

Appeal Decision

Site visit made on 18 October 2016

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 3 November 2016

Appeal Ref: APP/V5570/W/16/3155179

265 Upper Street, Islington, London N1 2UQ

- 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 Cemal Albay against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/0631/FUL, dated 1 February 2016, was refused by notice dated 13 April 2016.
 - The development proposed is a first floor rear extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Upper Street North Conservation Area; and
 - The effect of the proposed development on the living conditions of occupiers of neighbouring properties at Nos 265 and 266, with particular reference to outlook and sunlight / daylight.

Reasons

Character and Appearance

3. The proposed first floor extension would be located on the rear elevation of 265 Upper Street. The appeal property is a four storey-over-basement mid-terrace building and, typical of the adjoining frontage, has commercial use at ground floor, with residential above.
 4. At the rear of the terrace the butterfly roofs of the main buildings are clearly evident, forming a distinctive rhythm along the terrace. Although there is some variety in the form and scale of rear extensions along the terrace, the prevailing form is that of substantial three storey-over-basement outriggers. Some, as at No 265, are single outriggers. Others, such as at Nos 263 and 264, are paired together. The result however is a clearly identifiable, solid / void pattern of development at first floor level and above that runs along the rear of the block and, turning the corner, onto Canonbury Lane.
 5. The proposed first floor extension would add to an existing ground floor-with-basement outrigger. The existing dual-pitched roof would be removed and the extension built up to first floor level with a lean-to roof broadly similar to that
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which already exists at the rear of No 264. Whilst there would be subtle differences between the two, the proposal would, broadly, replicate that at No 264 as a mirror image, the lean-to roof creating a shallower version of the butterfly roofs found elsewhere along the terrace.

6. However, the example at No 264 appears to be inset from its boundary with No 263, and is also set off the rear face of the outrigger wall. The appeal proposal, by contrast, would extend the full width of the plot, and would be attached to the rear elevation of the outrigger of the host building. In so doing, an existing first floor window would be covered by the extension which, being wider than the outrigger, would also extend beyond the outrigger's flank wall return.
7. Policy DM2.1 of Islington's Local Plan: Development Management Policies (the DMP) states that all forms of development are required to be of high quality and make a positive contribution to local character and distinctiveness. Amongst other matters, development proposals are required to respect and respond positively to existing buildings, the streetscape and distinctive patterns of development whilst addressing matters such as urban built form, building lines and massing that contribute to its character as a place.
8. Islington's Conservation Area Design Guidelines (the CADG) for the Angel and Upper Street North Conservation Areas state that full width rear extensions higher than one storey will not normally be permitted unless it can be shown that no harm would be caused to the character of the area. It goes on to state that in order to preserve the scale and integrity of existing buildings, it is important that rear extensions are subordinate to the mass and height of the main building, and are in keeping with the existing property.
9. The proposed extension would introduce a box-like form at the rear of the appeal property. By replicating the similar lines of the extension at the rear of No 264, the proposal would accrue an undue degree of significance within the streetscene as a result of its pairing with that structure. Whilst it would terminate well below the height of the outrigger and main building, the incongruous nature and form of the extension, and its relationship with the main building and outrigger, would make it a significant and jarring element at the rear of the terrace. The proposal would fail to respond positively to the existing building and locally distinctive patterns of development evident along the rear of this particular part of Upper Street, eroding the distinctive character and rhythm created by the solid / void pattern of outriggers along the terrace.
10. Thus, for the reasons set out, the proposal would have a harmful effect on the character and appearance of the host building and the surrounding area. As such, it would fail to respond adequately to the guidelines set out in the CADG and would not achieve the high quality design required by DMP policy DM2.1 or by London Plan policies 7.4 or 7.6. Although not visible from public vantage points, it would be visible from the upper floors and rears of properties on Canonbury Lane and Tyndale Terrace, and elsewhere along Upper Street. However, the lack of public views is no basis for allowing the appeal proposal given the harm that it would cause to the character and appearance of the appeal property and the surrounding area.
11. In finding harm to the character and appearance of the host building and the surrounding area, I also conclude that the proposal would cause harm to, and therefore fail to preserve or enhance the character or appearance of, the Upper

Street North Conservation Area. This would be contrary to DMP policy DM2.3, Policies CS8 and CS9 of Islington's Core Strategy (the CS) and London Plan policy 7.8. In the parlance of the National Planning Policy Framework (the Framework), I find this harm to be less than substantial. However, in accordance with the provisions of the Framework any harm should require clear and convincing justification and should be weighed against the public benefits of the proposal.

12. The proposal would allow the kitchen to be relocated from the basement to the extended first floor, and enlarged. It is also stated that the form of the extension would balance that of the structure at the rear of No 264 in a manner that would follow the, now lapsed, previous approval at No 265. However, I find that the public benefits arising from the proposal would be minimal and would not be sufficient to outweigh the harm identified above. The proposal would also therefore fail to accord with national policy in this respect.

Living Conditions

13. Unlike the outwardly similar extension at the rear of No 264, the proposed extension in this instance would occupy the full width of the plot. Although slightly shorter in overall projection than that at No 264, the proposed extension's flank wall would introduce a substantial, continuous built structure between Nos 265 and 266.
14. The window in the first floor flat at No 266 closest to the proposed extension serves a kitchen window. That window is set back behind the rear face of the outrigger at No 265, and at a lower level. With a depth of approximately 7.5 metres, the extension would have a significant effect on the outlook from that window and, to a lesser extent, from the bedroom window of that flat, together creating a noticeable and significant sense of enclosure at the rear of No 266. This would be contrary to DMP policy DM2.1 which, in seeking to achieve a high standard of design and providing a good level of amenity, requires amongst other things, consideration of overshadowing, direct sunlight and daylight, over-dominance, sense of enclosure and outlook. Whilst CS policies CS8 and CS9, and London Plan policy 7.4, are quoted in the second reason for refusal, I find that their provisions do not directly relate to an assessment of the effect of the proposal upon living conditions. I therefore attach limited weight to their provisions in this respect.
15. The aspect from the rear of No 266 to the southeast and south is relatively open within the rear garden block and so levels of light generally would not, in my judgement, be materially affected by the proposal. Due to the siting of the proposed extension to the north of No 266, the path of the sun's movement would be such that I conclude that the extension would not result in direct overshadowing or loss of sunlight to the rear of the neighbouring property. Whilst the proposal would entail the blocking up of an existing first floor window on the rear face of No 265's outrigger, I cannot be certain of the effect that this would have on the occupiers of the first floor unit that that window serves. As I have already found harm in respect of living conditions in terms of the effect upon occupiers of No 266, and in terms of the character and appearance of the host property and the surrounding area, this matter has not been decisive in this instance.
16. The three windows proposed on the south facing flank wall of the extension would afford views back towards the rear of No 266, and particularly the first

floor flat, across a relatively short distance, albeit at an oblique angle, giving rise to concerns about overlooking of and loss of privacy for occupiers of No 266. Whilst these concerns could be adequately mitigated against by the use of a condition requiring the windows to be obscurely glazed, non-opening, units, such an approach would not be sufficient outweigh the harm to living conditions that I have identified above in terms of outlook and sense of enclosure.

Other Matters

17. Whilst the internal layout may differ slightly, planning permission was granted in 2012 for an otherwise externally identical first floor extension at the rear of No 265 to that for which permission is now sought. However, that permission was not implemented and it has now lapsed. Furthermore, I am advised that, in the intervening period, the Council has adopted the DMP and I have therefore considered the current proposal against the provisions of the development plan as it now exists. For these reasons, it cannot provide a fall-back position and I attach limited weight to this matter.

Conclusion

18. For the reasons set out, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR