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Planning Statement

For the

“Erection of a ground floor rear extension”

at

**93 Fairview Road Tottenham
London N15 6TT**

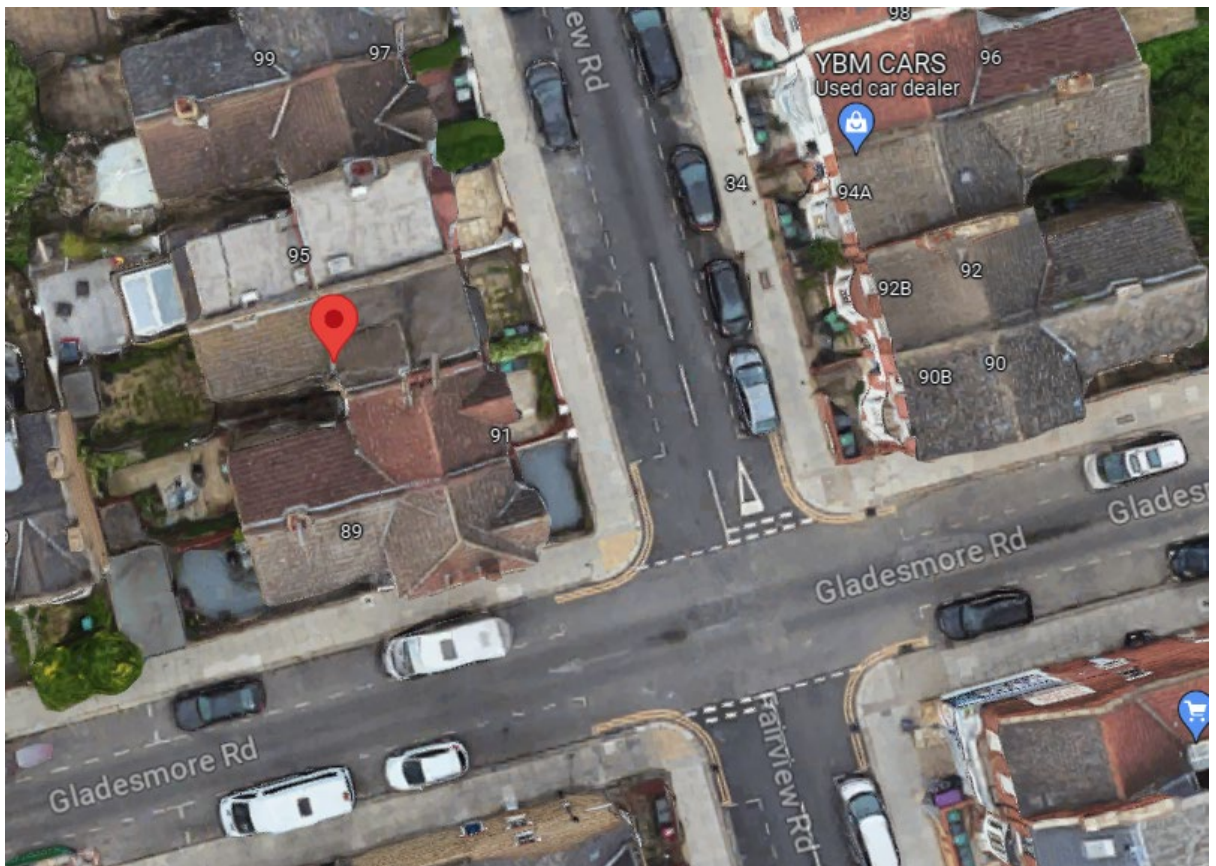
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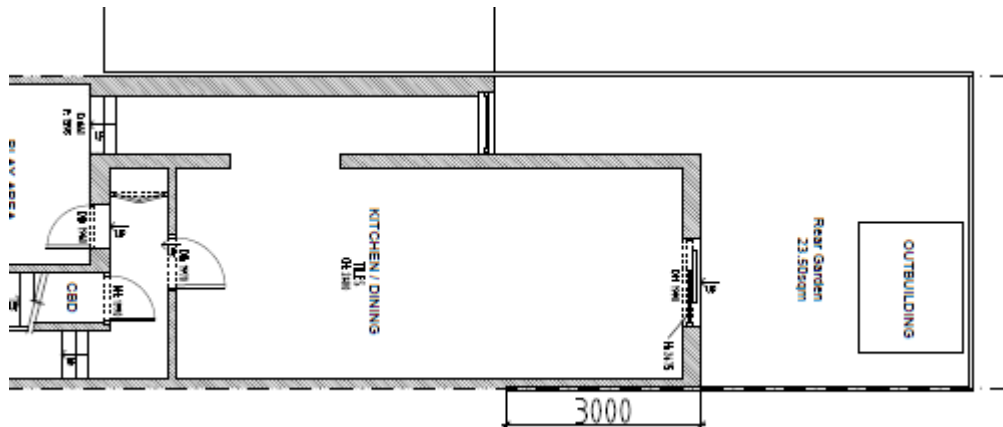
Site Description:

1. The site sites on the western side of Fairview Road at No.93. See figure above.

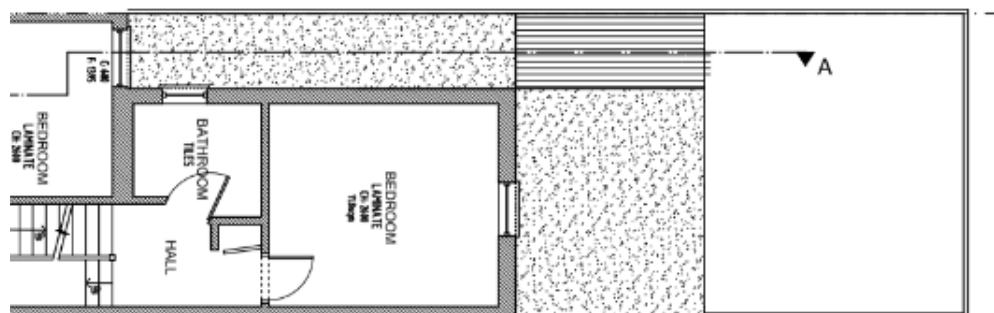
2. The property itself is not statutorily or locally listed, and is not located within a conservation area.

Introduction and Planning History:

3. This is an application for the erection of a ground floor extension.
4. This application follows a recent prior approval. On 22/2/2023, under planning Ref: HGY/2023/0069, prior approval was granted for the Erection of single storey extension which extends beyond the rear wall of the original house by 6m, for which the maximum height would be 3m and for which the height of the eaves would be 3m. This prior approval scheme has been implemented.
5. In addition to the prior approval scheme, a 3m extension was erected beyond the outrigger pursuant to Class A of the GPDO.
6. This proposal seeks planning permission for what will effectively be an infill to the approved scheme. See below.



Prior Approval



Proposal

The Proposal

7. It is proposed to erect a ground floor extension to the same depth as per the 3m permitted development scheme. It is proposed to reduce the height of the extension on the boundary so to avoid any possibly negative effects on neighbouring amenity.
8. A Sukkah roof is also proposed.

Material Consideration and the Fall-Back

9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states, *"if regards is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.
10. Section 70 of The Town and Country Planning Act 1990 - Determination of applications: general considerations - was amended by the Localism Act 2011 to state as follows,
 - (2) *In dealing with such an application the authority shall have regard to—*
 - (a) *the provisions of the development plan, so far as material to the application,*
 - (b) *any local finance considerations, so far as material to the application,*
 - and*
 - (c) *any other material considerations.*

Relevant Case Law

11. In *Mansell (Mansell v Tonbridge and Malling BC)* Planning permission was granted for the demolition of a barn and the construction of four detached dwellinghouses. The permission was clearly in conflict with the development plan, however, the council relied on the fallback position given that Class Q of the GPDO allowed for the change of use of the barn to use as a dwellinghouse.
12. A challenge was brought against the LPA by a member of the public claiming that the LPA should not have relied on the fallback position. The claimant argued that the LPA had no right to rely on PD rights as a fallback position where there was no evidence that the developer would report to such development. There would have to be a 'real prospect' of such a development being carried out. There must be "a finding of

actually intended use as opposed to a mere legal or theoretical entitlement" the claimant argued.

13. The Court of Appeal disagreed and held that for there to be a real prospect, it does not have to be probable or likely, 'a possibility will suffice'. How much will be needed to clarify that possibility may be a planning judgement, however, in that case, it was plainly appropriate, indeed necessary, for the LPA to have taken into account the PD rights available. "Not to have done so would have been a failure to have regard to a material consideration, and thus an error of law". At para 27(3) the court included where the developer had said precisely that he would make use of the PD rights.
14. The Court of Appeal endorsed Sullivan L.J's passage in *Samuel Smith Old Brewery v SOS* (2009), "*For a prospect to be a real prospect, it does not have to be probable or likely; a possibility will suffice*". The court of appeal also held that a scheme that would need a planning application made but which would probably be granted also falls to be considered as a fallback where there is a real prospect of that happening. The court of appeal further held, that where it is clear that the applicant intends to achieve the maximum of his land, it is not necessary for the applicant to have had made the necessary applications, or to have provided clear indications as to what exactly he would do should the subject planning application be refused.
15. Turning to this case, it is beyond doubt that the prior approval scheme will shortly be built out, and the developer would then apply to infill the area. It is highly likely that planning permission will be granted especially given the reduced height on the boundary. Therefore, the prior approval forms a material consideration for this application.
16. There is no doubt that it is well worthwhile for the developer to build out the prior approval in its entirety and to then apply for planning permission for the infill area and then open up the internal wall. The developer would then have the enjoyment of the large extension for many years to come. The developer has indeed gone through the troubles of submitting a prior notification in order to achieve prior approval.
17. The purpose of this planning application applying for the ground floor in its entirety, is in order to save going through the process of building the

structure in stages, by first building the prior approval and then applying for the infill part. For the fallback position to be of effect, it would suffice to achieve prior approval. There is no need to erect even a part of it.

Proposal Description

18.The description given is the 'Erection of a ground floor rear extension'.

Plans

19.Existing and Proposed Plans are provided. Given the retrospective nature of the application, the existing and proposed plans are the same and in one set. The plans include, Floor, Section, Roof and Elevation Plans.

20.The plans are numbered FR.93.EX.PR.SP – Site Plan, FR.93.EX.01-02 - Existing Plans, and FR.93.PR.01-02 Proposed Plans.

21.A location Plan and Planning Statement is also included in the application bundle together with the CIL additional information form.

Conclusion

22.The development is in no way contentious and planning permission should be granted for the stated development.