



Appeal Decisions

Site visit made on 21 November 2019

by Brendan Lyons BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

151-153 High Street, Barnet EN5 5SU

Appeals made by Devonshire Metro Ltd against decisions of the Council of the London Borough of Barnet

Appeal A: APP/N5090/W/19/3232698

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The application Ref 18/6607/FUL, dated 29 October 2018, was refused by notice dated 1 May 2019.
 - The development proposed is described as: demolition and redevelopment of 153 High Street to incorporate retail (Class A1) on the ground floor and 7no. residential units (Class C3) comprising 5no. apartments and 2no. cottages in a newly-constructed part two and part three storey building including rooms in roofspace, and the part-demolition and extension to 151 High Street to include the change of use of ground floor to retail A1, including single-storey front extension, roof extension including 2no. dormer windows to front elevation and 4no. rooflights to rear and conversion of first and second floors into 1no. self-contained duplex flat with new entrance at ground floor level. Removal of AC condenser units from rear elevation and TV aerial from chimney, reintroduction of chimney pots. Alterations to fenestration including conversion of window to door. Associated amenity space, cycle store and refuse/recycling storage, landscaping features, boundary treatments and other supporting infrastructure. Internal alterations to no. 151 including replacement of existing internal doors with new timber doors, removal of partition wall to kitchen, restoration of panelling, installation of baskets and slips to blocked up fireplaces.
-

Appeal B: APP/N5090/Y/19/3232701

- 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 application Ref 18/6608/LBC, dated 29 October 2018, was refused by notice dated 1 May 2019.
 - The works proposed are described as: demolition and redevelopment of 153 High Street to incorporate retail (Class A1) on the ground floor and 7no. residential units (Class C3) comprising 5no. apartments and 2no. cottages in a newly-constructed part two and part three storey building including rooms in roofspace, and the part-demolition and extension to 151 High Street to include the change of use of ground floor to retail A1, including single-storey front extension, roof extension including 2no. dormer windows to front elevation and 4no. rooflights to rear and conversion of first and second floors into 1no. self-contained duplex flat with new entrance at ground floor level. Removal of AC condenser units from rear elevation and TV aerial from chimney, reintroduction of chimney pots. Alterations to fenestration including conversion of window to door. Associated amenity space, cycle store and refuse/recycling storage, landscaping features, boundary treatments and other supporting infrastructure. Internal alterations to no. 151 including replacement of existing internal doors with new timber doors, removal of partition wall to kitchen, restoration of panelling, installation of baskets and slips to blocked up fireplaces.
-

Decisions

1. Both appeals are dismissed.

Preliminary matters

2. The descriptions of the two applications, one for planning permission and one for listed building consent, were amended after the initial submission by agreement between the applicants and the Council. The descriptions set out above reflect the final form as used on the planning appeal forms. Both applications relate to the same overall proposal, and I have considered the appeals on that basis, giving appropriate weight in each case to those elements included in each description that might not need planning permission or, respectively, listed building consent.
3. An application for costs was made by the appellants against the Council. That application is to be the subject of a separate Decision.

Main Issues

4. The main issue in both appeals is the proposal's effect on the special interest of the listed building and its setting and on the character and appearance of the conservation area.
5. A second issue in Appeal A¹ is the quality of living conditions for future residents.

Reasons

6. The appeals relate to two linked buildings that face onto Barnet High Street and share a large yard to the rear. Until recently, the ground floor of the buildings has been in use as a car showroom and the upper floors as related office and storage space, with cars also displayed on the paved forecourt and in the yard.
7. No.151 High Street is a two-storey painted brick building with a steeply pitched main roof covered in concrete tiles, and a lower roof over the stair wing to the rear. The building, which dates from around 1700, was originally a cottage and is now listed Grade II. It has two sash windows facing the street at first floor level and a single window at ground floor level, behind which is a fully panelled room. One of the first floor rooms also has some panelling. The remainder of the ground floor has been absorbed into the showroom, behind a very deep single-storey forward extension, first added in the late nineteenth century.
8. The adjoining No.153 was also originally a cottage or modest villa, dating from the first half of the nineteenth century. It was built in brick under a shallow-pitched slate roof. It has three sash windows facing the street at first floor level, but the ground floor front has been rebuilt with wide glazed doors. The rear elevation and the side, which faces onto a narrow alley called Nursery Row, also appear to have been almost completely rebuilt.
9. Both buildings stand within the widely drawn Monken Hadley Conservation Area.

¹ Although the same reasons for refusal were issued for both applications, the quality of living conditions is a matter for planning permission only and not listed building consent.

10. It is now proposed to demolish No.153 and the forward extension to No.151, and to rebuild No.153 to a similar eaves height but with rooms in a more steeply pitched roof lit by two fully glazed dormer windows. Behind the street frontage, the building would be expressed as a three-storey flat-roofed block containing five apartments. The remainder of the Nursery Row front would be occupied by two linked small houses next to an existing terrace of cottages. The ground floor would be extended forward across both buildings to form two shop units. The front ground floor window of No.151 would be converted to an entrance doorway giving access to a 'maisonette' over three floors, including an attic-level bedroom lit by two new dormers to the street.

Effect on listed building and conservation area

11. In considering proposals for alteration to a listed building and development within its curtilage, statutory duty² requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. A similar duty applies in respect of the preservation or enhancement of the character or appearance of a conservation area³. National policy set out in the National Planning Policy Framework ('NPPF') confirms the great weight in favour of the conservation of 'designated heritage assets' such as listed buildings and conservation areas⁴. The particular significance of any element of the historic environment likely to be affected by a proposal should be identified and assessed⁵. Any harm to designated heritage assets should require clear and convincing justification⁶. Harm to a non-designated heritage asset requires a balanced judgement to be made⁷.

Significance of the heritage assets

12. In this case, the designated heritage assets comprise the listed building and the conservation area. The Council also regard No.153 as a non-designated heritage asset in its own right.
13. The applications were supported by a Heritage Statement ('HS') that provides a detailed assessment of the heritage interest of the site and surrounding area, including a room-by-room evaluation of the two appeal buildings.
14. The special interest of No.151 lies in its survival as a domestic building of the early eighteenth century, which provides evidence of development of that period along the line of the Great North Road when Barnet was a well-used coach stop. Despite alterations to the exterior, including the replacement of original windows and roofing, the building is recognisably close to its original form. The internal arrangement of rooms and stair also largely remain. The treatment of the interior, in particular the later fitting out of the panelled rooms, show that the building continued to have importance over time in the eyes of its owners.
15. The main external alteration has involved the removal of part of the ground floor front wall, including the original entrance door, to open into the forward

² Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, dealing respectively with applications for proposed works and proposed development

³ Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

⁴ NPPF paragraph 193

⁵ NPPF paragraphs 189, 190

⁶ NPPF paragraph 194

⁷ NPPF paragraph 197

extension. The list description confirms that the extension, whose form bears little relation to the original dwelling, does not have the special interest to merit listing. But in my view the extension is not without heritage value, as an illustration of the Victorian adaptation of buildings to attract the passing trade on the important main road. The period illustrations in the HS give an indication of the early design of the extension, showing that its prominence in the street scene was better justified than by its existing utilitarian treatment.

16. The extent of surviving original commercial development of this stretch of Barnet High Street has led to its inclusion within the conservation area, the majority of which comprises extensive open land and village areas to the north. The published Conservation Area Appraisal ('CAA') notes the urban character of the street, with a dense grain of commercial buildings, mainly of the nineteenth and early twentieth centuries. The CAA also points out the great degree of variation in building and roof heights and the variety of styles. The appeal buildings sit between taller blocks including the three-storey Victorian block to the south at the junction with St Albans Road and the post-war parade to the north. But even in other parts of the street where the contrast is less marked, and the predominant scale is a modest two storeys, there is still a pleasing lack of uniformity in the diverse terraces built in traditional materials.
17. By their contrast with their neighbours and by their representation of the original street frontage line, the appeal buildings make an important contribution to the street scene and to the character and appearance of the conservation area. Their varied roofline is highly characteristic. As a listed building, No.151 is a key historic building in the conservation area, that helps to define its heritage value. The building's steeply pitched roof is an indicator of its age and character. The much lower pitched roof of No.153 allows the northern gable and chimney stack of No.151 to be appreciated. Although the relationship between roofs is screened in the key view from the north identified by the CAA, it is clearly visible in closer serial views in both directions along High Street.
18. The appellants cast doubt on the Council's treatment of No.153 as a non-designated heritage asset. The building is not included in the local list set out in the CAA. I agree that its heritage value has been greatly reduced by the extent of alterations, particularly to the rear. Nevertheless, from the street, the surviving upper floor elevation and roof form retain the identity of an early nineteenth century house. Its relationship with the listed building gives an indication of the evolution of development along the Great North Road over a hundred-year period. The building continues to make a positive contribution to the character and appearance of the conservation area. In arguing the contrary, the appellants give undue weight to the building's degree of alteration, particularly at ground floor level, and its current use. By its continuing historic relationship with No.151, and by allowing the original form of No.151 to be readily appreciated, it also forms a key component of the setting of the listed building, contributing to its significance.

Effects of the appeal proposal

19. The first reason for refusal of the applications raises concern about the total loss of No.153, which is assessed as causing substantial harm to the significance of the listed building and detracting from the character and appearance of the conservation area. The Council has sought to clarify that the

reference to substantial harm to the listed building is incorrect, but that the concern about total loss of a non-designated heritage asset remains. The NPPF does not offer a policy distinction on the extent of harm to non-designated heritage assets in the same way as designated assets. Therefore, I agree with the appellants that use of 'substantial harm' as a measure is not well-founded in this instance. I also agree that harm due to the loss of the building should not be assessed in isolation, but only in conjunction with the merits of the proposed replacement.

20. In that assessment, the fact that much original fabric has already been replaced does not prevent the loss of the remainder being of further harm. The historical evidence of the original building would be erased. More importantly, the form of the proposed replacement would lose the existing building's distinctive difference from the listed building. By replicating the front roof form of No.151, the gable of the listed building would be hidden from view, greatly reducing the perception of the building as an earlier separate entity. The character of the two buildings as different but complementary would be fundamentally undermined. The appellants refer to other adjoining buildings of matching height and roof form within the conservation area, but these are normally also of matching or similar age and design. The effect of the new roof appearing as a mere continuation of the adjoining would be reinforced by the proposed repetition of twin dormers on each building. The loss of distinctiveness would not be mitigated by the proposed change to slate for the roof covering and the proposed reinstatement of chimney pots.
21. I agree with the Council that the street frontage of the proposed replacement for No.153 would be rather bland in appearance. The three window openings at first floor level would provide an echo of the existing, but without the visual interest provided by the current sashes. The windows would not relate well to the large single panes of the dormer windows above, which would appear starkly out of place in the otherwise quite traditional roofscape, forming an awkward mismatch with the dormers proposed for No.151.
22. Similarly, there would be an uncomfortable relationship with the angled full-height side windows set just behind the front elevation, which would seem over-scaled by comparison. The size and design of the windows at the angled corner would emphasise the unsuccessfully resolved junction between the pitched-roof front block and the flat-roofed three-storey wing facing Nursery Row, which adopts a very different aesthetic. The three-storey wing and the attached cottages would form a coherent elevation to Nursery Row, with the cottages providing a reasonable contemporary interpretation of the neighbouring row. The use of a flat roof would not necessarily be out of keeping, but the wing would appear rather arbitrarily joined to the front block, particularly by rising to the full height of ridge level.
23. Seen from St Albans Road to the rear across an open car park, the vernacular scale and treatment of the listed building would be somewhat overwhelmed by the bulk of the three-storey block, which would run up to the party wall, and by the scale of its window openings. The transition between the two buildings would not be eased by the rather incongruous partly pitched, partly flat roof over the stairwell. Although this is not a key view, the listed building would appear hemmed in between the new building and the existing bulky extensions to the adjoining Hadley House to the south. Taken in the round, the new

building would not succeed in attempting to be both contextual and contrasting in different parts.

24. The ground floor forward extension would be faced by a fully glazed shopfront, continuous across both buildings. However, the Nursery Row elevation would project forward of the existing frontage of No.153 to house bin stores. This element would be prominent from the north, reading as an unduly solid flank to the extension, which from this side would not be as light and transparent as intended by the appellants.
25. The appellants see the proposal as a contemporary design solution, and cite support for this approach from the Council's published guidance on shopfront design. I agree with the Council that despite the amendments to the design to introduce minimal stallrisers and transom members, the proposed treatment of the shopfront would be neither fully traditional nor successfully contemporary, both approaches which are cited by the guidance but which ultimately depend on context. In this case, the apparently random proportions of the glazing topped by a long unbroken length of unmodelled fascia would not provide a convincing design response to the historic context. By extending across the frontage as a continuous horizontal element, the projection would further serve to erode the distinctiveness of the two original buildings.
26. The appellants argue that the proposal would have an improved impact on the special interest of the listed building. The existing projection, which only barely extends across the front of No.153, is a rather incongruous feature. But much of its adverse visual impact is due to its overly bulky inappropriate fascia signage, with survey drawings indicating that its roof level is considerably lower. However, the reduced depth and lower overall height of the proposed projection would allow very slightly more of the original façade of the listed building to be seen. This would be offset by the increased depth in front of the replaced No.153, which would become more recessive in the street scene. The prominence of the shopfront projection would not be justified by any intention that it should form a 'gateway', for which there is no policy or functional need.
27. The removal of the existing projection would represent an opportunity to better reveal the significance of the listed building by reinstating some or all of its missing ground floor front. At the least, there would be the possibility of recreating an entrance door and hallway, which would allow the ground floor panelled room to regain its original function as a reception room. Although the appeal proposal would involve sensitive alterations to the panelling, by changing the existing window to a partly glazed door the character of the room would change to more of a circulation space, and the light within would be reduced. There would be some harm to the special interest of the listed building as a result.
28. The appellants argue that the size of the proposed ground floor extension and the provision of two retail units are necessary to secure the optimum viable use of the heritage assets. In the absence of detailed evidence to compare the viability of the existing use against the proposed or any other mix of uses, it is not possible to reach a definitive conclusion about the optimum viable use. The Council has not disputed that a mix of retail and residential uses would be appropriate in this town centre location. The issue is whether such a mix of uses requires a design solution as that proposed.

29. The appellants refer to policies of the London Plan ('LP'), Barnet's Local Plan Core Strategy ('CS') and Barnet's Local Plan Development Management Policies ('DMP'). But as outlined the strategic LP Policy 2.7 and CS Policy CS6 that favour vibrant town centre uses cannot be relied on to support the specific size of an individual proposal. The more detailed DMP Policy DM11 seeks to avoid concentrations of non-retail uses in secondary shopping areas. If there was concern on that point at the appeal location, which has not been conclusively demonstrated, it could be addressed by a number of options within the planning unit and would not require this specific solution. The appellants acknowledge that the existing use is not an employment use in policy terms, so that there appears to be no policy imperative under DMP Policy DM14 to maintain a set employment provision, even if an existing level of employment attributable to the site could be accurately established. The replacement of some or all of jobs by new retail jobs might well be welcome, but does not provide a compelling argument for a particular amount and form of development.
30. The supporting evidence from a local surveyor does not provide conclusive support for the retail proposal. With regard to design, it appears to draw a false distinction between modern and traditional shopfronts, and does not show that a well-designed traditional-style new shopfront would be significantly less attractive to the market than a new modern-style front. A misleading comparison is made between the proposed new shopfront and poorly designed and maintained older fronts. Similarly, with regard to size the evidence suggests why a narrower-fronted unit within No.151 to allow a separate hallway, and why a combined single retail unit would both be less attractive to the market. But no other options for the subdivision of retail space are considered and no definitive rationale is provided for the degree of projection of the retail space now proposed.
31. Overall, the form and treatment of the ground floor extension would be harmful to the special interest of the listed building and to its setting, as well as to the character and appearance of the conservation area.
32. Other alterations to the listed building would be less harmful. There is historic precedent for a single dormer window, but the introduction of a pair of dormers aligned with the first floor windows would suggest a somewhat greater formality of design than that of the original modest house. However, the proposed subdivision of the sashes to the dormers and first floor windows would be appropriate. The attic room would also be lit by a rooflight which would not appear over-sized, unlike those adjoining above the proposed landing and kitchen areas, which would be likely to be seen from other parts of the development.

Conclusion on effect on listed building and conservation area

33. For the above reasons, I find that the appeal proposal would not preserve the listed building or its setting and would not preserve or enhance the character and appearance of the conservation area, considered as a whole. The harm to the significance of the designated heritage assets would in each case be less than substantial, mainly because of the existing degree of alteration of the listed building and of No.153.
34. The appellants cite a number of public benefits to be weighed against the harm in accordance with paragraph 196 of the NPPF. A separate balance in

accordance with paragraph 197 is not required, but if carried out would not produce a different result.

35. The new residential use of the listed building and the investment in its fabric, including the reinstatement of sash windows and repairs to panelling would be beneficial, but offset by other harmful alterations as outlined above. The provision of additional market housing in an accessible town centre location would be a public benefit, but notwithstanding any other appeal decisions seen by the appellants, the weight to be given to it is in this instance reduced by the small number of units and the nature of the provision, which would not comprise any affordable or family-sized units in line with local need. The removal of forecourt vehicle display associated with the existing use of No.153 would be a minor benefit, but it is not possible to conclude that retail use would be necessarily more beneficial to town centre vitality than the existing. The associated reduction in emissions and noise would be negligible in the context of this busy town centre location, as would the reinstatement of kerbside parking. A perceived widening of the footway would be a benefit, but of very minor impact owing to low levels of footfall in this secondary/tertiary location. Improved surveillance of the use of Nursery Row would also be a minor benefit.
36. The statutory duty requires special regard to be given to the conservation of the heritage assets, and the courts have confirmed that this is a matter of considerable importance and weight. Individually or cumulatively, the benefits of the appeal proposal would not outweigh the harm to allow the duty to be met. The appeal proposal would not accord with national heritage policy or with CS Policy CS5, which seeks to protect and enhance Barnet's heritage and foster local distinctiveness, or with DMP Policies DM01 and DM06, which respectively seek to protect local character and heritage assets.

Quality of living conditions

37. The Council's concern focuses on living conditions for occupiers of the two proposed cottages facing Nursery Row.
38. The new cottages would front directly onto this public footpath, which is said to be a well-used local route. Privacy in the cottages could be achieved by blinds and curtains if required. There would be some risk of noise and disturbance but not any worse than in very many urban locations where terraced houses directly abut the footway. The absence of vehicular traffic would remove the most common source of noise in urban locations. The design of front-facing glazing could do much to mitigate sound transmission. Importantly, the ground floor front window in each house would only serve a small kitchen. The main living space would face the rear garden and could be closed off from the front. The Council has not provided evidence of complaints from residents of the four existing cottages, who already face similar conditions and one of whom has opposed the appeal but not for this reason. With suitable design, it is unlikely that noise would seriously affect living conditions.
39. The other side of the footpath is lined by a palisade security fence. I accept that this does not provide an attractive outlook, but as the kitchen would not be a main habitable room reliant on views out, the effect on occupiers would not be significantly harmful.
40. The gardens of the two cottages would be bounded by high walls to the rear. Together with new party wall boundaries, the result should be a 'courtyard

garden' effect, which could provide attractive amenity space. The privacy offered by the walls would offset any concern about increased shading. In one case the rear wall would be relatively close to the living room windows, but not so close that outlook would be oppressively harmful. There are good grounds in this tight urban context to ease the application of a standard dimension for garden length.

41. Occupiers of the proposed cottages would have access to a bin store near High street. Based on the neighbour's observations, this would be an improvement over conditions for existing residents and would not be an unreasonable arrangement.
42. The Council accepts that living conditions in the other units would be acceptable.
43. I find on this issue that the proposal would not result in an unacceptable quality of living conditions for future occupiers and that the proposal would comply with CS Policies CS NPPF, CS1 and CS5, which collectively seek, among other objectives, to secure high-quality environments.

Conclusion

44. Although I have found that the quality of living conditions would be acceptable, I have also found that the appeal proposal would not preserve the special interest of the listed building or its setting and would not preserve or enhance the character and appearance of the conservation area. In the light of the statutory and policy weight to the conservation of designated heritage assets, I conclude that both appeals must be dismissed.

Brendan Lyons

INSPECTOR