

Appeal Decision

Site visit made on 17 May 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 28 June 2017

Appeal Ref: APP/V5570/W/17/3169887

161 Caledonian Road, Islington, London, N1 0SL

- 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 Clockwork Retail Limited against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/3022/FUL, dated 28 July 2016, was refused by notice dated 24 November 2016.
 - The development proposed is described as *"The proposal looks to transform an empty and underused yard to the rear of the commercial premises at 161 Caledonian Road into a high quality, energy-efficient, and spatially sensitive three-bedroom house (change of use: class A1 shops to class C3 dwellinghouses). The new building can be likened to a garden pavilion, subserviently pushed back away from the rear of the terrace and hunkered into the ground. The space between is transformed into a generous courtyard garden, to be shared with the tenants of 161 Caledonian Road above. The massing of the building is kept low and modest so as to have minimum impact on the neighbouring properties, and works with the existing stepping levels of the site, to avoid the need for any basement excavation or structural underpinning. The frontage onto Edward Square park at the rear is radically improved with a privacy screen artwork perforated with the pattern of dappled leaves, replacing the existing chain link fence. Large rounded apertures at each end of the building frame the view between the trees in the park and the courtyard garden, and a green roof forms a verdant canopy over the space between"*.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the building and whether it would preserve or enhance the character or appearance of the Barnsbury Conservation Area (CA), having regard to the effect on the existing tree in Edward Square;
 - Whether the dwelling would provide appropriate living conditions for future occupiers, with particular regard to privacy, outlook, daylight and sunlight, provision of private garden space and access and internal circulation;
 - The effect of the provision of a dwelling on the living conditions of the occupiers of existing dwellings, with particular regard to provision of garden space and outlook.
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Reasons

Conservation Area

3. Amongst other things Development Management Policy (DMP) DM2.3 requires new development and alterations to existing buildings in conservation areas to conserve or enhance their significance. Paragraph 132 of the National Planning Policy Framework (The Framework) sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
4. No 161 Caledonian Road is described as a four storey terraced building located in the CA (a designated heritage asset) which is characterised by residential development. The Conservation Area Design Guidelines (CADG) identifies that it contains squares and terraces and that the mature trees and planting enhance the area. The shopping frontage along Caledonian Road is identified as providing local services and contributing to the character of the area.
5. The appeal scheme has been designed as a split level building. The appellants describe the building as being like a 'garden pavilion'. It would be positioned away from the rear of the terrace. The height would change as it would work with the existing split level of the site. It would utilise a white render finish and a new screen would be placed adjacent to Edward Square.
6. The appellants submit that backland development already forms part of the context of the area with large structure being in place at Nos 159 and 163. However, the Council's statement clarifies that in most cases any buildings at the rear have been in place for some time. As such development in depth is not a characteristic of the CA. In this respect I note that the Islington Urban Design Guide (UDG) identifies that backland developments are usually only justifiable where they are replacing existing buildings or structures and would be subservient to the surrounding development. This would not be the case here as the proposal involves a sizeable new building in the rear garden that, whilst it may be comparable in height to the additions at Nos 159 and 163, would seriously compromise the prevailing open character and distinctive spaciousness of this part of the CA. This is something that the provision of a new boundary treatment or set back from the main building would not change.
7. The site has a boundary with Edward Square. This is an area of public open space that the map within the CADG shows as sitting adjacent to the CA. Within the square there are a number of trees. There is a group of trees that sit close to the rear boundaries with the existing properties in Caledonian Road. The trees are visible from within the rear areas of Caledonian Road and Edward Square itself. As such, whilst not covered by a tree preservation order, they contribute significantly to the character of the area and view into and across the CA.
8. The tree closest to the appeal site would remain if the development were to go ahead. The information provided on the plans does not clearly show the crown spread and root protection areas of the tree. Furthermore there is no information from a suitably qualified person regarding the condition of the tree. The built form of the new house would be close to the tree, the Council estimate about 3 metres. Further there may be construction impacts that require consideration. In the absence of this information I cannot conclude that the construction or the occupation of the dwelling would not harm a tree

which makes a positive contribution to the character and appearance of the area.

9. I recognise that the proposals would create a new dwelling that would be a sustainable design and contribute to housing stock, attract new investment and construction and make use of a vacant site in an urban area. However, with paragraph 134 of the Framework in mind, I am not persuaded that those considerations equate to the public benefits necessary to outweigh the harm that I have identified, or that the works are necessary to secure optimum viable use of the existing property.
10. I therefore conclude that the proposal would not preserve or enhance the character or appearance of the CA, having regard to the effect on the existing tree in Edward Square. It would therefore conflict with Policy DM2.3 of the DMP, Policy 7.8 of the London Plan (LP), the CADG and the UDG which, amongst other things, seek to conserve and enhance the Borough's heritage assets and encourage development that makes a positive contribution to local character and distinctiveness. It would also conflict with The Framework.

Living Conditions of Future Occupiers

11. The appellants suggest that the third bedroom has been designed to be mainly used as an office. Nevertheless it would be capable of being used as a bedroom. I have considered the scheme on this basis. The Council has referred me to the relevant policies for the provision of outdoor space. It suggests that 30 square metres should be provided for a three bedroom family sized dwelling and that new residential units should be dual aspect.
12. The main living accommodation in the new dwelling would be at ground floor level with the bedrooms at the lower floor level. Bedrooms 2 and 3 would have windows provided at varying levels and sizes. However, the submission sets out that a new fence would be provided on the boundary with Edward Square. This would be in close proximity to the windows for the bedrooms. This would limit both light and outlook for these rooms.
13. The appellants now propose to restrict the use of the new courtyard area to use solely by the occupants of the new dwelling. This is on the basis that the occupants of the existing dwellings would already have access to ample outdoor space in the form of terrace areas. It is submitted that this could be controlled by condition.
14. I was able to see on site that the existing flats do have access to terrace areas. Indeed the existing garden did not appear to be in any meaningful use. I appreciate that this in itself does not justify the appeal scheme. Nevertheless it suggests that the sole use of the courtyard area by the new dwelling would not be an unreasonable approach. In this regard it would meet the requirements of the Council's policy for the provision of outdoor space.
15. The final issue raised in the decision relates to the ability of the new dwelling to be flexible and adaptable. Specifically that the accesses to the dwelling would not be wide enough for a wheelchair and that the access ramp would be too steep. The appellant suggests that changes could be made to the scheme to allow the dwelling to meet the requirements. This may be the case but it remains that the scheme as submitted would not be accessible and therefore not flexible or capable of use by all.

16. I have accepted that the provision of outdoor space could be made. However I have found harm to living conditions of future occupiers with regard to outlook and light along with the accessibility of the dwelling. I therefore conclude that the scheme would not provide appropriate living conditions for future occupiers, with particular regard to privacy, outlook, daylight and sunlight, and access and internal circulation. It would be in conflict with DMP policies DM2.1, DM3.4, DM3.5, London Plan Housing SPG and Accessible Housing in Islington SPD which amongst other things require all new development to be of a high quality, incorporate inclusive design, respect and respond positively to existing buildings, consider sunlight and daylight and provide places that are convenient and easy to use by all.

Living Conditions of Existing Occupiers

17. The provision of the new building would create a separation of about 8m between the rear of No 161 and its front elevation. The plans indicate that the first two floors of No 161 are in commercial use with residential uses above. In particular these properties have rear facing windows and one has a rear roof terrace.
18. I appreciate that the design of the building would provide the existing dwellings with indoor bike storage and a storage cupboard, improve the quality of the outdoor areas and would make use of the existing level changes to try and minimise the impacts. In this regard its position would not lead to direct overlooking of the windows of the residential floors. In addition even though they would be in close proximity the windows of the residential floors would in effect look down toward the new building. As a result, in spite of its proximity the building would not appear overbearing. However, the window to serve the kitchen diner area would be substantial in size. It would be closer to the existing roof terrace than the rear elevation of the building. Therefore I consider that it is likely that there would be views between this window and the roof terrace.
19. Therefore whilst I do not consider there would be harm to outlook or loss of privacy to windows I do consider that there would be loss of privacy to the existing roof terrace of the first floor flat at No 161. As such the proposal would harm the living conditions of existing occupiers. It would be in conflict with Policies DM2.1 of the DMP and 7.6 of the LP which, amongst other things, require that development proposals do not cause unacceptable harm to surrounding residential buildings and consider the impact between developments in relation to privacy and overshadowing. The proposal would also conflict with one of the core principles in The Framework that requires new development to secure a good standard of amenity for existing and future occupants of land and buildings.

Other matters

20. Whilst not a reason for refusal the Council has raised the absence of a unilateral undertaking for the provision of affordable housing. As I am dismissing the appeal for other reasons I have not pursued this matter with the parties.

Conclusion

21. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR