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## Appeal Decision

Site visit made on 9 March 2020

**by M Cryan BA(Hons) DipTP MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 May 2020**

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**Appeal Ref: APP/V5570/W/19/3242103**

**Garages at Rear of 21 Wilmington Square, Islington, London WC1X 0ER**

- 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 Andrew Beckingham against the decision of the Council of the London Borough of Islington.
  - The application Ref P2019/0384/FUL, dated 31 January 2019, was refused by notice dated 6 June 2019.
  - The development proposed is the demolition of two existing single-bay garages and the erection of a one-bedroom dwelling house on existing footprint with steps and railings to street frontage.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - Whether or not the proposal would preserve or enhance the character or appearance of the New River Conservation Area, and would preserve the setting of the adjacent Listed Building at 18-21 Wilmington Square;
  - The effect of the proposed development on living conditions for occupiers of 18-21 Wilmington Square, with regard to daylight; and
  - Whether or not the proposed dwelling would provide adequate living conditions for future occupiers, with regard to daylight and outlook.

### Reasons

#### *Effect on New River Conservation Area and Listed Building*

3. The appeal site is within the New River Conservation Area (the NRCA) and next to a Grade II Listed Building at 18-21 Wilmington Square. I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, and to have special regard to the desirability of preserving the setting of the Listed Building. As heritage assets are irreplaceable, the National Planning Policy Framework (the Framework) states that they should be conserved in a manner appropriate to their significance (paragraph 184). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 194) and that any

harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 196).

4. From the evidence before me and my observations on my site visit, I consider that the significance of the NRCA derives from the extent of its 18th and 19<sup>th</sup> Century residential estate, including many fine terraces and squares. The 2002 New River Conservation Area Design Guidelines document highlights the consistency of scale, materials, design and detailing across the Area. 18-21 Wilmington Square, which is now flats, is part of a plain and attractive Grade II Listed residential terrace of four storey over basement houses dating from the early part of the 19<sup>th</sup> Century. While its principal elevation faces Wilmington Square itself, and thus away from the appeal site, part of its rear elevation can be seen and the simple repetition and orderliness of its fenestration and detailing appreciated, across the appeal site from within Merlin Street.
5. The appeal site itself is occupied by two garages, on a small parcel of land between the rear garden of 18-21 Wilmington Square and the St Paul's View apartments building on Merlin Street, the latter of which is within the Rosebery Avenue Conservation Area. The proposal is to demolish the garages, and to erect in their place a one bedroom, three-storey house.
6. The height of the proposed dwelling, its windows at first floor level and the top of its windows at second floor level would be related to features of 18-21 Wilmington Square, while the door at ground floor level, as well as the base of the second floor level would be referenced to the equivalent details on St Paul's View. A round window at ground floor level would provide a further visual link to one in the side elevation of 18-21 Wilmington Square, although that on the appeal proposal would be larger than the existing example.
7. In visual design terms, I acknowledge that the appellant has sought to avoid pastiche of the two adjoining buildings, and note the criticism of the design of the St Paul's View block which they have cited. I have also taken account of guidance in the 2017 Urban Design Guide Supplementary Planning Document (the SPD). Notwithstanding its references to the Victorian and Edwardian rather than Georgian eras, I consider that the part of the SPD relating to side extensions and end of terrace infill provides more relevant advice than the section dealing with mews and backland development. It advises that infill proposals in the gaps between terraces should ideally either be low-rise, and built to an existing wall, or full height and follow the scale and proportions of the existing terrace to which it would be connected.
8. The appeal proposal falls somewhere between the two example cases described in the SPD. Its use of reference points drawn from both its neighbours would, in my view, result in a development which would relate well visually to neither neighbour. As a consequence, its appearance would be at odds with the consistent scale, design and detailing generally found across the NRCA. Although the vertical emphasis created by the windows, and the use of reclaimed or weathered London Stock brick as the principle facing material are positive factors and would be in keeping with the general character of the wider area, they would not overcome the other harm I have identified.
9. The front of the proposed dwelling would be aligned with the principal Merlin Street elevation of the St Paul's View building, and so would sit forward of the building line of the wing immediately adjacent. Although it would be a relatively

small building compared to its neighbours, this alignment would draw attention to its incongruous appearance within the street. The development would also narrow the gap between 18-21 Wilmington Square and St Paul's View, which provides some relief and spaciousness in a street which is otherwise dominated by two large 20<sup>th</sup> Century buildings. The proposed curved rear wall of the dwelling would mitigate the impact of this loss to some extent when viewed from the corner of Merlin Street and Wilmington Square. However, from elsewhere in Merlin Street the space between the proposed dwelling and the rear of 18-21 Wilmington Square would almost vanish from view, and even when seen from across Merlin Street immediately opposite the appeal site the space would appear somewhat constricted. The development would also reduce views of the rear elevation of 18-21 Wilmington Square when approaching down the gentle slope of Merlin Street, which currently contributes to an appreciation of the simple quality of that Listed Building.

10. The appellant has referred to several historic examples elsewhere within the NRCA, and one retained case on Yardley Street across Wilmington Square from the appeal site, where smaller properties were found on the streets just off the main square and formed part of perimeter blocks. These date, or dated, from the Georgian and early Victorian eras when the area was originally developed. I accept of course that historically buildings such as those referred to were found within the NRCA and elsewhere, and those which remain make a valuable contribution to the character of the area. However, they date from nearly two centuries ago before the establishment of the modern planning system, and their presence does not in itself provide a green light for similar proposals today.
11. I conclude that the proposed development would not preserve or enhance the character of the NRCA, nor would it preserve the setting of the adjacent Listed Building at 18-21 Wilmington Square. In the terms of the Framework, the harm to the significance of the NRCA and the Listed Building as designated heritage assets is less than substantial. The creation of a new dwelling would add to the supply of residential property in a part of London with a great demand for housing, and would represent a viable use of the site, although I consider that the provision of a single additional housing unit represents only a very limited public benefit. The existing garages on the site are not attractive, and their removal and replacement could represent a modest public benefit in terms of the appearance of the NRCA. However, these public benefits which have been identified would not outweigh the harm to the heritage assets, to which I must attribute great weight.
12. The proposal therefore conflicts with Policies CS8 and CS9 of the 2011 Islington Core Strategy (the ICS), and policies DM2.1 and DM2.3 of the 2013 Islington Development Management Policies (the IDMP), which among other things seek to ensure that development proposals enhance local character and respond to and respect local context, including protecting or enhancing Conservation Areas and other heritage assets. The proposal also conflicts with the provisions of the Framework which seek to conserve and enhance the historic environment.

*Effect on neighbours' living conditions*

13. The rear elevation of 18-21 Wilmington Square includes windows serving the various flats within that building. The proposed dwelling would be taller than the garages currently on the site, and therefore many of the rear windows of

18-21 Wilmington Square would be closer to a vertical wall than at present. Several of those windows would therefore have less visible sky or would receive less daylight than they do at present.

14. The Daylight and Sunlight Assessment submitted with the application indicates that of 11 rooms tested at the rear of 18-21 Wilmington Square, using the 'No Sky Line' measure, 4 would have either minor or moderate adverse impacts as a result of the proposal. Using the 'Visible Sky Component' measure, 7 of 15 windows tested (some rooms having more than one window), would have minor or moderate adverse impacts. Taking the two measures together, it would predominantly be those rooms on the lower ground and ground floors which would face the most significant loss of daylight.
15. The appellant's study was prepared in line with the 2011 BRE publication 'Site layout planning for daylight and sunlight: a guide to good practice' (the BRE Guidance), which advises that the guidelines should be interpreted flexibly. I acknowledge, as the Daylight and Sunlight Assessment indicates, that the windows and rooms most adversely affected by this proposal are those where sky views, and therefore daylight, are already most obstructed by the surrounding buildings. However, this is not a justification for making an already relatively poor situation worse. Furthermore, as 18-21 Wilmington Square is divided into flats it seems to me that the occupiers of the flats which would face the greatest impact would be much more likely to notice, and be affected by, the loss of daylight than would be the case if the properties were multi-level homes where they might have more opportunities to adapt their living arrangements to the changes.
16. I conclude that the proposed development would be harmful to the living conditions of occupiers of 18-21 Wilmington Square because of a detrimental reduction in daylight reaching the rear windows of several of the flats within that building. The proposal therefore conflicts with Policy DM2.1 of the IDMP, which among other things seeks to ensure that development protects the amenity and living conditions for neighbouring occupiers, including in respect of daylight.

*Living conditions for future occupiers*

17. The proposed dwelling would only have windows on its front elevation facing Merlin Street, and would therefore be a single aspect dwelling. IDMP Policy DM3.4 requires that new residential units should 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.
18. Because of the small size of the appeal site, and the need to avoid harmful overlooking of the rear windows and garden of 18-21 Wilmington Square, only the front elevation of the proposed dwelling is suitable for windows, with roof skylights also proposed. The windows on the front elevation would face north west onto Merlin Street. The appellant's Daylight and Sunlight Assessment indicates that the first and second floor rooms of the proposed dwelling would receive adequate daylight, while the kitchen-dining room on the ground floor would fall below the standard set out in the BRE Guidance. However, the shortfall would be relatively small, and the appellant has pointed out that the model does not account for additional diffused light reaching that room via the

internal lightwell. The rooms on other floors would have good levels of daylight, and I therefore consider that as a whole the dwelling would achieve adequate levels of daylight, in line with the requirements of the development plan.

19. In terms of outlook, the front windows would face the Grade II Listed Charles Rowan House on the opposite side of Merlin Street which, while it may be described as 'austere', would provide visual interest. The windows would also afford oblique views to the northern corner of Wilmington Square. The appellant has drawn my attention to single aspect dwellings within the adjacent St Paul's View apartments. These date from 1995-97, at a time when a different set of planning policies and standards applied. Their existence does not therefore on its own lend supporting weight to the proposal now before me. I also acknowledge that there are sound reasons why in many situations single aspect dwellings would be undesirable because of the poor outlook or daylight which may result. However, in this case I have no undue concerns about the daylight or outlook which the proposed dwelling would provide, recognising the constraints of the appeal site.
20. I therefore conclude that the proposed development would provide acceptable living conditions for future occupiers with regard to daylight and outlook. Consequently, there would be no conflict with Policy DM3.4 of the IDMP which among other things seeks to secure high quality residential accommodation, which is planned with due consideration to outlook, and which receives adequate daylight.

### **Conclusion**

21. I have found that the proposal would provide acceptable living conditions for future occupiers, with regard to daylight and outlook. It would also provide an additional housing unit at a time.
22. However, the proposal would not preserve or enhance the character or appearance of the NRCA or preserve the setting of the adjacent Listed Building at 18-21 Wilmington Square. The Framework requires that great weight should be given to any harm to heritage assets. The proposal would also have a harmful effect on the living conditions of neighbouring occupiers by reducing the daylight reaching the rear windows of the adjoining building. It therefore fails to comply with the development plan as a whole, and for this reason the appeal is dismissed.

*M Cryan*

Inspector