



Appeal Decisions

Site visit made on 24 April 2018

by **D E Morden MRTPI**

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

Decision date: 23 July 2018

Appeal A: APP/V5570/W/17/3181499

293 Liverpool Road, Barnsbury, London, N1 1NF

- 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 T Baines & Mr B Bonnardel against the decision of the Council of the London Borough of Islington.
- The application Ref P2017/0923/FUL, dated 2 March 2017, was refused by notice dated 7 June 2017.
- The development proposed is as follows: - (1) Construct a new mansard roof extension. (2) Construct an additional floor on the existing two floor rear extension. (3) Reconstruct the front wall where it has bowed at first floor level. (4) Replace the existing metal windows at rear first floor and at basement level with timber sash windows and install a glazed timber door in the basement. (5) Replace the asphalt front steps with stone steps. (6) Rebuild the front garden railings and dwarf wall and provide a new gate. (7) Reconstruct the retaining wall to the light well to the rear kitchen window and construct new steps to the garden. (8) Reconstruct the retaining wall to the front garden to provide a larger light well at the front of the house. (9) Provide new panel doors to replace existing internal doors. (10) Form new internal partitions to enclose shower room.

Summary of Decision: The appeal is allowed in part and dismissed in part as detailed in the Formal Decision at paragraph 29 below.

Appeal B: APP/V5570/Y/17/3181500

293 Liverpool Road, Barnsbury, London, N1 1NF

- 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 T Baines & Mr B Bonnardel against the decision of the Council of the London Borough of Islington.
- The application Ref P2017/1058/LBC, dated 2 March 2017, was refused by notice dated 7 June 2017.
- The works proposed are as follows:- (1) Construct a new mansard roof extension. (2) Construct an additional floor on the existing two floor rear extension. (3) Reconstruct the front wall where it has bowed at first floor level. (4) Replace the existing metal windows at rear first floor and at basement level with timber sash windows and install a glazed timber door in the basement. (5) Replace the asphalt front steps with stone steps. (6) Rebuild the front garden railings and dwarf wall and provide new gate. (7) Reconstruct the retaining wall to the light well to rear kitchen window and construct new steps to the garden. (8) Reconstruct the retaining wall to the front garden to provide a larger light well at the front of the house. (9) Provide new panel doors to replace existing internal doors. (10) Form new internal partitions to enclose shower room.

Summary of Decision: The appeal is allowed in part and dismissed in part as detailed in the Formal Decision at paragraph 30 below.

Preliminary matters

1. A number of elements of the proposal were withdrawn and/or amended by the appellants before the Council considered the application. Also there were a number of elements which, although shown on the plan, were not included in the descriptions on the application forms. Following correspondence with the parties a table is included as an Appendix to this decision that sets out the full details of what was applied for and which elements remain for determination (both for planning permission and for listed building consent (LBC) as some require both permissions and some only require LBC).
2. In summary what remains for me to determine after withdrawals of some items are firstly, items for which both planning permission and LBC are sought (Appeals A and B) and they are as follows: - 1, 5, 16, 20 and 22. Secondly there are items for which just LBC is sought (Appeal B) and they are as follows: - 4A, 4B, 4C, 4D, 9, 11, 12, 13, 14, 17, 18, 19, 21, and 23. The full details of all these elements are set out in the Appendix to these decisions.
3. The Council withdrew its third reason for refusal on Appeal B as this element of the proposals (formation of en-suite shower room in Bedroom 1) was withdrawn before the application was determined. Confirmation of the withdrawal of this reason for refusal was sent to the appellants about a week after the decision was issued. The second reason for refusal on Appeal B concerned the lack of a structural method statement concerning the rebuilding of the front wall at first floor level and the inability to fully assess, therefore, the impact of the proposed rebuilding. Since the refusal of the applications that element of the proposed works has also been withdrawn so there is no need for me to consider that matter.
4. In post site visit correspondence the Council noted that the tree in the front garden was not shown to be retained. In the original scheme, which included quite a number of alterations to the front garden planted area and light well area of the property at ground floor and basement levels, it was proposed that the existing tree would be removed and a new one planted. Those works were then deleted and Revision B and C plans showed the existing tree retained but that note does not appear on Revision D (the current plan and the one before me at this appeal).
5. The tree, if the Council considers it is important in the street scene, should be protected by a tree preservation order. It is an immature deciduous tree about 5 - 6 m in height but it is a question for the Council; it is outside the ambit of my considerations in both these appeals.
6. Finally, all the elements that the Council objected to (bar the mansard roof extension) or considered it did not have enough information about have been omitted from the proposals (both planning and LBC applications). The Council's reasons for refusal and delegated report confirmed that the only element of the proposals that it objected to was the provision of the mansard roof extension and the rebuilding of the front wall at first floor level (the latter withdrawn by the appellants in their appeal statement).
7. Leaving aside for the moment the mansard roof extension, I agree with the Council that the other proposed works can be approved. Several go toward returning the building to something more akin to its original character, in particular the replacing of metal windows in various places with wooden sash

framed windows and on occasions in smaller openings. In my view planning permission and/or listed building consent can be granted for all these other proposed elements and I have no need to consider them further.

Main Issues

8. The main issues, having regard to the relevant policies in the adopted development plan, are firstly whether the proposed mansard roof extension would preserve the grade II listed building or any features of special architectural or historic interest that it possesses and secondly, whether it would preserve or enhance the character or appearance of the Barnsbury Conservation Area.

Reasoning

9. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA 1990) requires the decision maker, in considering proposals within conservation areas, to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area. Section 66 of the LBCA 1990 places a similar burden on the decision maker to s72. It states that in considering whether to grant permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
10. The National Planning Policy Framework (the Framework) sets out policy for 'conserving and enhancing the historic environment' in section 12. Paragraph 132 advises that great weight should be given to an asset's conservation and the more important the asset the greater the weight should be. It further states that such assets are irreplaceable and any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building should be wholly exceptional.
11. The overarching duty imposed by s66 and s72 applies even where the harm to a heritage asset is found to be 'less than substantial'. This was set out in the Court of Appeal decision - Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG [2014] EWCA Civ 137 (paragraph 29 of the judgment makes that clear). It stated that the decision maker must be careful not to equate 'less than substantial harm' with a less than substantial planning objection. The need, if harm is identified, to give considerable weight to the presumption that preservation is desirable should be expressly acknowledged in carrying out the balancing exercise.
12. The Council considered that the mansard extension would constitute 'less than substantial harm' to the significance and historical character of this asset and I saw nothing to suggest that there was a greater level of harm than that. Paragraph 134 of the Framework states that where there is 'less than substantial harm' such harm should be weighed against the public benefits of the proposal. However, that exercise is to be undertaken in the context of the requirement of paragraph 132 that great weight should be given to a designated heritage asset's preservation and/or conservation in assessing the impact of a proposal on its significance.
13. Dealing firstly with the effect of the mansard extension on the special architectural character and historic interest of the listed building, 293 is a

terraced property and both 291 and 293 were originally identical terraced houses that are grade II listed buildings. Number 289 to the south which has a retail use on the ground floor is not listed but to the north of 293 and adjoining it is a terrace of seven properties (also grade II listed) that are four storeys high and of a different design.

14. The Council's concern with the extension was that it would destroy an original design feature of the property (a butterfly roof) that is both historically and architecturally important and, it argued, should be preserved. The Council did not disagree with the appellant's statement that some of the roof timbers do not appear to be original and I acknowledge that the historic fabric has, to some extent, been compromised by that. The design and form, however, remain intact but would be lost if the mansard extension is permitted.
15. The Council acknowledged that there would be less than substantial harm to the building if the extension was permitted. That harm, however, as I set out in paragraph 12 above, still carries considerable weight against the proposal which needs to be weighed against any public benefits of the proposal. In terms of the public benefits to weigh against the loss of the original historic feature (the butterfly roof), nothing was put forward by the appellant in respect of this issue.
16. In my view there is nothing that can be argued in favour of the proposal and against the objection to it on what is a narrow issue. The butterfly roof feature would be lost if the extension is approved and there is no way to alter or amend the proposal that would result in it being kept. There is no public benefit that can be cited to balance against that and I conclude that on the first main issue, the proposed mansard roof extension would not preserve the grade II listed building, in particular the butterfly roof which is a feature of special architectural and historic interest that it possesses and ought to be preserved.
17. Turning to the second main issue, the main arguments put forward by the appellant were concerned with this issue. Both parties referred to other appeals and Council decisions in the area concerning mansard roof extensions and put forward cases that supported their arguments. Although there was quite a lot of detail on some of these, each case must be decided on its own facts. The complete details of these cases were not before me and none was claimed to be exactly the same as the appeals I have to determine. The comments and comparisons made with the other decisions were in respect of the second main issue.
18. The appellants argued that 291 already had a mansard roof extension (which they had copied) and 289 had had a mansard roof extension approved. That extension has not been implemented and is of a different design and height. To the north the terrace is much taller and the argument put forward was that adding the mansard would bring back the balance with 291 and lessen the sharp difference with the terrace to the north. In doing so it would be akin to other developments such as that at 325 where a mansard extension was approved and a gap was filled between two properties that had mansard extensions.
19. The mansard extension approved at 289 (which is not a listed building and is a corner property) is of a different design and as stated by the Council, that permission expired in March 2017. I acknowledge that permission was granted on appeal for a mansard extension at 293 in 1990 but the policies have

- changed since then. Also, reading that decision, it was just assertions of his own view by the inspector that the extension was acceptable; there was no discernible reasoning in the decision that led to the conclusions he reached.
20. The appellants are correct to point out that paragraph 10.22 of the Barnsbury Conservation Area Design Guidelines identifies the appeal site as one where 'the Council may permit appropriate traditional roof extensions'. However, that sentence continues stating that 'otherwise no roof extension visible from any street level position will be permitted. This includes long views from side streets and across open spaces'. There is just such a view of the appeal property as one walks westwards along the east to west section of College Cross.
21. Paragraph 10.23 then says that notwithstanding that, the Council will take into consideration the listed status of the property and special regard must be paid to the retention of its historic fabric and any extension which might be acceptable in townscape terms will still require careful and detailed examination. As with the listed building aspect the Council stated that from the Barnsbury Conservation Area viewpoint and the desirability of preserving or enhancing its character or appearance, there would be less than substantial harm to the heritage asset and I saw nothing to make me disagree with that conclusion.
22. I do not agree that the dwelling looks hemmed in by the parapet wall to the south and the higher block to the north. The terrace to the north is clearly of a different design and is seen as such. On the terrace of 289 – 293 it is 291 that appears the odd one out with its mansard roof extension as the other two properties do not have one. Were the appeal property to be one in a terrace of four or five where all the others had mansard roof extensions there might be an argument that it would significantly improve the appearance of the whole terrace and thereby the Conservation Area but, in my view, that is not the case here.

Conclusions

23. I acknowledge that the reinstatement of the V-shaped parapet at the rear of the property is an improvement although even from around the corner it would be only partially seen from the public viewpoint when walking along Lofting Road. In my view there is minimal public benefit if any in the proposal taken as a whole and it would not outweigh the material harm which would be caused to the designated heritage asset identified in the first main issue.
24. As such it would be contrary to the historic environment policies in the Framework as well as policies DM2.3 of the Development Management Policies 2013 and Policy CS9 of the Core Strategy 2011. The former seeks to ensure that the Borough's heritage assets are conserved and enhanced in a manner appropriate to their significance and the latter seeks to sustain and enhance the Borough's built environment.
25. In these circumstances I will issue split decisions on both appeals refusing permission for the mansard roof extension and permitting everything else. The other matters before me are clearly severable from the mansard roof extension; internally below that new floor level it simply means omitting the landing extension opposite bedroom two and the new staircase.

Conditions

26. The Council suggested planning conditions on Appeal A dealing with the implementation of the development; detailing the approved plans; materials set out on the plans and in the submitted Design and Access Statement; one concerning the window details of all new windows and one requiring further details of the doors to be installed at basement level at the front to be submitted for approval. The appellant has not objected to any of these conditions and I consider that they are justified bearing in mind that the permission concerns a listed building in a conservation area.
27. Additional and some different conditions were suggested for Appeal B. Again the appellant has not raised any query or objection to any proposed and in my view they are justified in this instance. The soil pipe shown on the rear elevation has been approved separately (along with the provision of an en-suite bath/shower room) and I will make clear it is not included in any permission granted here. The Council has on several occasions used the word maintained rather than retained in its proposed conditions. That is vague and not acceptable and I will change it to 'retained'.
28. Conditions concerning the mansard roof extension, the rooflight on the rear roof slope and the structural method statement regarding rebuilding part of the front wall are not necessary as those parts of the proposals have either been withdrawn or refused. Those proposed conditions which are unnecessary are number 5 on the planning appeal and numbers 4, 5 and 9 on the listed building consent appeal. Others I will amend as necessary as only part of each appeal is being allowed. The proposal in relation to the front garden wall, railings and gate has changed to repairs only rather than partial replacement so I will include a condition requiring the exact works proposed to be submitted to the Council for its written approval.

Formal Decisions

Appeal A – APP/V5570/W/17/3181499

29. The appeal is dismissed insofar as it relates to the mansard roof extension including the rooflight contained therein (element 1 in the Appendix attached to this decision). The appeal is allowed insofar as it relates to replacing the asphalt front steps and 'landing' with stone steps; installation of a new fanlight over the front door; provision of a new rainwater downpipe on the front elevation; and construction of a V-shaped parapet on the rear elevation (elements 5, 16, 20 and 22) at 293 Liverpool Road, Islington, Barnsbury, London, N1 1NF in accordance with the terms of the application, Ref P2017/0923/FUL, dated 2 March 2017, and the plans submitted with it, in so far as relevant to that part of the development hereby permitted and subject to the following conditions:
- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with plan 293LR/30/02D dated 10 Feb 2017 (Rev D dated 04/06/18); the Heritage Design and Access Statement dated 12/04/17 and the Additional Statement provided by Frederick Guest, Architect, dated 31/05/17.

- 3) The development shall be constructed in accordance with the schedule of materials noted on the plans and in the Design and Access Statement. The development shall be carried out strictly in accordance with the details so approved and shall be retained as such thereafter.
- 4) All new windows hereby permitted to the front and rear elevations shall be single glazed, formed in timber, finished in white and retained in that colour thereafter. The new sash windows shall accurately replicate, in terms of material, profile and detailing, the original late Georgian windows surviving at the property. Each sash unit shall have a slim profile and narrow integral (not applied) glazing bars with a putty finish (not timber bead). The glazing shall be 'crown glass' and no trickle vents are permitted. A detailed elevation (scale 1:10) and section (scale 1:5) showing the glazing bar profile and reveal depths to each window (including fanlight above front entrance door) shall be submitted to and approved in writing by the Local authority prior to the relevant works commencing on site. The development shall be carried out in accordance with the approved details.
- 5) Details (elevation at scale 1:50 annotated to show materiality) of the door design within the basement lightwell and beneath the existing entrance crossover shall be submitted to and approved in writing by the Local Planning Authority prior to the relevant works commencing on site. The development shall be carried out in accordance with the approved details.
- 6) For the avoidance of any doubt this permission does not include the soil pipe shown (on the approved plan) running down the rear elevation to the ground from bedroom 2.

Appeal B - APP/V5570/Y/17/3181500

30. The appeal is dismissed insofar as it relates to the mansard roof extension including the rooflight contained therein (element 1 in the Appendix attached to this decision). The appeal is allowed and listed building consent is granted for items 4A – 4D, 5, 9, 11 – 14 and 16 – 23 as described in the Appendix attached to this decision, at 293 Liverpool Road, Islington, Barnsbury, London, N1 1NF in accordance with the terms of the application Ref: P2017/1058/LBC, dated 2 March 2017 and the plans submitted with it in so far as relevant to that part of the development hereby permitted and subject to the following conditions:

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) All new external and internal works and finishes and works of making good to the retained fabric shall match the existing adjacent work with regard to methods used and to material, colour, texture and profile. All such works and finishes shall be retained as such thereafter.
- 3) All new windows hereby permitted to the front and rear elevations shall be single glazed, formed in timber, finished in white and retained in that colour thereafter. The new sash windows shall accurately replicate, in terms of material, profile and detailing, the original late Georgian windows surviving at the property. Each sash unit shall have a slim profile and narrow integral (not applied) glazing bars with a putty finish (not timber bead). The glazing shall be 'crown glass' and no trickle vents

are permitted. A detailed elevation (scale 1:10) and section (scale 1:5) showing the glazing bar profile and reveal depths to each window (including fanlight above front entrance door) shall be submitted to and approved in writing by the Local authority prior to the relevant works commencing on site. The works shall be carried out in accordance with the approved details.

- 4) Details (elevation at scale 1:50 annotated to show materiality) of the door design within the basement lightwell and beneath the existing entrance crossover shall be submitted to and approved in writing by the Local Planning Authority prior to the relevant works commencing on site. The works shall be carried out in accordance with the approved details.
- 5) Details (elevation at scale 1:20) of the internal opening between the front and rear rooms at ground level shall be submitted to and approved in writing by the Local Planning Authority prior to the relevant works commencing on site. The works shall be carried out in accordance with the approved details.
- 6) The replacement steps to the front crossover hereby permitted shall be formed in natural York stone.
- 7) For the avoidance of any doubt this permission does not include the soil pipe shown (on the approved plan) running down to the ground on the rear elevation from bedroom 2.
- 8) Details of the exact works to be carried out to repair the front garden railings and gate shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.

D E Morden

INSPECTOR

APPENDIX TO APPEAL DECISION

Appeal Refs: APP V5570/W/17/3181499 and 3191500 293 Liverpool Road, Barnsbury, London, N1 1NF SCHEDULE OF PROPOSALS			
Item	Original Application	Included in Final Appeal Submission?	LBC or both LBC and Planning Permission
1	Construct a new mansard roof extension including a new rooflight on the rear upper slope.	Yes.	Both
2	Construct an additional floor at first floor level on top of the existing two storey rear extension.	No.	Withdrawn
3	Reconstruct the front wall at first floor level where it has bowed out.	No.	Withdrawn
4A	Replace the existing metal window at basement level with timber sash windows on front elevation. Amended to being in a reduced opening.	Yes.	LBC
4B	Replace the existing metal windows at rear first floor in Bedroom 2. Replace shower room window. Replace existing first floor sash windows on front elevation.	Yes.	LBC
4C	Install timber doors in the basement.	Yes. Front basement door to be replaced with new timber panel door. Similarly rear door replaced but with glazed panel door.	LBC
4D	Install replacement timber window (Originally to be double doors but amended on Plan Revision B)	Yes. Rear basement door no longer proposed and instead a replacement timber casement window (not door) proposed.	LBC
5	Replace the asphalt front steps and 'landing' with stone steps.	Yes.	Both
6	Rebuild the front garden railings and dwarf wall and provide new gate.	No	Withdrawn
7	Reconstruct the retaining wall to the light well to rear kitchen window and construct new steps to the garden.	No	Withdrawn
8	Reconstruct the retaining wall to the front garden to provide a larger light well at the front of the house.	No	Withdrawn

Item	Original Application	Included in Final Appeal Submission?	LBC or both LBC and Planning Permission
9	Provide new panel doors to replace existing internal doors.	Yes.	LBC
10	Form new internal partitions to form shower room (Bedroom 1).	No.	Withdrawn
11	Reopen existing doorway from dining room to hallway in the basement and install a new panel door therein	Yes.	LBC
12	Block up the existing door from kitchen (into that same hallway) in the basement	Yes.	LBC
13	Install new panel and door to form enlarged cloakroom (including moving hand basin) in the basement	Yes.	LBC
14	Enlarge existing opening between the kitchen and the dining room in the basement.	Yes.	LBC
15	Install new double opening doors to garden in place of window in kitchen in the basement.	No.	Withdrawn
16	Install new fanlight over front door.	Yes	Both
17	Construct a new opening between the living room and the study at ground floor and install double doors therein.	Yes	LBC
18	Form new ceiling cornice in the study to match that in the dining room.	Yes.	LBC
19	Rubbed brick arch over window to Bedroom 2 (on first floor rear elevation) to be reconstructed.	Yes	LBC
20	New rainwater downpipe on front elevation.	Yes	Both
21	Installation of cupboard and shelves with soil pipe running below in first floor bedroom 2	Yes - Cupboard and shelves Soil pipe no longer applied for as shower room (Item 10) now omitted. Separate approval granted in 2017. Soil down pipe shown on rear elevation also not part of this proposal any longer.	LBC. Soil pipe W/D – separate approval in 2017 for pipe under the cupboards and on the rear elevation.
22	V shaped rear parapet	Yes.	Both
23	Repair front railings	Yes.	LBC
Appeal(s) allowed		A	Appeal(s) dismissed
			D