



Appeal Decision

Site Visit made on 7 June 2021

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th October 2021

Appeal Ref: APP/V5570/W/20/3258339

Ground Floor Flat, 50 Mildmay Grove South, London N1 4PJ

- 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 Joseph Poullis against the decision of the London Borough of Islington.
 - The application Ref: P2020/0591/FUL, dated 14 May 2019, was refused by notice dated 18 April 2020.
 - The development proposed is described as: Upper ground floor rear extension (above existing full width lower ground floor extension) and associated fenestration alterations.
-

Decision

1. The appeal is allowed, and planning permission is granted for an upper ground floor rear extension (above existing full width lower ground floor extension) and associated fenestration alterations at Ground Floor Flat, 50 Mildmay Grove South, London N1 4PJ, in accordance with the terms of the application, Ref: P2020/0591/FUL, dated 14 May 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 620_L(0)001 - Location & Block Plan; 620_L(0)002 - Existing and Proposed Ground Floor Plan; 620_L(0)003 - Existing and Proposed Roof Plan; 620_L(0)004 - Existing and Proposed Rear Elevation South; 620_L(0)005 - Existing and Proposed Side Elevation West; 620_L(0)006 - Existing and Proposed Side Elevation East; and 620_L(0)007 - Existing and Proposed Section AA.
 - 3) The facing materials of the extension hereby approved shall match the existing building in terms of colour, texture, appearance, and architectural detailing, and shall be maintained as such thereafter

Preliminary Matters

2. In March 2021 the new London Plan (the London Plan) was published which replaced the London Plan 2016. The provisions of Policies 7.4 and 7.6 of the 2016 London Plan cited on the Decision Notice issued by the Council are largely replicated in Policy D3 of the new London Plan.
3. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). The revised Framework replicated the heritage policies that are relevant to this appeal. Whilst there were some changes to the policies in respect of design and the use of design guides, following on from the publication of the National Design Guide, the Council have a relatively recent Design Guide in place which was applied in the

determination of the application. None of the other revisions are of direct relevance to this appeal. I have determined the appeal with reference to the revised Framework.

4. The planning application form described the proposed development as "Upper Ground Floor Rear Extension". The Decision Notice issued by the Council expands on this to include the words "(above existing full width lower ground floor extension) and associated fenestration alterations". This latter description more clearly sets out the development proposed. Whilst this does not appear to have been agreed by the parties, I have noted that the appellant has adopted the Council's description on the appeal form. As this better describes the appeal proposal, I have also used this for the purposes of the appeal, although I have removed a superfluous "rear" from the Council's description.

Main Issue

5. The main issue in this appeal is the effect of the proposed development on the character and appearance of the existing building and surrounding area, having particular regard to the effect on the Newington Green Conservation Area.

Reasons

6. The appeal building is a three story, plus semi-basement, terraced house with the ground or entrance floor raised slightly above the level of the highway and approached by a short flight of steps. To the street elevation, the entrance floor has a rusticated stucco exterior with the basement having a smooth stucco finish. The upper floors are of stock brickwork with arched head windows within slightly projecting stucco surrounds. A shallow pitched roof is largely concealed behind a parapet. The building is part of a long uniform terrace with the buildings set back from the carriageway behind a small front garden area. Some of these garden areas have been paved and others partly given over to car parking. The frontages are enclosed by a variety of low brick walls, hedging, or railings. A railway line runs through a cutting on the north side of the street.
7. To the rear, the submitted drawings show that the basement area had been extended beyond the original rear wall of the house across the full width of the building. Above this basement extension a small rear extension has been constructed across approximately half the width of the building. The appeal proposal would replace this upper level rear addition with a new structure that would increase the width of the upper element to extend across approximately three quarters of the elevation.
8. At the time of my site visit, the previous rear extension to the basement had been demolished and works were underway to apparently enlarge this. The previous, half width, extension above was supported on steel props. I have not been provided with any details of these works.
9. The rear of the appeal building and the others in the terrace are constructed in brickwork. It was evident that when the buildings were originally constructed the rear elevations were identical with a repeating pattern of fenestration. However, there have, over time, been some alterations to these rear elevations and a number of rear additions and extensions have been added. The property at number 46 has been extended with a large, full height, rear extension that is

rendered and topped with crenellations. This extension is, however, of some age.

10. The appeal site is located within the Newington Green Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that in considering planning applications and appeals within a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of heritage assets, or from development within them or their setting.
11. The Newington Green Conservation Area was historically comprised of a small group of large houses around Newington Green itself until the arrival of the railway in 1850 resulted in the subsequent laying out of groups of terraced housing dating predominantly from the mid to late nineteenth century. The significance of the conservation area, in so far as it relates to this appeal, is the evidential value of the expansion of London as a result of rail transport and the architectural style and building types and techniques of the time. It has an aesthetic value derived from the long, uniform, façades of the terraces fronting the streets and the presence of substantial numbers of street trees. The railway line is a prominent feature delineated by high brick walls to each side of the cutting in which it runs.
12. The appeal proposal would result in an addition to the rear of the property, which although relating to the basement level and entrance level would, in effect, appear as an addition of two storeys in height.
13. The Newington Green Conservation Area Statement 2014 (the CAS) and Islington Urban Design Guide Supplementary Planning Document 2017 (the SPD) both set out guidance in respect of rear extensions to residential buildings. These state that full width rear extensions higher than one storey or half width rear extensions higher than two storeys, will not normally be permitted, unless it can be shown that no harm will be caused to the character of the building and the wider area. The guidance seeks to ensure that rear extensions are subordinate to the main building.
14. The SPD goes to state that there will normally be scope for ground and lower ground floor extensions where these would not compromise available garden space. In relation to upper floor extensions, the SPD sets out that single half-width upper floor extensions above existing extensions are often acceptable providing there is a punctuating gap between the eaves height and the top of the extension. It adds that in conservation areas extensions above two storeys in total will not normally be permitted.
15. The wording of the guidance in respect of rear extensions is not entirely clear, although some clarification is present in the SPD. The use of the words "higher than" does, however, indicate that a proposal would conflict with the guidance only if it were to exceed the thresholds set out. Although the wording could imply that, above one storey in height, only a half width extension would be acceptable, it does not explicitly state this. The appeal proposal would result in an extension which would not be higher than two storeys and would not be a full width extension of more than a single storey. The proposal would also

result in an extension that is more than the one full storey below eaves level that the SPD requires to ensure extensions are sufficiently subordinate to the main building. It is not suggested that the proposed extension would compromise available garden space.

16. Additionally, my attention has been drawn to an extension at number 60 Mildmay Grove South that has an upper element that exceeds more than half the width of the elevation. Whilst the Council's Statement of Case and the Planning Officer's report state that there is no record of permission for this, the appellant has provided a copy of the planning permission (Reference Number: P2014/4111/FUL, dated 2 December 2014) and approved drawings with their evidence. Although this pre-dates the SPD, it was approved after the adoption of the CAS which features identical wording in its guidance. This extension is not directly analogous to the appeal proposal, however, the upper element of it projects across the rear elevation of the building to a similar extent as the appeal proposal and was approved under the same guidelines as currently exist.
17. Within this context I do not find that the appeal proposal would conflict with the guidance in the CAS or the SPD.
18. I have noted the Council's point that the rear of the terrace exhibits a degree of uniformity and that there are few multi-level rear additions. Nonetheless, I saw when I visited the site that the rear of the terrace has been subject to alterations both in the form of rear additions and changes to the fenestration that have eroded the uniformity that it would historically have had, and it now has more varied appearance.
19. The proposed extension would be approximately 1.2 metres wider than the existing upper level addition that it would replace but would be of an equivalent height. The additional width would result in only a minor increase over and above the size of the existing rear addition and there would be two clear storeys of the original rear elevation above this. In this context, I do not consider that the proposed extension would be perceived as an unduly dominant feature on the rear elevation, and it would still be possible to discern the historic form of the rear elevation of the building.
20. I have noted that the Council have not raised any concerns in respect of the alterations to the fenestration on the basement level extension of the repositioning of the window on the upper ground floor to accommodate the increased width of the proposed extension. From what I have read and from what I saw when I visited the site, I have no reason to find differently.
21. I do not find that the proposal would be detrimental to the character or appearance of the conservation area. This is because the proposed changes would be minor and would not be visible from the public domain. I accept that it would be visible from within a small number of private gardens, but it would only have limited prominence from the private domain and would be seen in context with other extensions to the neighbouring properties at number 48 and 46. The significance of a conservation area is dependent upon how it is experienced. Under such circumstances case law has established that proposals must be judged according to their effect on a conservation area as a whole and must, therefore, have a moderate degree of prominence. Given the above, I find that the proposal would not be detrimental to the conservation area and, thus, preserve its significance.

22. I therefore conclude that the proposed development would not cause harm to the character and appearance of the existing building and surrounding area having particular regard to the effect on the Newington Green Conservation Area. It would comply with the relevant requirements of Policy D3 of the London Plan Policies CS8 and CS9 of the Islington Core Strategy (2011), policies DM2.1 and DM2.3 of the Islington Development Management Policies (2013), which when read together expect new development to be of a high quality of design that is informed by its context and reflects the character of the area, and which seek to conserve or enhance the significance of conservation areas. Nor would it conflict with the guidance in the SPD or the CAS.

Other Matters

23. I have noted the comments raised in respect of overlooking of rear gardens of neighbouring properties. Although there would be opportunities for casual overlooking of neighbouring gardens from the proposed extension, it was evident from the site visit that there are a number of existing windows in the rear elevation of the appeal building and in neighbouring buildings that overlook the gardens to the rear of the terrace. The appeal proposal would not increase the current extent of overlooking to any significant extent.

Conditions

24. I have had regard to the list of conditions that have been suggested by the Council. In order to provide certainty in respect of what has been permitted I have attached a condition that specifies the approved drawings. To ensure that the that the development preserves the visual appearance of the existing building and the surrounding area, it is necessary to attach a condition requiring that the external materials used in its construction match those of the existing building.

Conclusion

25. I have found that the appeal proposal would not cause harm to the character and appearance of the area or the significance of the conservation area. It would comply with the relevant policies in the development plan for the area and no material considerations have been identified that would warrant making a decision other than in accordance with the development plan.

26. For the above reasons I conclude that the appeal should be allowed.

John Dowsett

INSPECTOR