



Appeal Decisions

Site Visit made on 19 October 2021

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2021

Appeal A Ref: APP/V5570/W/21/3273595

Garages Rear of 45-59 Amwell Street, Soley Mews, Islington, WC1X 9QQ

- 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 Miles Brown of Brownings Garage against the decision of London Borough of Islington.
 - The application Ref P2020/3499/FUL, dated 10 December 2020, was refused by notice dated 19 February 2021.
 - The development proposed is Proposed demolition of the existing lock up garages and the construction of 4 new commercial units (Use Class E(g)) and associated works within mews.
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Appeal B Ref: APP/V5570/Y/21/3273597

Garages Rear of 45-59 Amwell Street, Soley Mews, Islington, WC1X 9QQ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Miles Brown of Brownings Garage against the decision of London Borough of Islington.
 - The application Ref P2020/3537/LBC, dated 10 December 2020, was refused by notice dated 19 February 2021.
 - The works proposed are Proposed demolition of the existing lock up garages and the construction of 4 new commercial units (Use Class E(g)) and associated works within mews.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed, and listed building consent is refused.

Preliminary Matters

3. Although not mentioned in the reasons for refusal, interested parties have raised concerns in relation to the effect of the development on light entry to nearby plots. Having reviewed the evidence I have concluded that light entry should be included with the main issue of living conditions. Although a light survey was submitted as part of the evidence, the appellant was invited to make further comments during the appeal.
4. The revised heritage statement¹ notes that the Council's concerns in respect of the garden walls have been resolved. However, the Council's statement sets out that further information was requested and that this was not forthcoming. In the absence of confirmation that the Council has withdrawn its objection in

¹ HCUK group, April 2021

this regard, it is appropriate that the garden walls are included in my reasoning.

5. To avoid duplication, I have considered the appeals together where appropriate.

Main Issues

6. The main issues are:

- Whether the proposals would preserve the Grade II listed 33–41 (odd), 43–55 (odd), 57–65 (odd) Amwell Street, 3–6 (consecutive) Lloyd Street, 66–72 (evens) Great Percy Street, Soley Mews Chapel Young Women's Christian Association, and the Young Women's Christian Association Alexander House, or any features of special architectural or historic interest, including settings, and whether the proposals would preserve or enhance the character or appearance of the New River Conservation Area (NRCA), (Appeals A and B); and,
- The effect of the development on the living conditions of occupiers of Great Percy Street and Amwell Street with particular regard to outlook and light. (Appeal A).

Reasons

Heritage Assets

Listed buildings

7. Solely Mews (the Mews) is a triangular backland site accessed through an undercroft on Great Percy Street. It is surrounded by perimeter blocks of early 19th century residential terraces and late 19th institutional church buildings, a very large proportion of which are listed, as set out above. There is also a 20th century flatted development on the north-western corner of the Mews which replaced bomb-damaged buildings after the 2nd World War. For ease and brevity, I have referred to the terraces on Great Percy Street, Lloyd Street and Amwell Street as the terraces, with more specific identification where required.
8. The 19th century brick Soley Mews Chapel (chapel) occupies the south-west corner of the Mews. Although an earlier building fronted the Mews, the chapel is now linked through Alexander House to the Lloyd Street frontage. Alexander House's irregular Queen Anne Style elevations and roofline, together with the steeply pitched chapel roof, provide enclosure on the Mews' south-western corner.
9. The terraces were completed around 1832 and although there are differences in height and detailing between individual sections of the terraces and the terraces themselves, there is an underlying and impressive architectural consistency. The recent flatted development also has flat elevations and a rigid geometry in its window openings which reflects the typology of the listed terraces nearby.
10. The Mews would originally have provided stabling and space for carriages. Map regression indicates that there were several buildings within the mews in the 19th century. These include one building behind 53 Amwell Street that appears to have the same footprint as the existing garage.

11. From within the Mews, the terraces' long flat rear elevations and repeated patterns of window arrangements provide a near backdrop and dominate most viewpoints. There is also distinct enclosure as the terraces and the chapel and Alexander House block all views beyond the site other than through the undercroft.
12. The four discrete blocks of garages are dilapidated and some are almost obscured at roof level by vegetation. However, they are clearly subservient to the dominant built form and do not compete with the height or scale of the underlying building pattern. Overall, and notwithstanding that the garages are a 20th century addition, there is a clear sense that the Mews and its immediate surroundings have changed very little since the 19th century.
13. I noticed sections of what appeared to be original brick walling forming boundaries to plots on Amwell Street and in parts incorporated into the garage walls. The walls are considered to be curtilage listed and I see no reason to disagree. However, such sections of original wall as I did observe are fragmented and interspersed with more recent sections.
14. The heritage statement emphasises that the significance of the listed terraces arises from their street presence, where there is a degree of ornamentation and a more formal appearance. It notes that the flat rear elevations are utilitarian, and have unadorned rear elevations, built largely from stock brick. This is indicative both of the buildings' social and visual hierarchy and the lower priority given to the treatment of service yards and ancillary structures. However, although there is less aesthetic value to be derived from the terraces' rear elevations than the front, the rear elevations are as important to the understanding of the terraces as the more public facing elevations. Moreover, there are former functional links between the rear of the terraces and the Mews.
15. The significance of the terraces therefore arises from their intact historic external fabric, architectural consistency, their spatial relationship with one another and with the Mews, as well as the collective contribution they make to the largely unaltered early 19th century residential estate, which reflects London's late Georgian and Victorian expansion. As such, each listed building forms reciprocal and overlapping settings for the others.
16. The significance of the chapel is derived from its location, its intact historic fabric and formal functional relationship with the Mews. To a lesser extent the Mews also provides a setting for the chapel which is situated at the northern end of a very dense cluster of buildings associated with Alexander House, reflecting its original frontage relationship with the Mews. The Mews appears to be the only space within which the Chapel's full form and structure can be appreciated.
17. Alexander House is separated from the Mews by the chapel and there is nothing before me to indicate a historic or evidential link to the Mews. Although Alexander House has significance arising from its intact and ornate institutional architecture and from its tangible representation of Victorian charitable movements, I am satisfied that the Mews does not contribute particularly to the significance of Alexander House.
18. The Mews gives direct access to most of the surrounding terraces and as such reflects its former service area status. It also provides the space from which to

appreciate the terraces' rear elevations, as well as the northern elevation of the chapel. It is therefore an integral part of the setting of the terraces and the chapel and derives heritage significance in this regard. It is also a space that has remained largely intact as well as having openness and a quiet character. This is also reflective of its former service area status.

19. The significance of the Mews arises therefore from its spatial relationship with the terraces and the chapel. This contrasts with the busyness of the nearby streets and is reinforced by the lack of intrusive development.
20. The significance of the garden walls arises from the demarcation of plot boundaries and the historic fabric.

Conservation Area

21. The Mews lies at the heart of the NRCA. The area began to be developed in the late 18th century by three companies, the New River Company, the Brewer's Company and the Lloyd Baker Estate. Planned residential estates were built on a speculative basis and a very large part of the original street layout and associated dwellings has survived. Consequently, the streets are lined with fine 19th terraces of three or four storeys which have retained their predominantly residential use.
22. As such, the impact of the NRCA arises partly from the sheer extent of a largely unchanged and high-quality built environment, and also from the very high degree of architectural coherence. My observations in this regard are reinforced by the NRCA design guidelines which state that the area has *outstanding importance and includes some of the finest terraces and squares in the Borough with a rare quality and consistency of scale, materials, design and detailing.*
23. The significance of the NRCA is therefore derived from the original spatial layout of the 19th century development, and its extensive and impressive historic fabric.

Proposals and effects – Listed Buildings

24. The four separate garage blocks situated at the ends of, and intruding into, the rear gardens of dwellings fronting Amwell Street would be replaced by two-storey commercial units.
25. The Urban Design Guide (UDG) states that in mews and backland areas, where there is development, this is generally subordinate to the street frontages. It also states that backland sites that have no development can be important for their openness in a dense, urban environment and should be retained and reinstated wherever possible. Regarding development, this should only be considered where it replaces existing structures and is subservient to the surroundings.
26. The units would be highly designed with intricate detailing, including hit and miss brick facing. They would have barrel-vaulted roofs and predominantly glazed frontages. I have no particular concerns in relation to the units' design if considered in isolation, but their height, scale and form would be unrelated to the residential terraces in any way. Far from being subservient to the surrounding built form, the units would be prominent and make a strong design statement. The units' appearance would jar with the understated typology and

- rather more austere appearance of the listed buildings and would compete with and detract from, their appreciation.
27. The 3D images also demonstrate that the units would be disproportionate and bulky additions to the ends of the modest rear gardens of the Amwell Street frontages.
28. The garden boundaries would not be altered as these are outside the appeal site boundary. Consequently, I give no weight to the argument that the original garden plan form would be retained. It is the case that the second storey elements of the units would reflect the plot widths but again, this is largely determined by the width of the garages which are themselves constrained by the adjoining gardens. The irregular spacing would not reflect the repetition and rhythm of the Amwell Street elevations.
29. I acknowledge that the large openings at ground floor level could reflect former carriage houses but there is no evidence before me to confirm that the former buildings on the site resembled what is now proposed. Nor is there anything to suggest that the former buildings were two-storeys. In any case buildings for carriages and stabling would be highly likely to be subservient to the host dwellings.
30. The units would also create a dominant and secondary frontage within the Mews. This is currently used for car parking and storage within the garages. However, in addition to the dominance of the built form, the commercial units would generate activity from staff, suppliers or customers, even in the absence of designated parking. This would introduce frontage activity into a space whose former function was very much related to the terraces. There would be associated noise and disturbance, which would erode the Mews' existing quiet character.
31. I appreciate that the design may have changed from earlier applications, but this does not alter my reasoning and in any case, I have to determine the appeal before me.
32. The appellant argues that there are similar developments in other mews nearby. However, there is limited evidence before me with regard to the setting or precise context of those developments. As such I am unable to ascertain if they are directly comparable. In any case, they are for residential development, which is not the case here and each appeal is determined on its own merits.
33. I appreciate that the principle of development is acceptable to the Council, but it remains that the UDG and NRCA guidelines set out parameters which have not been followed. It is also apparent that the Council has consistently raised concerns in relation to the impact of the development and works on the nearby heritage assets through the application procedure for this and earlier designs. One of the last emails sent by the Council before determination of the application reiterates its concerns in relation to the height of the proposed vaulted roofs, and the incongruous scale and form. It is also noted that the proposed units would not accord with the appearance, materials or pattern of the surrounding 19th development. I see no reason to disagree with the Council.

34. I disagree with the appellant that the garages detract from the settings of the terraces. They are largely obscured by vegetation and are single storey with flat roofs. I did not find them to be particularly intrusive or incongruous. In any case they are reflective of the Mews' former ancillary function.
35. In the light of the above, I conclude that the units would not be subservient to the surrounding terraces, would introduce an incongruous built form that would distract from and be discordant with the underlying building pattern and would introduce an increased level of activity. The quiet character of this backland site would be eroded. I conclude that the units would be intrusive and incongruous and would detract from the settings of the terraces and the chapel. This would diminish the significance of those listed buildings.

Proposals and effects – Conservation Area

36. The heritage statement uses the guidance set out by Historic England² to advance the argument that the removal of the unlisted garages would benefit the NRCA. However, the garages could be considered to be an incidental feature in the Mews. If that same assessment was carried out on the basis of the Mews taken as a whole, which is the appeal site, the result would identify that the Mews relates to adjacent heritage assets in a historically significant manner, has a former functional relationship with those buildings and contributes to their settings. This would conclude that the Mews taken as a whole makes a positive contribution to the NRCA.
37. There also appears to be an underlying assumption in the heritage statement that because there is limited visibility between the Mews and the public domain, that any perceived incongruity between the units' design and form would not be detrimental to the NRCA. However, harm to conservation areas is not predicated upon visibility from the public domain. In any case, I have concluded that the rear of the terraces has its own significance in heritage terms and makes its own distinctive contribution to the NRCA. Moreover, the units would be highly visible from occupiers of the terraces, many of whom directly overlook the Mews from rear windows and gardens.

Proposals and effects – Garden Walls

38. If the appeal was allowed the garden walls associated with the garages would need to be demolished. I am satisfied that the bricks could be retained and reused and that this could be controlled by condition. This would not affect the significance of the terraces or their plot boundaries. However, as the proposals require the demolition of the walls, I see no net heritage benefits arising from their rebuilding.

Heritage balance and conclusion

39. In the light of the above, I conclude that the development and works would diminish the settings of the aforementioned listed buildings, and would also have an adverse effect on the character and appearance of the NRCA. This would amount to less than substantial harm to the listed buildings and the NRCA.
40. Paragraph 202 of the National Planning Policy Framework (the Framework) requires that where there is less than substantial harm, this should be weighed

² Measuring and Assessing Change in Conservation Areas

against the public benefits of the proposal including securing its optimum viable use.

41. The appellant argues that the harm would sit at the lower end of the spectrum of less than substantial harm, and that Planning Practice Guidance (PPG) states that within each category of harm, the extent of harm may vary and should be clearly articulated. However, it is unclear to me whether PPG is referring to the articulation of sub-categories of harm or the articulation of the circumstances of that harm. In any case, the courts have found that there are no intermediate categories of harm³. Even if I found that the degree of harm was at the lower end of a notional spectrum of less than substantial harm, Paragraph 199 of the Framework states that irrespective of the identified level of harm, great weight should be given to an asset's conservation and that any harm requires convincing justification.
42. I appreciate that Policy CS8 of the Core Strategy (CS) encourages small business and mixed development throughout the borough, but there is nothing before me to indicate that the proposed development of the Mews is essential to the continued residential occupation of the terraces, the use of the chapel or the retention of their settings. As for the garages themselves, I acknowledge that the officer's report notes that the demolition of the garages would not be resisted. However, I found them to have a near neutral effect on the significance of the NRCA and the terraces, due to their low visibility. Their removal would represent a very minor benefit in the overall balance and would not outweigh the harm I have identified above. In any case, although demolition would remove dilapidated structures, I see no reason why their removal, if required, should be predicated on this development.
43. On the basis of what is before me, I conclude that there is no convincing justification for the proposals. Consequently, I conclude that the development and works would fail to preserve the settings of the aforementioned listed buildings and would also fail to preserve the character and appearance of the NRCA. The development and works would therefore be contrary to Sections 16 (2), 66 (1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), and Section 16 of the Framework which is concerned with heritage assets.
44. The development and works would also be contrary to Policy 7.8 of the London Plan, Policy CS9 of the Core Strategy and Policy DM2.3 of the Development Management Policies (DMP) which taken together require the conservation and enhancement of heritage assets, amongst other considerations. The proposals would be contrary to subsections vi) and viii) of DMP Policy DM2.1 which require development to respect and respond to existing buildings and the wider context, and to reinforce local distinctiveness. Finally, the development and works would also fail to adhere to the guidelines set out in the NRCA guidelines which state that new buildings should conform to the height, scale and proportions of existing buildings in the immediate area and that planning permission will not be granted to change, expand or intensify uses which would harm the character of the conservation area, as well as the guidance in the UDG.

³ R (oao James Hall and Co Ltd) v City of Bradford Metropolitan District Council and Co-operative Group Ltd [2019] EWHC 2899

Living conditions

Outlook

45. Unit 1 would be directly opposite 72, Great Percy Street's (No 72's) rear elevation. It would block the outlook from the ground and first floors at a distance of less than 10 metres. Having viewed the site from these windows I am satisfied that there would be a significant loss of outlook and that this would be detrimental to the living conditions of occupiers of No 72. I appreciate that outlook is already somewhat curtailed from No 72 due to the single storey garage, but it does not follow that adding a two-storey building on the same footprint would make no difference to outlook or cause no further harm to living conditions. Moreover, No 72 is a deep mid-terrace and habitable rooms on its rear elevation are dependent on outlook from a single window.
46. The 3D images also illustrate the dominance and oppressiveness of the proposed units when viewed from the rear of various dwellings on the Amwell Street frontage. The officer's report sets out the distances between the rear elevations of these dwellings⁴ and the units' second storey. These distances range from 6 to 10.7 metres. Given the narrow plots, the distances involved and the height of the two storey units, I conclude that the units would be overbearing in views from the lower ground and ground floors of these dwellings and add significantly to enclosure. They would also be prominent and overbearing to a lesser degree from adjoining properties. There would therefore be an adverse impact on the living conditions with regard to outlook for occupiers of No 72, and 45, 49, 53, 57 and 59, Amwell Street, and to a lesser extent on occupiers of the dwellings on each side of the identified dwellings.

Daylight

47. The survey indicates that all the included dwellings and their windows would not have a noticeable decrease in daylight. All dwellings pass the standard diffuse daylight test, and all except one store-room window at 59 Amwell Street's ground floor, pass the Annual Probable Sunlight Hours Test.
48. However, the daylight contours indicate that there would be light loss for the lower ground, ground floors and staircases of several dwellings on Amwell Street as well as No 72. Although the light loss is insufficient to render the overall scheme noncompliant with regard to the BRE thresholds, I noticed that these dwellings are not particularly well lit internally to begin with, and some occupiers are likely to be highly sensitive to further reductions. Whilst this would not be sufficient on its own to find harm in relation to daylight, this observation reinforces the concerns with regard to light loss set out below.

Overshadowing

49. With regard to direct daylight to amenity space and overshadowing, 26 dwellings were surveyed and six⁵ would receive less direct sunlight in their amenity space than is currently the case. In respect of 51 and 55 Amwell Street (Nos 51 and 55), sunlight would be reduced to 79 and 69 per cent respectively, with the other dwellings having a reduction of less than 20 per

⁴ 45, 49, 53, 57 and 59 Amwell Street

⁵ 70 and 72 Great Percy Street, 47, 51, 55 and 61 Amwell Street

- cent, which the BRE considers acceptable as it would not generally be noticeable.
50. However, these are very small gardens, in a dense urban environment surrounded by three and four storey buildings which will themselves cause considerable overshadowing, particularly in the winter. As such direct sunlight into these rear plots is likely to be limited even in the absence of the development. This is illustrated by the survey results for the existing levels of direct sunlight for some gardens.
51. A reduction in direct sunlight to below the threshold level for around one quarter of the surveyed dwellings does not appear to me to be a minor transgression. Moreover, the relatively small number of affected dwellings does not make the harm experienced by the individual householders any less significant or something to be discounted.
52. I appreciate that the future reduction in direct sunlight for some dwelling would be just below the threshold, but light loss is a continuum. In any case, as future figures just above 80 per cent are counted as being compliant I see no reason why figures just below 80 per cent should not be seen as non-compliant.
53. The fact that the light survey has achieved better results on the whole, than for a previously submitted scheme, carries no weight. Nor does the improvement in light conditions for a minority of dwellings compared to that previous application weigh in favour of the appeal when other occupiers are disadvantaged as is the case here.
54. Interested parties have queried the marginal increase in direct sunlight projected for some dwellings⁶. Having reviewed what would be very minor alterations to the footprints of Units 1 and 3, and the orientation of the units to those dwellings, this does seem illogical given that the sun would be obstructed by a second storey on the garage footprints. Moreover, the daylight contour drawings do not show the baseline situation.
55. In any case, whilst in principle I see no reason to disagree with the survey, the projections are only as accurate as the baseline modelling. The modelling was based on a combination of site information provided by the client and architect, photographs, whatever drawn information was available in the council archives, and reasonable assumption. I agree that this is recognised practice but there is likely to be a degree of error in that baseline modelling. However sensitive the modelling software, it is only as accurate as the underlying information. As such whilst I give weight to the survey's broad conclusions, I would expect there to be some tolerances in the final results.
56. In the light of the above, I conclude that there would be an adverse effect on the living conditions of occupiers of Nos 45, 49, 53, 57, 59 and 72 with regard to outlook, and for occupiers of Nos 51 and 55 with regard to overshadowing.
57. The development would therefore be contrary to LP Policy DM2.1 x) which states that all forms of development are required to provide a good level of amenity including direct sunlight and daylight, overshadowing, overdominance, sense of enclosure and outlook. It would also be contrary to Paragraph 130 of

⁶ 45, 49, 53, 57 and 59 Amwell Street

the Framework which states that development should provide a high standard of amenity for existing and futures users.

Other Matters

58. Issues of ownership and title have been raised by interested parties, but these are outside the remit of the appeal.
59. Concerns have also been raised in relation to other matters including noise and disturbance, and access. However, as I have found harm in relation to the main issues it is not necessary for me to consider these further.

Planning balance and conclusion

60. Although I appreciate that the Council has policies to encourage the development of small start-up units, and that this is a highly accessible location, the benefits arising from four commercial units would not be outweighed by the harm identified above. The biodiversity benefits to be derived from the proposed green roofs would also have a very minor impact on local biodiversity and would not alter the overall planning balance.
61. The development and works would therefore fail to accord with the Act, the Framework or relevant local policies. I conclude that they would be contrary to the development plan taken as a whole and there are no material considerations of such weight to lead me to conclude otherwise. Appeal A and Appeal B are dismissed.

A Edgington

INSPECTOR