
Appeal Decisions

Site visit made on 29 June 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 30 August 2017

Appeal A - Appeal Ref: APP/V5570/W/17/3172771 43 Amwell Street, Islington, London EC1R 1UR

- 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 Alain Head against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/4551/FUL dated 19 November 2016, was refused by notice dated 6 February 2017.
 - The development proposed is construction of a one bedroom house.
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Appeal B - Appeal Ref: APP/V5570/Y/17/3172775 43 Amwell Street, Islington, London EC1R 1UR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Alain Head against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/4655/LBC, dated 19 November 2016, was refused by notice dated 6 February 2017.
 - The works proposed are construction of a one bedroom house.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. In the light of the Council's concerns, the appellant has submitted amended plans (P 204A, P 206A, P 207A, P 209A, P 211A, P 213A, and P 215A) to address some of the issues raised. However, the plans which were submitted with the applications have formed the basis of my consideration of the appeal.
4. I have also taken into account the Unilateral Undertaking which addresses such matters as affordable housing, carbon offsetting and the replacement of the tree.
5. In the interests of conciseness and clarity, I have dealt with both appeals together in my reasoning.

Main Issues

6. The main issues are:

- The effect of the proposal on the special interest, including the setting of 43 Amwell Street and neighbouring buildings which are listed grade II and whether the character and appearance of the New River Conservation Area would be preserved and enhanced, including the effect on the walnut tree, and;
- Whether the development would provide adequate living conditions for future occupiers, with particular regard to outlook and outdoor space.

Reasons

Listed building and conservation area

7. 43 Amwell Street is a grade II listed building which forms part of a terrace of similar townhouses on the west side of the street. Dating from 1824, it is three storeys high with a basement, and is built of yellow stock brick. No 43 and the neighbouring listed buildings are attractive examples of modest townhouses of their period, which appear to be relatively unaltered since they were built. As a result, their original form and dimensions, and in many cases, those of the rear plots, remain apparent. These factors contribute to the significance of the buildings. Soley Chapel is also a grade II listed building whose significance also derives from its largely unaltered external appearance and its contribution to the understanding of the complex of buildings that comprised the House of Retreat.
8. Soley Mews, which is located to the rear of the appeal site, originally served the larger properties which encompass it, and it is subservient to them in terms of scale, design and appearance. It is characterised by a mixture of modern garages, brick walling, and more recently installed fencing. Whilst the more modern elements have detracted from the physical appearance of the mews, its historic form and layout remain clearly legible, and its functional relationship to the surrounding buildings largely continues to the present day. These attributes contribute positively to the significance of the New River Conservation Area (CA), and collectively to the setting of the listed buildings.
9. Although small, the garden to the appeal property provides a degree of spaciousness within a densely built up area, as do the other gardens on this side of Amwell Street. It represents the private leisure area for the occupants of the townhouse, and is thus indicative of its status. The garden thus contributes positively to the setting of No 43 and the neighbouring listed buildings in terms of its spatial qualities. It also contributes to the understanding of the historic layout of the terrace and the functional interrelation between the garden and the main house.
10. The appeal site also contains a walnut tree which was planted by the appellant in 1982. The tree is located in the south-west corner of the garden, and its canopy overhangs the boundary wall. It is an attractive specimen which is visible along Soley Mews. As with the other trees in the vicinity, it contributes to the tranquillity of the mews, and softens the appearance of the area and the spaces between the buildings, and thereby contributes to the character and appearance of the CA.
11. The proposed new dwelling would broadly reflect the footprints of the nearby garages, and their positions at the ends of the gardens. However, it would introduce a principal dwelling within an area that is defined by ancillary

- structures. It would thus be at odds with the prevailing historic pattern of development in the area, whereby the principal elevations of the houses face directly onto the street, rather than a secondary space. It would also harm its significance as a service space, and as a result, the character and appearance of the CA would be unacceptably harmed by the development.
12. By truncating the garden, the development would significantly reduce the sense of space at the rear of No 43 and the surrounding listed buildings, which would materially harm their settings. The proposal would introduce an active frontage where none currently exists, and so would be at odds with its surroundings. It would also detract from the legibility of No 43 as a principal dwelling, and its historic relationship to its private, secondary space to the rear, thus harming its special interest.
 13. I accept that the tree is in a position that is largely hidden from public view. Nonetheless, it makes a positive contribution to the CA, and conversely, its removal would be unacceptably harmful to the character and appearance of the CA. I note the appellant's willingness to make a financial contribution towards the planting of a replacement tree in a different area. Whilst it is stated that such a tree could be appreciated by more people, there is little evidence before me that that would be the case. Moreover, it would not mitigate the harm to the CA that would arise from the removal of the tree.
 14. I am mindful that planning permission has been granted for the conversion of Soley Chapel to residential use. However, it is clear from the evidence that the chapel was not historically accessed via the mews, and that it was part of the group of buildings called the House of Retreat, which did not have any relationship to the mews. For those reasons, I am satisfied that that case does not offer a direct parallel to the appeal scheme before me.
 15. The appellant argues that buildings were expected to be developed within the mews, and it appears that there has been some variety in the sizes and styles of buildings that have been accommodated here over the years. However, by virtue of its pitched roof, the proposal would be substantially taller and more prominent than the surrounding garages, and so would appear incongruous and would harm the character and appearance of the CA, and the setting of the listed buildings.
 16. Accordingly, overall, the proposal conflicts with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight, and with the National Planning Policy Framework (the Framework). Paragraph 132 of the Framework confirms that significance can be harmed or lost through development within the setting of a heritage asset. In addition, it would fail to comply with Policy CS9 of Islington's Core Strategy (CS), which seeks to protect and enhance Islington's historic environment, and Policy DM2.1 of Islington's Local Plan: Development Management Policies (DMP), insofar as it requires all development to make a positive contribution to the local character and distinctiveness of an area, based upon an understanding and evaluation of its defining characteristics. It would also conflict with DMP Policy DM2.3, whose aim is to conserve and enhance the historic environment, and DMP Policy DM6.5, insofar as it seeks to protect trees within conservation areas.
 17. The proposal would be at odds with the Council's document entitled 'Islington's Conservation Area Design Guidelines – New River (CA2)', whose aim is to

ensure the protection and enhancement of the CA. I therefore find that the duty to at least preserve the character and appearance of the conservation area would not be satisfied.

18. Although serious, the harm to the heritage assets in this case would be less than substantial, within the meaning of the term in paragraph 133 of the Framework. Paragraph 134 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
19. The appellant argues that the proposal would improve the setting of Soley Chapel. From wider views further to the north, the setting of the chapel would remain largely as it is now. However, as I have found that, at closer range, the development would be an incongruous addition in this location, it would therefore detract from the setting of Soley Chapel.
20. The appellant also states that the proposal would return the garden of No 43 to its original length. However, this circumstance would not be readily discernible, and so would not give any meaningful heritage benefit to the listed building. I have taken into account the personal circumstances of the appellant, who wishes to stay in the area, whilst having the facility to move into a smaller dwelling. However, this is a private benefit that would not outweigh the harm I have identified.
21. I note that the new dwelling would incorporate sustainable features, for example, ground source heat pump heating, super-insulation and a heat recovery ventilation system. The provision of a new dwelling to the housing supply and the offer to replace the tree would represent public benefits which are to be given weight, however modest. Paragraph 132 of the Framework states that great weight should be given to the conservation of a designated heritage asset and any harm requires clear and convincing justification. Drawing all the above factors together, the combined public benefits do not outweigh the harm I have identified to the heritage assets.

Living conditions

22. The new dwelling would have a single aspect to the west into the mews. DMP Policy DM3.4 sets out standards for housing developments, and states that new units are required to provide dual aspect accommodation, unless exceptional circumstances can be demonstrated. For sites where dual aspect dwellings are demonstrated to be impossible or unfavourable, the design must demonstrate how a good level of natural ventilation and daylight will be provided for each habitable room.
23. On the upper level, the living room kitchen would have a glazed screen enabling outlook through the winter garden towards the mews. However, if the winter garden were to be occupied with planting, as intended, this would serve to increase the sense of enclosure within the main living space. The only other source of natural light would be from two small rooflights set into the back slope. The bedroom would be situated below the ground level. Again, it would have a glazed screen to the west, but the light would be borrowed from the winter garden, and the outlook would be significantly limited. As a result, there would be an unacceptable sense of enclosure and confinement for future occupants within the new dwelling.

24. Due to the constraints of the site, no outdoor space would be available for the new unit. The winter garden would be provided instead. The Council argues that this space would be largely enclosed, and would be more akin to a conservatory. Although this would appear to meet the definition of a 'winter garden', which is described in the text of DMP Policy DM3.5 as 'glazed' and 'ventilated', I share the Council's concerns about the quality of the space, as it would be located immediately adjacent to the mews.
25. Whilst I accept that the level of footfall in the mews is likely to be low, it is nonetheless the only access to the dwelling at Soley Chapel. I noted on my visit that the entrance to the chapel building is directly opposite the appeal site. I am therefore concerned that the privacy of the winter garden would be unduly compromised by the proximity of the adjacent dwelling, in the absence of any defensible space, or any means of screening.
26. Drawing these factors together, I conclude that the proposal would unacceptably fail to provide adequate living conditions for future occupiers, contrary to DMP Policy DM3.4, and DMP Policy DM3.5, which requires good quality private outdoor space.
27. The Council is also concerned that the split level configuration of the accommodation would fail to comply with building regulations under 'Approved Document M - Access to and use of buildings'. However, this matter relates to a separate regulatory regime, and consequently it carries limited relevance to the planning merits of the case.

Other matters

28. I have had regard to the representations in support of the proposal, but these have not led me to a different conclusion.
29. Finally, as I am dismissing both appeals on other grounds, I have not assessed the UU against the relevant tests set out in the CIL Regulations and the Framework.

Conclusion

30. For the reasons above, I conclude that both appeals should be dismissed.

Elaine Gray

INSPECTOR