
Appeal Decision

Site visit made on 2 June 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Appeal Ref: APP/V5570/W/21/3267745

Flat 1, 382 Caledonian Road, Islington, London N1 1DY

- 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 O Roxburgh against the decision of the Council of the London Borough of Islington.
 - The application Ref P2020/2730/FUL, dated 12 October 2020, was refused by notice dated 3 December 2020.
 - The development proposed is a rear extension to existing flat within part of existing courtyard.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted amended plans with their final comments, and it is requested I determine the appeal on this basis. The revised plans are materially different from the plans on which the Council made its decision, including the introduction of a small area of green roof and a subsequent reduction in the roof terrace area available for sitting.
3. Within this context I am conscious of the Wheatcroft Principles¹ derived from *Bernard Wheatcroft Ltd v SSE* (1982) which are further explained in the Procedural Guide: Planning Appeals – England (Annexe M.2.2). It is my firm view, in the interests of fairness, that this appeal must be determined on the basis of the plans on which the Council made its decision and which have been subject to consultation, and not the revised plans. To do otherwise could prejudice unacceptably the interests of interested people and/or consultees who would not have been consulted on the amended proposals and who may have observations to make.
4. During the course of the appeal The London Plan (2021) was published, which replaced all previous versions. The parties were provided with an opportunity to comment on its relevance to this appeal, and I have taken any subsequent comments received into account in my consideration of this appeal.

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

Main Issues

5. The main issues are the effect of the proposal on:
- the character and appearance of the host building, terrace and the Barnsbury Conservation Area (BCA); and
 - the living conditions of occupiers of adjoining properties with particular regard to noise and privacy.

Reasons

Character and appearance

6. The host building comprises a commercial unit on the ground floor facing Caledonian Road and residential apartments to the rear and above. The building was extended to the rear at basement and ground floor level by 3m under a previous planning permission², which also included the conversion of the basement to living space and a courtyard area for the appeal property.
7. The proposal includes extending the lower ground floor further to cover the full length of the courtyard and half of its width. This would create an office, with the remaining area of courtyard retained for outdoor amenity space. The height would reach ground floor level and a roof terrace would be created on top with a steel balustrade.
8. The Islington Urban Design Guide Supplementary Planning Document (the SPD) advises rear extensions must be subordinate to the original building while the depth of extensions must also be carefully considered, having regard to both the impact on the amenity of neighbouring properties and the host building. With regards to ground and lower ground floor level extensions, the SPD advises where they can be neatly accommodated, there will normally be scope within a lightwell or beyond the line of the existing back addition providing sufficient garden space is retained.
9. The rear extension would cover the full depth of the courtyard and approximately half of its width while reaching the ground floor level in terms of height. While I would disagree that there is an element of open character to the rear, the proposal would add significant mass to the host building which has already been extended. As a consequence, there would be insufficient outdoor space remaining to effectively offset this additional mass. The sense of scale and mass would be further compounded by the roof terrace and modern material of the balustrade. Although I would agree it would not be readily visible from the public realm to the front, it would be visible from other residences to the rear and would appear at odds with the character of the host building and the established form of development within the wider terrace.
10. I understand there was previously built form in this location which was excavated for the development approved under the previous planning application. However, I can only assess the proposal on its own merits against the existing characteristics of the site. Similarly, I am informed the rear of No.380 has a similar layout to the rear, while my attention is drawn to a previous appeal³ relating to a development in the same terrace. However, I

² P2015/1412/FUL

³ APP/V5570/A/12/2168332

have nothing substantive on either matter before me which would help me to understand the relevance to this appeal proposal.

11. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The National Planning Policy Framework (the Framework) sets out at paragraph 193 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to that asset's conservation.
12. The area is of mixed commercial and residential character located within the BCA. The significance of the BCA is largely derived from its late Georgian and early Victorian architecture, with the host terrace one of many in Islington which are described in Islington's Conservation Area Design Guidelines (CADG) as some of the finest in London. The CADG advises for new development, materials should be sympathetic to the character of the area, in terms of form, colour and texture. Modern materials - glass, steel and concrete - may be acceptable as long as the design of the new building acknowledges the scale and character of the area.
13. Given the important contribution individual terraces make to the significance of the BCA, and the use of modern materials of the roof terrace not acknowledging the character of the area, there would be harm to the BCA. The harm that would arise would be localised and therefore, in terms of the approach in the Framework, the harm to the CA as a whole would be less than substantial. Paragraph 196 of the Framework states that where a development would lead to less than substantial harm to the significance of a heritage asset, that harm should be weighed against the public benefits of the proposal.
14. I have not been presented with any public benefits which would arise from the proposal. While additional living space would benefit occupiers of the property, this would be private in nature. Therefore, there would be no public benefits of the appeal scheme necessary to outweigh the harm I have identified.
15. Accordingly, I find that the proposal would harm the character and appearance of the host building and terrace. It would also fail to preserve or enhance the character and appearance of the BCA. Accordingly, the proposed development would conflict with Policy CS9 of the Islington Core Strategy (the CS) (2011), Policies DM2.1 and DM2.3 of the Islington Local Plan Development Management Policies (the DMP) (2013), Policies D1, D4 and HC1 of the London Plan 2021 and advice contained within the SPD and CADG. These policies and documents collectively seek, amongst other things, to ensure developments complement local character and distinctiveness and conserve or enhance the significance of the historic environment. The proposal would also be contrary to paragraph 193 of the Framework, which advises great weight should be given to the conservation of heritage assets.

Living Conditions

16. The proposed roof terrace would be located at ground floor level, although I note from the Council's statement it is described as 'above ground floor level'. I observed on the site visit there are high walls on the boundaries with No.384 Caledonian Road and No.4 Offord Road at the same level which would preclude overlooking from the terrace to amenity spaces of either property. The

boundary wall between the appeal property and No.380 is lower and views into the rear outdoor space of this property would likely be possible. However, this would be minimal and would be reduced by the gap between the terrace and the remaining courtyard area.

17. Similarly, while there would be a small increase in conversational noise from users of the terrace, given it serves a one-bedroom apartment occupied by two people this would be minimal. Moreover, it would not be a significant increase over the existing situation whereby occupiers of the flat already have outdoor space at lower ground floor level.
18. I note the Council has discussed further issues with regards to outlook, sunlight and daylight in their appeal statement. These did not form a reason for refusal and were considered acceptable within their initial assessment. As such, given I am dismissing the appeal on other matters, I have not considered them further.
19. Consequently, I find that there would be no harm to the living conditions of occupiers of adjacent properties with regards to privacy or noise. As such, the proposal would accord with Policy DM2.1 of the DMP, which seeks to ensure development provides a good level of amenity including consideration of noise and overlooking.

Conclusion

20. The proposal would harm the character and appearance of the host building, terrace and the BCA and this harm would not be overcome by the lack of harm that would arise to the living conditions of occupiers of adjacent properties. As such it would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR