Regents Park Road, London NW1 8XN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Daniel Parnes of Pixielink Ltd against the Council of the London Borough of Camden.
 - The application Ref 2016/2670/P, is dated 11 May 2016.
 - The development proposed is described as “providing additional office spaces at Ground Floor and Lower Ground Floor by extending existing closet extension into existing rear yard”.
-

Decision

1. The appeal is dismissed and planning permission for “providing additional office spaces at Ground Floor and Lower Ground Floor by extending existing closet extension into existing rear yard” is refused.

Procedural Matters

2. I have taken the description of development from the application form for consistency.
 3. The application reference as provided by the Council differs from that quoted by the appellant. I have used the Council’s reference as this appears to be correct.
 4. The Council has confirmed that it would have refused planning permission for the following reason:

“The Applicant has failed to demonstrate that the proposed basement development would maintain the structural stability of the building and neighbouring properties and would not adversely impact on the water environment in the local area contrary to policy CS5 (Managing the impact of growth and development) and CS13 (Tackling climate change through promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and policies DP23 (Water) and DP27 (Basements and lightwells) of the London Borough of Camden Local Development Framework Development Policies.”
 5. I have considered the appeal on this basis. I have focussed on Policies DP23 and DP27 as I consider these to be most relevant. CS5 is a more generic policy and I have not been provided with a copy of CS13.
-

Main Issue

6. The main issue is whether the development would maintain the structural stability of the building and neighbouring properties, and its effect on the water environment in the local area.

Reasons

7. The appeal property is located within a terrace of similar four storey buildings. It is within the Primrose Hill Conservation Area and the Primrose Hill Local Flood Risk Zone. The ground floor and basement are in use as offices and there is residential accommodation above. There is a small, split-level garden to the rear of the premises, which is enclosed by retaining walls.
8. The development would involve excavating the garden to extend the accommodation at lower ground floor level. In some areas the additional excavations for foundations would be to a depth of approximately 1750mm. The supporting information submitted by the appellant indicates that the proposed basement would be approximately 500mm deeper than the existing basement. Further office space would be created at ground floor level, and there would be a small terraced area. The development would have a green roof over the ground floor extension.
9. Policy DP27 of the Development Policies¹ requires developers to demonstrate that basement or other underground development would not cause harm to the built and natural environment and local amenity, and would not result in flooding or ground instability. The supporting text to the policy explains that, where a basement extension would extend beyond the footprint of the original building, the Council will require evidence, including geotechnical, structural engineering and hydrological investigations and modelling. The Council states that the information required should be submitted via a Basement Impact Assessment (BIA). Independent verification is required where issues have been identified in the BIA.
10. The BIA² submitted by the appellant included initial screening to establish whether there would be likely to be any issues resulting from the development with regard to subterranean (groundwater) flow, land stability, and surface flow and flooding. The screening exercise revealed that there are three neighbouring properties, and it is anticipated that the existing foundations to these properties are shallow relative to the raised garden terrace area. Further scoping work identified that detailed structural proposals will be required to ensure the stability of adjacent properties. Also, it is advised that foundation proposals are required. Structural scheme proposals were included with the BIA, but the appellant has declined to provide an independent verification.
11. The Council advises that a review of the BIA, carried out on its behalf, has identified several outstanding matters of concern. These matters are: a revised BIA should include evidence of review and approval of the 'surface flow and flooding elements' by appropriately qualified professionals; there should be evidence of enquiries with relevant utility companies to identify potential for underground infrastructure; long term groundwater monitoring should be undertaken; a site-specific flood risk assessment should be presented; further

¹ London Borough of Camden Local Development Framework: Development Policies 2010-2025

² Structural Engineers Report: Basement Impact Assessment and Structural Feasibility Study, dated 12 August 2016, Packman Lucas

information in relation to the ground movement assessment is required; retaining wall design calculations should be presented and; monitoring should be implemented in line with the predicted ground movements. The Council states that it has not been provided with a satisfactory response to these outstanding areas of concern.

12. The appellant contends that the development is not a basement and the Council's list of requirements is excessive. Whilst the development may be of a relatively small scale, the appellant's BIA has identified that detailed structural proposals will be required to ensure the stability of adjacent properties. This information has not been provided to a necessary level of detail to give the required assurance that the development would not result in ground instability.
13. There are also outstanding concerns in relation to surface flow and flooding. I appreciate that the existing lower ground floor of the premises may never have been subjected to flooding. Nevertheless, the site is within a local flood risk zone and, under Policy DP27, a flood risk assessment is required unless it can be demonstrated that there would be no, or minimal impact, on drainage conditions. The information submitted is not sufficient to provide this assurance.
14. I appreciate the appellant's frustration with what he considers to be onerous and unnecessary requirements. However, I am obliged to make my decision based on the evidence presented to me. Whilst I do not doubt the professional integrity of the appellant and his advisers, there is insufficient evidence to enable me to conclude that the development would not cause harm to the local environment and amenity, and would not result in flooding or ground instability.
15. I have considered whether the matter could be addressed through the use of planning conditions, as suggested by the appellant. However, it is necessary to be satisfied that the development can be completed to a satisfactory standard before permission is granted otherwise the conditions may have the effect of negating the permission. Consequently, this is not an appropriate solution.

Other Matters

16. I have considered the objections submitted by the Primrose Hill Conservation Area Advisory Committee. However, I agree with the Council's assessment that the development would preserve the character and appearance of the Conservation Area.

Conclusion

17. I find that it has not been demonstrated that the development would not cause harm to the local environment and amenity, and would not result in flooding or ground instability. Consequently, the development would not comply with Policies DP27 and DP23 of the Development Policies.
18. For the reasons given above, the appeal is dismissed and planning permission is refused.

Debbie Moore

Inspector