



Appeal Decision

Site visit made on 17 November 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2020

Appeal Ref: APP/V5570/W/20/3255077

Rear of 4 Highbury Park, Islington, London N5 2AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Amir Sanei against the Council of the London Borough of Islington.
 - The application Ref P2020/0633/FUL, is dated 29 February 2020.
 - The development proposed is an additional storey to create 2nd floor level in new stock brickwork with skylights for the existing vehicle repair and maintenance garage plus internal alterations to the existing building for continued B2 use.
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Decision

1. The appeal is dismissed and planning permission for an additional storey to create 2nd floor level in new stock brickwork with skylights for the existing vehicle repair and maintenance garage plus internal alterations to the existing building for continued B2 use is refused.

Procedural Matter

2. The description of development in the banner heading and formal decision above is taken from the appeal form. The proposal was originally described on the planning application form as '*external and internal alterations to the existing vehicle repair and maintenance garage to improve and enhance the facilities for continued B2 use and the creation of better working conditions*'. However, an amended description was agreed between the parties by e-mail on 27 May 2020, and I have therefore used the updated description.

Background and Main Issues

3. The Council had not determined the planning application before the appeal was lodged, although its appeal statement subsequently indicated that it would have refused the application on two grounds.
4. On the basis of all the information before me, I consider that the main issues are the effect of the proposed development on:
 - The character and appearance of the area; and
 - Living conditions for residential occupiers of Nos 2-16 Highbury Park, with regard to outlook and enclosure.

Reasons

Character and appearance

5. The appeal relates to a site on the north side of Kelvin Road. It is set on a north-south alignment between rear of the block forming Nos 2-16 Highbury Park, and a small grassed area with a play park within the Gardner Court estate to the east. The parcel of land is narrow, and tapers from its street frontage towards the rear of the site. It contains a single storey brick building with a corrugated metal sheet roof, but although the building is in active use, I saw that parts of the brickwork and roof appear damaged and in need of some repair. The building is used as a vehicle repair garage and can accommodate up to four vehicles, although the long and narrow site configuration would appear to make moving vehicles in and out of the premises a somewhat awkward exercise at present.
6. The appellant is seeking planning permission to raise the height of the walls of the building by around 1.7m, and to erect a sawtooth roof with north-facing skylights. The increased height would permit four vehicle lifts to be installed within the garage, which would allow the business to operate more flexibly by making it easier to manoeuvre vehicles in and out of the building, or to accommodate more vehicles than at present. An office space would also be created on a raised level at the northern end of the building. The new roof and skylights would also allow natural light to enter what is presently a very dark workspace. The walls would be of stock brick to match the existing ones which would be repaired as part of the development, with a new brick arched entrance to Kelvin Road created. The roof would be clad with grey zinc panels.
7. The surrounding area contains buildings of a wide variety of uses, ages, and styles. Highbury Park to the west of the appeal site is part of a local centre, and mostly made up of traditional three storey buildings with shops or other commercial units on the ground floor and residential accommodation above. No 2 Highbury Park immediately next to the appeal site is a more modern four storey building than the rest of its block, although in scale and character it is broadly in keeping with its neighbours. The Gardner Court estate to the east is made up of two and four-storey blocks of mid-20th century walk-up flats among small lawns set with trees, while the remainder of Kelvin Road mainly comprises more traditional three-storey Victorian houses. Behind the terrace of houses on the south side of Kelvin Road the Frogmore Industrial Estate is a small cluster of functional one and two storey warehouses and workshops. The London Screen Academy occupies a large building on the corner of Kelvin Road and Highbury Grove which, judging by its appearance, is of commercial or industrial origin dating from around the 1930s.
8. There is therefore considerable diversity within the area's character. However, there is an almost universal use of brick as the main building material, and most buildings nearby are two, three or four storeys in height. The appellant has provided photographs dating from around 1921 showing two storey buildings on the site of the existing garage and to its east on Kelvin Road. Although the Council suggest that the additional height now proposed would mean that the garage would '*not be a subservient building as it was developed to be*', it is not clear to what it was intended to be subservient, as clearly the area has changed significantly since the garage was originally built.

9. The parties disagree about whether or not the appeal site should be considered an infill site. However, in my view this dispute does not go to the heart of the matter. From my observations on my site visit it was clear to me that in general terms a two-storey brick workshop or garage as proposed would be entirely in keeping with the wider context of the area. In terms of its effect on the character and appearance of the area, the additional height which it is proposed to add to the existing garage would not be of a magnitude which would make the building a dominant feature in the surrounding area.
10. The submitted Planning, Design and Access Statement suggests that the choice of an arched entranceway to Kelvin Road '*harks to typical London Railway arches which are synonymous with light industrial activity*'. Although railway arches do indeed often accommodate various light industries, to the best of my knowledge and from what I saw on my site visit they are not particularly prevalent close to the appeal site. I therefore understand why the Council commented that such a feature would '*work well within the context of a number of adjoining railway arches where the collective forms a character*'. However, I also saw that there are many buildings close to the appeal site with arch features, including houses with arched doorways and windows on Highbury Hill, and business premises with arched passageways on Highbury Grove. The appellant also submitted an old photograph showing arched doorways to the large houses on the site now occupied by the London Screen Academy. While not a dominant characteristic of the area, there are sufficient arches of one sort or another on buildings in the vicinity of the appeal site that they can be considered a reasonably common feature of the area.
11. Taking all of these points together, the materials, scale and design of the proposal would make the development a smart and attractive, if functional, response to the needs of the site, and the expanded premises would relate well to the built character of the surrounding area. I also consider that, in view of the somewhat run-down condition of the garage at present, the proposal would improve the appearance of the appeal site whether seen from public or private viewpoints nearby. I therefore conclude that the development would have a positive effect on the character and appearance of the area, and it would comply with Policy DM2.1 of the 2013 Islington Development Management Policies (the IDMP), Policy CS9 of the 2011 Islington Core Strategy, and Policy 7.4 of the 2016 London Plan, as well as advice in the 2017 Islington Urban Design Guide. Together, these policies and guidance seek to ensure that development makes a positive contribution to the local character and distinctiveness of an area.
12. The appeal site lies adjacent to the Highbury Fields Conservation Area (the Conservation Area), the boundary of which runs along the rear of 2-16 Highbury Park. The Conservation Area is centred on the streets and properties which front onto Highbury Fields and their fine Georgian terraces and distinguished Victorian villas, and the old village centre of Highbury Park and Highbury Barn to the west of the appeal site. In view of my findings in respect of the proposal's effects on the character and appearance set out in the preceding paragraph, I am satisfied that the setting of the Conservation Area would not be harmed.

Living conditions

13. The upper floors of Nos 2-16 Highbury Park are in residential use. As described above, No 2 is a more modern building than the others and the information before me suggests that the rear windows of that property do not serve habitable rooms, while No 4 has no rear-facing window at first floor level. The other properties in the block, Nos 6-16, have two-storey rear wings, each with a first-floor window (making six in total) facing the appeal site. I do not know the uses of the rooms served by those windows, but in the absence of any information to the contrary, and as the appellant has done, it is reasonable to assume that they are habitable rooms.
14. The six windows are above the existing roof level of building on the appeal site. While carrying out my site visit I entered the open space within the Gardner Court estate, and from large parts of it the first floor at the rear of Highbury Park was clearly visible. It was apparent that the six windows do indeed look down across the appeal site onto the open space, and it seems likely to me that the views of trees and grass which they allow would be a very welcome feature for occupiers.
15. The submitted drawings indicate that the increased roof height of the garage building would obstruct views from the six windows on the first floor of the adjacent outriggers. Given the sawtooth profile of the proposed for the roof there would be some small areas where views would not be obscured, but the overall effect would be to close off the outlook from those windows. While I recognise that 'the view' is not protected in its own right, I consider that the loss of outlook towards the open space and trees would have a negative impact on the quality of life for the occupiers of the affected first floor accommodation.
16. I have not been provided with any information about the separation distances between the first-floor windows in the adjacent block and the appeal site, nor indeed any policy or guidance in respect of the Council's desired separation distances. However, from the evidence before me, and what I saw of the close proximity of the six first floor windows at the rear Nos 6-16 Highbury Park to the appeal site, the proposed increased wall and roof height would result in an increased sense of enclosure for the occupiers of the affected properties. This would be detrimental to their living conditions, and would also be likely to exacerbate the harm which would be caused by the loss of outlook.
17. The appellant has drawn my attention to another scheme elsewhere in Islington where planning permission was granted in 2018 for the demolition of warehouse buildings and the erection of a mixed-use development¹. While I do not have the full information relating to that scheme and have not visited the site, there appear to be certain similarities, in that both proposals relate to constrained sites with existing housing very close by. However, I also note the Council's comment that in the other case the proposed development actually resulted in an overall improvement in outlook for occupiers of neighbouring properties. I do not consider that would be the case in this appeal, and I therefore cannot be certain that the overall circumstances are the same. In any case I have considered the appeal proposal on its own merits.
18. I note the Council's observation that the proposed development would not have an adverse impact on neighbours' living conditions in terms of loss of daylight,

¹ LB Islington ref: P2017/5001/FULL at 440 Hornsey Road, London N19 4EB

sunlight, or privacy. None of the evidence before me or what I saw on my site visit leads me to a different view. However, a lack of harm in these regards would not outweigh the other harmful effects on living conditions which I have found. I recognise also that no objections to the proposal were submitted by any neighbouring residents who might be affected by the scheme. However, the absence of objections from other interested parties does not necessarily mean that the development sought is necessarily acceptable, and I have a duty to assess the proposal before me and come to my own decision.

19. I conclude that the proposal would have a harmful impact on living conditions for residential occupiers of Nos 6-16 Highbury Park arising from a loss of outlook and an increased sense of enclosure. I find that no harm would be caused to living conditions for occupiers of Nos 2 or 4 Highbury Park. Nevertheless, the proposal would conflict with Policy 2.1 of the IDMP, which among other things seeks to ensure that development provides a good level of amenity for neighbouring residents.

Other Matters

20. I acknowledge that the proposal would support the operation of the existing business on the site, in an area where Policy DM5.1 of the IDMP seeks to encourage the intensification, renewal and modernisation of existing business floorspace. However, that policy also requires proposals for business floorspace to comply with other relevant planning considerations, and I have found harm as described above.
21. I have also had regard to comments made in respect of protecting biodiversity, specifically nesting swifts, and this is a matter which could have been addressed by means of a condition if the proposal had otherwise been acceptable. None of the other matters raised alters my overall conclusion.

Planning Balance and Conclusion

22. I have found the proposal would have a positive impact on the character and appearance of the area, and would support the business operating on the site. These are factors in the scheme's favour.
23. However, on the basis of the evidence before me I also find that the development would have a significantly detrimental effect on neighbours' living conditions. The proposal therefore fails to comply with the development plan as a whole, and for this reason the appeal is dismissed.

M Cryan

Inspector