The Planning Inspectorate

Appeal Decision

Site visit made on 31 July 2020

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 26th August 2020

Appeal Ref: APP/V5570/D/20/3244301
14 Canonbury Park South, Islington, London N1 2JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs Bevan Lee against the decision of the Council of the London Borough of Islington.
- The application Ref P2019/3047/S73, dated 9 October 2019, was refused by notice dated 5 December 2019.
- The application sought planning permission for conversion of two residential units into a single family dwelling by the amalgamation of the separate lower ground floor flat with the upper floors of the property. The replacement of the existing single storey rear extension with a two storey rear extension at basement and ground floor level including associated excavation works and additional repair and restoration works throughout without complying with a condition attached to planning permission Ref P2019/0870/FUL, dated 12 June 2019.
- The condition in dispute is No 2 which states that: Drawing and document numbers: The development hereby approved shall be carried out in accordance with the following approved plans:
- 298-DWG-000-OS Rev P1, 298-DWG-000 Rev P3, 298-DWG-001 Rev P3, 298-DWG-002 Rev P3, 298-DWG-003 Rev P3, 298-DWG-010 Rev P3, 298-DWG-020 Rev P3, 298-DWG-021 Rev P3, 298-DWG-022 Rev P3, 298-DWG-023 Rev P3, 298-DWG-100 Rev P3, 298-DWG-101 Rev P3, 298-DWG-102 Rev P3, 298-DWG-103 Rev P3, 298-DWG-110 Rev P3, 298-DWG-120 Rev P3, 298-DWG-121 Rev P3, 298-DWG-122 Rev P3, 298-DWG-123 Rev P3, Design and Access Statement dated March 2019, Structural Method Statement dated April 2019.
- The reason given for the condition is: To comply with Section 70(1)(a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

    - whether the proposed development would alter the description of development of the extant permission such that the appeal cannot be determined under the provisions of Section 73 of the Town and Country Planning Act 1990 as amended (S73); and

- whether the proposed development would preserve or enhance the character or appearance of the locally listed host building and Canonbury Conservation Area (CCA) and its effect on the significance of both heritage assets.

Background and Reasons

3. In 2019 approval was granted for, 'conversion of two residential units into a single family dwelling by the amalgamation of the separate lower ground floor flat with the upper floors of the property. The replacement of the existing single storey rear extension with a two-storey rear extension at basement and ground floor level including associated excavation works and additional repair and restoration works throughout.'

4. Condition 2 of the extant permission specifies the approved drawings. The appellant wishes to vary this condition by substituting a number of these drawings with ones which show an enlarged dormer window on the side elevation of the property. The existing property had a small dormer window on the side elevation near to the front of the building. The extant permission includes the relocation of this dormer further along the side elevation closer to the rear of the building. The proposal subject of this appeal would consist of an enlarged dormer window that would extend across the majority of the side of the roof.

Section 73

5. I acknowledge the case law cited by the Council. However, the description of development of the approved planning permission does not specify the dormer window or works to the roof. The scheme subject of the S73 is materially different to the approved scheme, but that is inevitable with such proposals. However, the difference would not be so great as to result in a description of development that was materially different from that permitted. Therefore, the proposal can be determined under S73.

Character and appearance

6. The significance of CCA lies in the evidence of historic architecture that signify the development of an affluent part of London. The area is home to a number of semi-detached historic villas, of which the appeal property is one. Nos 14 and 16 Canonbury Park South are locally listed buildings, the significance of which lies in the evidence of historic architecture with original detailing, particularly on the windows and door on the front elevation. As such, the appeal property contributes positively to the significance of the CCA.

7. Canonbury Park South is a residential street that is largely characterised by two and three storey dwellings in a range of forms and styles and generally in a traditional style such that it has an attractive and varied feel. While there are a few examples of dormer windows along the street, these are generally set back or partially concealed such that they do not form a significant part of the character and appearance of the area.

8. The proposed dormer window would extend across the majority of the side of the roof of the host building. Given the distance between this elevation and the adjacent building along with the height and hipped form of the adjacent roof, the dormer window would be highly visible in the street. While I note the modest height of the proposed dormer, since it would occupy most of the width of the side of the roof, it would dominate this elevation and given its visibility along the street, and that it would be viewed with the front elevation, would appear

prominent thereby detracting from the primary facade where most of the significance of the building lies. Therefore, the proposed dormer would diminish the significance of the existing building and would adversely affect the character and appearance of the host building.

9. The proposed dormer would also appear more prominent than the smaller original dormer window which has been demolished and the dormer window approved under the extant permission. Given its prominence from street level, the proposal would also adversely affect the character and appearance of CCA, thereby diminishing its significance.

10. I acknowledge the dormer on the side elevation of No 16 Canonbury Park South. However, visibility of this dormer is partially restricted when viewed at street level by a two-storey side extension with pitched roof. Therefore, the presence of that dormer window would not mitigate the harm that would result from the proposed dormer window.

11. I am familiar with the case at Thornhill Road[1], however, as stated in that decision letter, that proposal would have been significantly set back from the front elevation such that it would not have been prominent from street level. As such, it does not form a direct comparison with this appeal scheme which has been determined on its own merits.

12. Consequently, the proposed development would not preserve or enhance the character or appearance of the locally listed host building and Canonbury Conservation Area (CCA) and would harm the significance of both heritage assets. Therefore, it would conflict with Policy CS8 of the Islington's Core Strategy February 2011 (CS) and Policy DM2.1 of Islington's Local Plan: June 2013 Development Management Policies (DMP) which among other things require the scale of development to reflect and make a positive contribution to the local character and distinctiveness of an area. It would also conflict with CS Policy CS9 and DMP Policy DM2.3 which together require the historic significance of Islington's unique heritage assets and historic environment to be conserved and enhanced. It would also not accord with the aims of the Urban Design Guide Supplementary Planning Document January 2017 and Islington's Conservation Area Design Guidelines a Supplement to the UDP Revised version 2002.

13. The harm would be less than substantial in the terms of paragraph 196 of the National Planning Policy Framework and would fail to preserve or enhance the locally listed host building and the CCA. There are no public benefits in the terms claimed by the appellant and any benefit including securing optimum viable use that would outbalance the harm found to the host building and to the significance of the Conservation Area.

Conclusion

14. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR

[1] Appeal ref: APP/V5570/W/19/3230269