



Appeal Decision

Site visit made on 14 March 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2022

Appeal Ref: APP/V5570/W/21/3283574

30-32 Clerkenwell Green, Islington, LONDON, EC1R 0DU

- 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 Redwell Property Ltd against the decision of London Borough of Islington.
 - The application Ref P2021/0828/FUL, dated 12 March 2021, was refused by notice dated 12 May 2021.
 - The development proposed is described as 'extensions to rear and roof of 32 Clerkenwell Green; extensions to rear and roof of 30-31 Clerkenwell Green; replacement of rear building to 30-31 Clerkenwell Green; refurbishment of Class E floorspace; repositioning of two residential units (C3); external refurbishment, replacement shopfront to 32 Clerkenwell Green, new green roof and terraces'.
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Decision

1. The appeal is allowed and planning permission is granted for extensions to rear and roof of 32 Clerkenwell Green; extensions to rear and roof of 30-31 Clerkenwell Green; replacement of rear building to 30-31 Clerkenwell Green; refurbishment of Class E floorspace; repositioning of two residential units (C3); external refurbishment, replacement shopfront to 32 Clerkenwell Green, new green roof and residential terraces at 30-32 Clerkenwell Green, Islington, London, EC1R 0DU, in accordance with the terms of the application, Ref: P2021/0828/FUL, dated 12 March 2021, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Amended drawings have been deposited with the appeal and these propose a handful of changes aimed at addressing concerns raised by the Council. In summary, they are the removal of a terrace originally proposed to serve an office¹, confirmation of acoustic treatment to an internal wall, minor internal alterations to aid movement and the obscuring of proposed side windows. These alterations were submitted at the outset of the appeal process and are minor in scope. I have considered the plans under the principles established by the Courts² and am satisfied that the amendments would not change the proposed development to the extent that interested parties should be directly consulted. Thus, no party would be prejudiced by me accepting and considering the new drawings, which I have done.
3. Since the Council issued its decision a revised version of the National Planning Policy Framework (the 'Framework') has been published. The parties had an

¹ I have updated the description in the decision to confirm that only residential terraces are approved

² *Bernard Wheatcroft Ltd v SSE & Harborough DC* [1982] P&CR 233

opportunity to address this through their submissions. Moreover, the relevant changes in this instance principally relate to paragraph numbering.

Main Issues

4. The main issues in this appeal are:

- Whether the proposal would preserve or enhance the character or appearance of the Clerkenwell Green Conservation Area (CA), including the effect on 30, 31 and 32 Clerkenwell Green, which are locally listed;
- Whether the occupants of the proposed flats would have adequate living conditions, with reference to privacy and any noise and disturbance;
- Whether the proposal would provide adequate and inclusive access; and
- Whether the proposal would prejudice the development potential of neighbouring land.

Reasons

Whether the character or appearance of the CA would be preserved or enhanced

5. The CA has been subject to incremental development over time, with surviving examples of buildings from nine different centuries. It therefore has a rich mix of period properties that act as a repository of bygone lifestyles, urban morphology and previous building techniques and styles. The variety of the townscape, the eclectic mix of land uses and the tight grained and generally small-scale³ urban format also provides interest and character. Accordingly, the significance of the CA, in so far as it relates to this appeal, is primarily found in its historic, evidential, communal, and fortuitous aesthetic value.
6. The appeal site encompasses 30, 31 and 32 Clerkenwell Green (Nos 30-32), which are period buildings arranged over four floors. They form part of a perimeter block and front onto a historic thoroughfare. The architectural language of the two buildings is different, but this is commonplace in the CA given the eclectic composition of the streets. However, there is some similarity and harmony in materials, scale and use of period detailing. The buildings, especially the front elevations, contribute positively to the character, appearance, and significance of the CA and are justifiably on the local list.
7. The public face and quality of Nos 30-32 and the street scene of Clerkenwell Green is markedly different to that found inside the perimeter block. This space is more functional and cluttered due to the presence of visible services and *ad hoc* building elements. The rear elevations of the buildings also lack the intricate and attractive period detailing otherwise evident on the front elevations. The functional space to the rear of Nos 30-32 provides some evidential value of how the CA has evolved, but it lacks aesthetic value. There are very limited public views of the interior of the perimeter block.
8. The relatively small office building directly behind No 30-32, which forms part of the appeal site, is a tired looking structure positioned alongside the rear boundary and against taller and bulkier development. The Council and appellant agree it is of limited interest and I have no reason to disagree. I

³ Generally between two and five storeys

therefore share their view that it could be demolished without harming the character, appearance, and significance of the CA.

9. The building to the rear of No 30-32 would be replaced with a four-storey structure. Although in a backland setting, the proposed building would not appear strident or dominant as it would sit well below the structures to the north-west and at a similar height to Nos 30-32. The building would not be visible from Clerkenwell Green and therefore have little effect on the aesthetic value of the street. When seen from within the perimeter block, the proposal would have the backdrop of an eclectic mix of buildings of differing forms, materials and quality. It would not appear out of place as a result.
10. The visualisation provided by the appellant, the accuracy of which I have no reason to doubt, demonstrates that the building would not be unduly tall relative to those around it. The recessed nature of the upper floor would ensure adequate separation with Nos 30-32, a point aided by the glazed atrium. Moreover, the block like form of the third floor would take inspiration from buildings nearby. Thus, the new building would sit comfortably in its context and therefore preserve the character, appearance, and significance of the CA. I therefore share the findings outlined in the appellant's Heritage Appraisal.
11. The first-floor rear extension proposed to No 30-31 would align with the form and height of that already found to the rear of No 32. This aspect of the proposal is therefore a contextual response and subservient to Nos 30-32. The space between the rear structure and the first-floor extension would be squeezed. But the glazed atrium would provide a sense of space and relief. The position of the boundary wall would also soften the impact. As a result, the first-floor extension would not have a cramped appearance in isolation or when considered cumulatively with the proposed rear building. Even if it did, views would be constrained by surrounding buildings. Furthermore, the space at the centre of the site between the front and rear buildings is generally unattractive and therefore the insertion of a high-quality office, with an attractive atrium, would be an enhancement.
12. The proposed mansard extension to No 32 would follow the width, depth and general proportions of the existing building. Reinstating the chimney would ensure the depth of the mansard is broken up and not appear top heavy. It would also be attractively detailed due to the use of matching brick and terracotta chimney pots. The use of lead clad dormers, slate and matching brick would also provide authenticity to the mansard. Furthermore, it would not appear unduly tall or out of place given the fluctuating height of buildings nearby. In this respect, the mansard would sit lower than the neighbouring building when viewed from Farringdon Road.
13. The minor upward extension of the parapet would be a compromise as would the lift overrun and the window sizes matching those of the lower floors, but these aspects would be balanced by positive elements of the scheme, such as the reinstatement of the historic shop front. The rear aspect of the mansard would have an untypical form, but I have already explained that the rear of the building has been compromised to a large degree by *ad hoc* development and services. Accordingly, the rear element of the mansard would not appear harmful to the architectural quality of No 32 as a whole.
14. The submitted drawings indicate that the upper floor windows at No 32 would be replaced to match the existing. Although justification for removing what

appear to be older windows is not before me, the Council has not raised any concerns. That said, the design of the windows on the proposed drawings do not match the existing windows. Thus, there is an ambiguity. This can however be addressed through a planning condition requiring details of all new windows to be approved. The proposal would retain commercial uses at ground floor in the form of Class E units and a reception. As a result, active frontages at street level would be provided and this aspect of the CA's character preserved.

15. In conclusion, the proposal overall would preserve the character and appearance of the CA. It would not harm the significance of the CA as a designated heritage asset or Nos 30 -32 as discrete non designated heritage assets. The appeal scheme would therefore adhere to Policies D3 and D4 of the London Plan 2021 (LP), Policies CS8 and CS9 of the Islington Core Strategy 2011 (CS), Policy BC7 of the Finsbury Local Plan and Policies DM2.1 and DM2.3 of Islington's Development Management Policies 2013 DMP, supported by the Urban Design Guide 2017 and the Clerkenwell Green Conservation Area Design Guide. The proposal would also adhere to the expectations of Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 and being well designed, Paragraphs 130 and 134 of the Framework.

Whether the occupants of the proposed flats would have adequate living conditions

16. The relocated flat at first floor level would have a bedroom divided from an adjoining premises (Unit 2) by a wall. The use of Unit 2 would fall within Class E⁴ of the UCO⁵ and could therefore include commercial, business and service use. Given this relationship, there would be potential for noise from Unit 2 to penetrate through the wall and harmfully affect the living conditions of the occupants of the flat. Loss of sleep would be an impact of particular concern. However, the appellant has indicated that it would be possible to provide acoustic separation between the flat and Unit 2, secured through a planning condition. The Council has not suggested that this would be ineffective. Thus, in the absence of evidence to the contrary, I am satisfied that this matter can be addressed through a suitably worded condition.
17. The proposed flat at second floor level would have a kitchen dining room opening onto a terrace. The terrace would function as the occupant's sole outdoor amenity space. The second floor would also incorporate a commercial unit (Unit 3) that originally was to include an office terrace. The two terraces would have been in close proximity. Accordingly, the use of the office terrace could have resulted in a loss of privacy to the occupants of the flat as well as noise and disturbance from work gatherings.
18. It would have been possible to construct a privacy screen on the office balcony to maintain the privacy of the occupants of the flat. However, this would not have addressed the noise and disturbance. A condition limiting the hours of use of the balcony may have removed activity at the more sensitive evening and night times, but activity would still take place at close range during the day. Nevertheless, the revised drawings show the office terrace removed. This amendment would ensure the occupants of the second floor flat would have adequate privacy when on their terrace and would not suffer from harmful levels of noise and disturbance when in this space either. A condition could be imposed to prevent the use of the flat roof of the first floor as a terrace.

⁴ Commercial, business and service uses

⁵ The Town and Country Planning (Uses Classes) Order 1987 (as amended)

19. In conclusion, the submitted amendments ensure the proposal would provide adequate living conditions for the occupants of the proposed flats. Accordingly, the appeal scheme would adhere to Policy D4 of the LP, Policy CS12 of the CS and Policies DM2.1, DM3.4 and DM3.5 of the DMP, supported by the London Plan's Housing Supplementary Planning Guidance 2016 (SPD), which together seek to secure development that provides a good level of amenity.

Whether the proposal would provide adequate access for future occupants

20. The amended scheme submitted at appeal stage now includes an enlarged accessible toilet and shower room in the ground floor commercial unit. Similarly, the amendments now show that an accessible step free route can be achieved from Unit 1 to the lift. Moreover, the appellant has confirmed that one of the bicycle parking spaces would be a larger accessible Sheffield stand. It would therefore provide a larger and adaptable space as required by Policy T5 of the LP and Policy DM2.2 of the DMP. The Council have not suggested these changes would not go far enough in addressing its concerns regarding the accessibility of the commercial units. In the absence of evidence to the contrary, I am satisfied the commercial units would provide adequate access.
21. The residential units are more problematic, as the kitchens could only be accessed by negotiating stairs and would thus fail to be located at the entrance level. Moreover, the bathrooms would have inward opening doors. As a result, they would not meet the expectation in Policy D5 that proposals should meet the highest standards of accessible design.
22. That said, the appellant has indicated that a planning condition could be imposed requiring inclusive design details in the flats. In doing so, it would be possible to explore an appropriate door, perhaps outward opening or sliding, to the bathrooms to create accessible rooms. The appellant does not intend to address the lack of step free access to the kitchens because it would not be practical to do so within the constraints of the scheme proposed.
23. However, this needs to be considered in the context that there are two existing flats at the appeal site which do not have step free access. The appeal scheme would therefore retain the status quo. Moreover, Paragraph 3.7.6 of the LP recognises the need for flexibility at small sites or when homes are located above shops. It is also of note that the appeal site overall would have much better accessibility with the proposal implemented than if it were not, and moving the dwellings to the ground floor would hamper the ability to provide active frontages at street level.
24. In conclusion, the commercial elements of the proposal would provide adequate accessibility thereby adhering to Policy D5 of the LP and Policies DM2.1 and DM2.2 of the DMP as supported by the Inclusive Design in Islington Supplementary Planning Document. The two flats would not provide step free access contrary to the aims of the development plan. However, in this instance, there are material considerations that suggest this aspect of the proposal should be considered otherwise than in accordance with the development plan.

The effect on the development potential of neighbouring land

25. There is a car park to the east of the appeal site forming the centre of a perimeter block. This land is not allocated for development, and I am not aware of any extant planning permission. As a result, there is no substantive

evidence before me to demonstrate the area has been identified as having development potential. In addition, there is nothing before me, such as details of an extant planning application, to suggest the landowner has development aspirations. It is also clear that developing the site would be very challenging given the high number of windows overlooking the space. Thus, based on the evidence before me the development potential of the car park appears limited.

26. The appeal scheme would incorporate two windows in Unit 4 placed close to the shared boundary with the car park. Given my findings in the preceding paragraph, it is unlikely the adjoining land will come forward for development in the foreseeable future. That said, even if it did, these two office windows would not place any greater constraint on development than other windows nearby. Moreover, as Unit 4 would be commercial space lit by south facing windows, the two east facing windows in question could be obscured in the way indicated on the plans without effecting the quality of the space as a work environment. Accordingly, this amendment would prevent any overlooking of possible future development from occurring and employees in Unit 4 would not be reliant on them for adequate light or outlook.
27. In conclusion, the appeal scheme would not unduly prejudice the short- or long-term development potential of the neighbouring land and therefore a conflict with Policy D3 of the LP and Policy DM2.1 of the DMP would not occur.

Other Matters

28. There are several listed buildings in the vicinity of the appeal site. These include the Grade II* listed Sessions House and Church of St James, the Grade II listed 29 Clerkenwell Green, Marx Memorial Library (no. 37a Clerkenwell Green) and Crown Public House. By repairing and enhancing the principal elevations of No 30-32, the proposal would generally enhance the street scene and local townscape and therefore preserve the setting of these buildings. An appeal at the site was dismissed in 2018⁶, but the proposal before me is markedly different. As a result, there is no inconsistency between the previous decision and my findings. I have considered the proposal on its own merits and in light of the evidence before me in any event.

Conditions

29. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council. It is necessary in the interests of certainty that the development is undertaken in accordance with the approved drawings and documents. In the interests of safeguarding the character and appearance of the area it is necessary to secure details of external finishing materials and the PV panels.
30. To protect as yet unknown archaeology, it is necessary to secure a programme of investigation. To protect living conditions, it is necessary to secure details of sound insulation, structural works and fix plant. For the same reason it is necessary for a construction environment management plan to be prepared, land contamination addressed, certain uses and hours of operation to be restricted and use of the flat roof as a terrace prevented.
31. To maximise inclusive design measures, it is necessary to secure further details. To protect highway safety it is necessary to secure details of servicing

⁶ APP/V5570/W/17/3181747

and delivery. To promote sustainable transport and biodiversity, it is necessary to secure details of cycle parking and the provision of bird boxes. To ensure the proposal does not hamper the delivery of development on the adjoining site, it is necessary for side windows to be obscured.

32. I have imposed some pre commencement conditions to mitigate impacts arising from, or during, construction. These conditions require resolution prior to commencement of development since the works they relate to are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

Conclusion

33. When having regard to all matters raised, I conclude that for the reasons given the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.
2. Subject to the other conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the following approved plans and any recommendations and mitigation measures in the following approved documents: H44-HUT-ZZ-: Dwg E001 Rev A Dwg P0009 Rev B; Dwg P0010 Rev C; Dwg P0011 Rev C; Dwg P0012 Rev C; Dwg P0013 Rev C; Dwg P0014 Rev C; Dwg P0015 Rev C; Dwg P0302 Rev C; Dwg P0303 Rev C; Dwg P0304 Rev C; Dwg P0401 Rev C; Dwg P0402 Rev C; Dwg P0403 Rev C; Dwg P0404 Rev C; Dwg P0405 Rev C; Dwg P0406 Rev C; Design and Access Statement By HUT dated March 2021; Archaeological Desk Based Assessment by rps group dated March 2021; Daylight and Sunlight Report By Lumina dated 4 March 2021; Environmental Noise and Vibration Impact Assessment By Hann Tucker Associates dated 12 March 2021; Heritage Appraisal By The Heritage Practice dated March 2021; Planning Statement By Savills dated March 2021; Structural Method Statement By Eckersley O'Callaghan dated 11 March 2021; Energy & Sustainability Statement by Harley and Haddow dated March 2021; Transport Statement by Caneparo Associates dated March 2021; Arboricultural Impact Assessment by Landmark Trees dated 12th March 2021
3. Notwithstanding the drawings hereby, details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing on site. The details and samples shall include:
 - a) solid brickwork (including brick panels and mortar courses)
 - b) window design and treatment (including sections and reveals);
 - c) roofing materials;
 - d) balustrading treatment (including sections); and
 - e) any other materials to be used. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.
4. No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works. If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall

be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

- A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - B. Where appropriate, details of a programme for delivering related positive public benefits
 - C. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI
5. Full particulars and details of a scheme for sound insulation between the proposed first floor office space and adjacent Flat 1 bedroom shall be submitted to and approved in writing by the Local Planning Authority prior to superstructure works commencing on site. The sound insulation and noise control measures shall be carried out strictly in accordance with the details so approved, shall be implemented prior to the first occupation of the development hereby approved, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority
6. The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014+A1:2019
7. A Construction Environmental Management Plan assessing the A Construction Management Plan assessing the environmental impacts (including (but not limited to) noise & vibration, air quality including dust, smoke and odour) of the development shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing on site. The report shall assess impacts during the construction phase of the development on nearby residents, other occupiers, highways and the operational railway together with means of mitigating any identified impacts in line with Islington's Code of Practice for Construction Sites. The development shall be carried out strictly in accordance with the details so approved and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

8. Prior to first occupation of the development hereby approved, details of the proposed Solar Photovoltaic Panels shall be submitted to and approved in writing by the Local Planning Authority. These details shall include but not be limited to the following and should demonstrate that the panels are not visible from public view: • Location; • Area of panels; and • Design (including angle of panels and elevation plans). The solar photovoltaic panels as approved shall be installed prior to the first occupation of the development and retained as such permanently thereafter.
9. Details of delivery and servicing of the hereby development shall be submitted to and approved by the Local Planning Authority prior to the first occupation of the units. The servicing arrangements shall be operated strictly in accordance with the details so approved, shall be maintained as such thereafter and no change there from shall take place without the prior written consent of the Local Planning Authority.
10. The bicycle storage and refuse area(s) hereby approved, shall be provided prior to the first occupation of the development hereby approved and permanently maintained as such thereafter.
11. Notwithstanding the drawings hereby approved and prior to the occupation of the dwellings hereby approved, details of inclusive design measures within the residential flats shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
12. Notwithstanding the drawings hereby approved, the 3no. windows shown on the north-eastern elevation of the new build development at the rear of the site at second floor level shall be obscure glazed and fixed shut.
13. The Chartered Civil Engineer (MICE) or Chartered Structural Engineer (MI Struct.E) certifying the Structural Method Statement (SMS) dated 11 March 2021 submitted to support the hereby approved development shall be retained (or a replacement person holding equivalent qualifications shall be appointed and retained) for the duration of the development to monitor the safety of the construction stages and to ensure that the long term structural stability of the existing buildings and other nearby buildings are safeguarded, in line with the supporting Structural Method Statement. At no time shall any construction work take place unless a qualified engineer is appointed and retained in accordance with this condition.
14. Notwithstanding the provision of the Town and Country Planning (Amendment) (England) Regulations 2020, the basement, ground, first and second floor levels of the premises currently shown as Class E shall be used only for the display or retail sale of goods, other than hot food, Financial services and Professional services (other than health or medical services) and not for any other purpose listed within Use Class E (other than Class E (a) and (c) (i) and

(ii)) of the Town and Country Planning (Amendment) (England) Regulations 2020.

15. The retail and office Class E units hereby approved shall not operate outside the hours of: 7:00am - 22:00pm Monday to Saturday
16. The flat roof show on drawing H444-HUT-ZZ-12-DR-P0012 Rev D shall at no time be used as a balcony or terrace.
17. For the hereby approved development, a minimum of 4 no. nesting boxes / bricks shall be installed prior to the first occupation of the building to which they form and shall be retained into perpetuity.

End of Schedule