



Appeal Decision

Site visit made on 28 June 2021

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2021

Appeal Ref: APP/V5570/W/21/3267914 Kelross Road, N5 2QN

- 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 Machteld Smit against the decision of the London Borough of Islington Council.
 - The application Ref P2020/2159/FUL, dated 12 August 2020, was refused by notice dated 30 October 2020.
 - The development proposed is New single storey one bedroom one person C3 residential dwellinghouse on Kelross Road, N5, on unoccupied land at the rear of 1 Ardilaun Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the time the appeal was submitted, a new London Plan has been published in March 2021 and replaces The London Plan 2016. I have had due regard to the new Plan. In addition, since the Council determined the proposal, the revised National Planning Policy Framework (the Framework) has been published in July 2021. Both main parties have been given the opportunity to comment on this and my decision is made in the context of the revised Framework.
3. The site address has been amended by the Council as; Land on Kelross Road at the rear of No.1 Ardilaun Road, London, N5 2QN. I agree this more accurately reflects its location. The description of the proposal has also been amended by the Council and described as 'Proposed part single, part mezzanine storey 1 bedroom x 1no. person (C3) residential dwellinghouse at the rear of 1 Ardilaun Road.'

Main Issues

4. The main issues of the proposal are:
 - Whether or not it would preserve or enhance the character or appearance of the Sotheby Road Conservation Area (CA);
 - The effect on the living conditions of local residents in respect of outlook, sense of enclosure and light levels;
 - The effect on the living conditions of future residents in respect of outdoor space, outlook, light levels, and sense of enclosure; and

- Whether or not the proposal would be inclusive design in relation to access.

Reasons

Character and appearance of CA

5. The site is located within Sotheby Road CA. The area is characterised by a formality to the houses of fine examples of nineteenth century highly detailed and ornate brick terrace houses with bay windows and red brick framing to windows, within a planned layout. Tree lined streets adds to its special aesthetic qualities.
6. In accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special attention has been paid to the desirability of preserving or enhancing the character and appearance of the Conservation Areas.
7. The appeal site forms part of the rear garden of residential 1 Ardilaun Road which has been divided into flats. The original garden is separated into two garden spaces, with gated access from Kelross Road. Back to back gardens are a recognisable feature of the area. The side elevation of the appeal property is parallel to Kelross Road. A high boundary wall encloses the garden and other residential gardens where they return onto Kelross Road.
8. The row of houses to which the appeal site belongs backs onto the church grounds of the Joan of Arc Catholic Church with its associated primary school behind. The garden boundaries of this row of Ardilaun Road provides a clearly defined edge to these buildings of a marked contrast to those of the CA.
9. Views from Kelross Road across the gardens towards the backs of the houses along Ardilaun Road are open in nature, with limited ancillary domestic buildings present. This view contributes positively to local distinctiveness as an original characteristic of the CA.
10. A new dwelling in this location would result in the permanent loss of a portion of garden land here, and considerably reduce public views across the rears of the houses, obstructing this open aspect.
11. The proposed dwelling would sit perpendicular to the main dwelling and its three sectional design of different heights and 'garden architecture' approach, would not relate to the scale of the larger and more elaborate dwellings along Ardilaun Road. Nor would it resemble the houses directly opposite along Kelross Road as these are pre-war semi-detached houses of their own very defined and ordered arrangement of a uniform design and character.
12. Whilst some proposed design cues may be taken from the local area, a strong reliance on oak boarding to elevations and zinc roof would acutely differ from the typical local materials comprising of traditional facing brick and slate roofs, even if the Council does accept the use of modern materials, where appropriate. It could not be considered as an idiom of garden buildings as its scale and finish would be over and above what would reasonably be consistent with local ancillary domestic outbuildings.
13. As it would encompass most of the width of its plot and with limited external space, it would appear pinched in its surroundings and would not correspond with the prevailing character of buildings set in more spacious plots. Further,

its position, as proposed very close to the back of the public footpath with Kelross Road, would appear visually exposed within the street scene in an environment where buildings are traditionally set back from the road. This has the effect of further highlighting its discordant and incongruous appearance.

14. Irrespective of the character changes identified within the local area and that it has been designed to accommodate the neighbouring protected tree, a new dwelling as proposed would appear as an anomaly in this location and harmfully jar with local vernacular. The erosion of this undeveloped piece of garden land and the introduction of a new dwelling as proposed would not appear as a sympathetic form of development. It would thus not preserve or enhance the character or appearance of the CA.
15. With reference to the Framework and proposals affecting heritage assets, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given that the impact of the proposal would be limited to the character and appearance of the CA, I find that the harm would be 'less than substantial' in this instance.
16. Under such circumstances, Paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal. One such benefit is identified as providing additional homes within the Borough albeit an additional single dwelling would provide very limited benefits. The removal of the artificial lawn could improve overall ground conditions and the proposed replacement tree could provide some visual enhancement to the area. There may also be environmental efficiencies and benefits of the proposal through construction techniques. However, all these benefits are modest.
17. To conclude, the public benefits identified are not of a sufficient weight to outweigh the considerable importance and weight that I attach to the harm I have found. As such, the proposal would fail to satisfy the requirements of Paragraph 202 of the Framework.
18. In the words of the Framework, any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Substantial weight is attached to harm, and subsequently the very special circumstances necessary to justify the development does not exist. In addition, the scheme would conflict with the design, character, historic conservation and enhancement, and protecting private open space objectives of Development Management Policies DM2.1, DM2.3 and DM6.3, CS Policies CS 8, CS 9 and CS 15 and the Islington Supplementary Planning Document Urban Design Guide 2017 and the Conservation Area Design Guidelines 2002. In addition, the proposal would be contrary to the Framework 2021 in its overarching objectives to achieve sustainable development.

Living conditions of local occupants

19. Currently the outlook from the rear windows of 1 Ardilaun Road is open in character onto garden land and the church buildings and grounds some distance beyond.
20. As a consequence of the wide mass of development proposed here, including its height, there would be no relief from solid built development located in very close quarters to these rear windows of No 1. It would appear as an overbearing form of development, detrimentally compromising the outlook

from these windows and garden space, thus harmful to the living conditions of the existing occupiers.

21. Even if I were to conclude that the proposal would have very limited bearing on the light levels into these neighbouring windows, the absence of harm in this respect would not outweigh the harm I have previously identified that would occur to the living conditions of the neighbouring occupants.
22. To conclude, the proposed dwelling would detrimentally compromise the living conditions of neighbouring occupiers, contrary to Islington's Development Management Policies (DMP) Policy DM2.1, and The London Plan 2021 in their aims for development to provide good levels of amenity.

Living conditions of future occupants

23. The internal space would be open plan and the appellant comments that there would be an open void to the ceiling. As a consequence of the internal space size and general layout proposed, I find internal space for future occupants would be acceptable in this regard.
24. Whilst the number of lower level windows combined with high-level glazing would provide acceptable light levels into the space, the high level glazing would not provide an outlook, or sense of local context for the proposed future occupiers.
25. The outlook from windows at the front would be over a small hardscaped area and onto the public domain, with very limited defensible space separating the building from the public footpath. From the rear elevation, the internal outlook would be onto a small garden area and within very close quarters of high boundary enclosures, and a lack of context of future occupiers' surroundings would ensue. From this aspect, it would create a heightened sense of enclosure, detrimental to the living conditions of future occupiers of the development.
26. There would be limited private garden space available to future occupiers that would fall short of prescribed standards. Given it would be surrounded by the existing dwelling and other high enclosures, and within a north west corner, would create a very confined private external environment that would seek to reduce its overall function and quality.
27. To conclude on this main issue, although I have found the internal space to be of an acceptable size, the proposal would result in harm arising to the living conditions of future occupiers, contrary to DMP Policies DM2.1, DM3.4 and DM3.5 in their combined aims to provide high quality design and level of amenity and housing standards. Further, it would not comply with the same objectives of Islington Council's Core Strategy 2011 Policy CS 12. The proposal would not meet the broad requirements of the Framework 2021 for development to provide a high standard of amenity for future users.
28. However, I find no direct relevance to DMP Policy DM3.1 as it relates to housing mix, or Policy DM3.3 as this relates to residential conversions and extensions.

Accessibility

29. The Council's Supplementary Planning Document 2014 Inclusive Design in Islington (SPD) promotes level or ramped access into new builds in the interest of delivering an inclusive and sustainable environment. Due to the constraints of tree roots, the building would be raised to overcome this. As a consequence, there would be no level access into the proposed property with steps providing access from the public footpath.
30. I have taken into account Approved Document M (Amended 2016) where it specifically explains that the approach route into residential dwellings should be level, and where unavoidable, stepped. I note there is no considerable slope to the land. Regardless of the underground tree roots, there is no evidence before me to explain why step-free access would be unavoidable. Further, the London Plan 2021 reinforces accessible housing within London.
31. The proposal would fail to achieve step-free access and therefore, to conclude on this main issue, the proposal would not promote inclusive design, contrary to DMP Policy DM2.2 and the SPD in their combined aims to seek inclusive design.

Other Matters

32. The appellant has provided a draft unilateral undertaking to secure a financial contribution towards affordable homes within the Borough. However, this has not been fully completed. Even if I were satisfied that the contribution could be successfully delivered, this would not convince me to allow the appeal.

Conclusion

33. The proposal would result in harm to the character and appearance of the CA, the living conditions of local occupants and future residents of the development with no inclusive accessibility into the building. It would thus lead to 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 not succeed.

Alison Scott

INSPECTOR