



Appeal Decision

Site Visit made on 22 December 2020

by A M Nilsson BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2021

Appeal Ref: APP/V5570/W/20/3259332
326 Essex Road, Islington, London N1 3PB

- 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 Onder Aydemir against the decision of London Borough of Islington.
 - The application Ref P2020/1401/FUL, dated 26 May 2020, was refused by notice dated 22 July 2020.
 - The development proposed is a single storey rear extension to use in connection with the existing restaurant (A3).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A separate appeal¹ has been made against the decision to refuse to grant planning permission for development consisting of a two storey rear extension and two storey side extension rear external staircase, ventilation ducting, new shopfront, alteration to roof at front; use of basement and ground floor as restaurant and upper floors as self-contained dwelling without complying with conditions 6 and 7 of that permission. This is subject to a separate decision.

Main Issues

3. The main issues are 1) whether the proposed development would preserve or enhance the character and appearance of the East Canonbury Conservation Area (ECCA), and 2) the effect of the proposed development on the living conditions of occupants of adjoining residential properties with regard to noise, disturbance and outlook.

Reasons

Character and appearance of the ECCA

4. The appeal property is a three-storey building with roof level accommodation. Due to a difference in ground levels, from the street level it is two storeys with roof level accommodation, and from the rear it is three storeys with roof level accommodation. The lower ground and ground floor level are currently used as a restaurant with the upper floors being in residential use. The section of Essex Road on which the appeal site is located is relatively commercialised with shops, restaurants and other commercial units making up the majority of street-level uses, where most units have residential properties above. The site

¹ APP/V5570/W/20/3259331

is located within the East Canonbury Conservation Area (ECCA) which is characterised by its many terraces of residential properties.

5. The proposed extension would be located at the rear of the property where it would extend from the lower ground floor of the building. It would span the full width of the building and almost the full length of the area of land to the rear. Although the site of the proposed extension is not readily visible from the street-scene, it is visible from several surrounding residential properties.
6. The rear of the property contains a two-storey rear extension that contrasts sharply with the design approach of the original building. I consider that due to its design, the extension has failed to take the opportunities available for improving the appearance of the area and the building. It lacks any notable architectural detail and is not of high quality.
7. Although there are some rear extensions to surrounding properties of various styles and sizes, these for the most part are relatively small additions, projecting only a small amount into the land to the rear, retaining a predominately open setting to the rear. This is a positive aspect of the ECCA.
8. I consider that due to its size and depth, the extension would appear as a dominant and overly elongated addition to the building. For these same reasons, when combined with its overall design, it would appear as an incongruous addition to the property in an area that is, on the whole, open with many landscape features.
9. The condition as suggested by the appellant in relation to roof design and materials would not overcome the harm I have identified.
10. The development would therefore fail to preserve or enhance the character and appearance of the ECCA. It would be contrary to Policies CS9 of Islington's Core Strategy (2011), DM2.1 and DM2.3 of Islington's Local Plan: Development Management Policies (2013) and 7.4, 7.6 and 7.8 of the London Plan (2016). Collectively, these policies seek to ensure that development is of a high-quality design that conserves or enhances the historic environment.
11. The development would also be contrary to the National Planning Policy Framework (the Framework) (2019), which requires, amongst other things, that development is of high-quality design, sympathetic to local character whilst sustaining and enhancing the significance of heritage assets.
12. The development would also be contrary to Islington's Conservation Area Design Guidelines (2002), which for the ECCA states that planning permission will not be granted to, expand or intensify commercial uses which would harm the residential character of the area.

Living conditions

13. There is an existing residential property above the restaurant, to either side and in the wider area overlooking the site of the proposed extension. The residential property that includes part of the lower ground floor level of 328 Essex Road sits at a slightly lower level than the land at the rear of the appeal site. There is a low boundary wall separating the land at the rear of the appeal site with the land to the rear of 328 Essex Road which is used as a garden for that residential property.

14. The front of the site forms part of an active street-scene where there is likely to be noticeable levels of noise at most times, the rear of the appeal site is markedly different. It is significantly quieter and provides a welcome relief from the busy street at the front. The proposed extension would bring commercial activity to the rear of the site. It would significantly intensify the use of the land and create additional noise and disturbance for occupants of surrounding residential properties, particularly at night-time when occupants may expect a quieter noise environment. Although the extension would be contained, it includes a rear access to bin and bike storage area. It also appears to be a relatively lightweight structure and I cannot be certain of the sound insulation qualities of the extension. Despite the existing restaurant not providing any live or amplified entertainment or music, there would inevitably be noise breakout from the premises with the potential for patrons and staff members to utilise the outdoor space. In the absence of any substantive evidence to the contrary, taking into account the existing ambiance and levels of background noise I observed at the rear of the site, the proposal would lead to unacceptable levels of noise and disturbance.
15. The appellant has suggested imposing a condition requiring the details of sound insulation. I consider that the efficacy of such measures is not certain and should form part of the submitted information for the decision maker. In the absence of such details and certainty that there would be no harm, I do not consider that the imposition of the condition as suggested would overcome the harm I have identified.
16. The Council consider that due to the scale and depth of the development it would create an increased sense of enclosure for occupiers of adjoining residential properties. In order to maintain a continuous floor level with the lower ground floor as shown on the submitted plans, the extension would require excavation of the existing hard surfaced area to the rear. Furthermore, the extension would be set in from the side boundary with 328 Essex Road.
17. Due to the relatively low eaves height of the extension of 2.2m, when considering that the development will be at a lower level than the existing hard surfaced area, it would not be significantly greater in height than the existing boundary treatment with 324 Essex Road. I therefore do not consider that the scale or depth of the development would have an unacceptable impact on the living conditions of occupants of adjacent residential properties in terms of outlook.
18. Although I have found no harm to living conditions in relation to outlook, I consider that there would be an unacceptable impact on living conditions in relation to noise and disturbance. As a result, the proposed development would be contrary to Policy DM2.1 of Islington's Local Plan Development Management Policies (2013) which requires, amongst other things, that developments provide a good level of amenity and consideration of noise and the impact of disturbance.

Other Matters

19. The appellant has commented that the additional floor area is needed for the viability of the business in view of the need to maintain social distancing in light of the Covid-19 pandemic. I am not presented with any detailed evidence in terms of viability. Whilst I acknowledge the significant implications that there have been to businesses, particularly within hospitality, at this time, such

implications are likely to be temporary, unlike the harm that I have identified, which would be permanent. Therefore, whilst I have taken these points into account, they do not override the harm I have identified above.

Planning Balance and Conclusion

20. Having regard to paragraph 196 of the National Planning Policy Framework (2019) I find that the harm to the ECCA is relatively localised and therefore the development causes less than substantial harm to the significance of the ECCA. I do not, however, find that this harm is outweighed by any public benefits of the development.
21. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR