



Appeal Decision

Site visit made on 24 June 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th July 2022

Appeal Ref: APP/V5570/W/22/3290909

30 Dalmeny Road, Islington, London N7 0DX

- 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 Patrick Quinlan (Innovative Infill) against the decision of the Council of the London Borough of Islington.
 - The application Ref P2021/2448/FUL, dated 20 August 2021, was refused by notice dated 29 October 2021.
 - The development proposed is subdivision of site, erection of detached single storey dwelling house on land to the rear of No. 30 Dalmeny Road, including modifications to window of existing building.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) The effect of the proposal on the character and appearance of the area;
 - ii) Whether the proposal would provide a suitable standard of accommodation for future occupants;
 - iii) Whether the proposal would involve excavation that would pose a risk to the structural integrity of the adjoining terrace.
 - iv) Whether, if necessary, the proposal would make adequate provision for affordable housing and carbon offsetting, having regard to relevant development plan policies.

Reasons

Character and Appearance

3. The appeal relates to a residential end-of-terrace building on the corner of Dalmeny Road and Mercers Road. The area is characterised by long terraces of traditional, three storey townhouses which have a uniform appearance and regular pattern which adds to the quality of the townscape. As a corner property, the rear garden of the appeal building is visible over the boundary wall and separates the terrace from dwellings on Mercers Road which stand at right angles to the appeal site.
4. The proposed dwelling would be constructed within the rear garden. It would be a single storey building with a flat, green roof set behind a raised boundary wall to Mercers Road. I glean from the appellant's evidence that the intention is to create a discreet building screened from view from the street which does not

disrupt the existing townscape in form or character. I am also aware that a previous proposal for a dwelling on the site was dismissed at appeal in July 2020.¹

5. The raised boundary wall to Mercers Road would not, in itself, be an anomalous feature, as taller walls exist directly opposite. However, I do not agree with the appellant that the dwelling would not be perceptible behind the wall. The existing garden is clearly visible from the street and several surrounding properties, including those adjacent to the appeal building to the south and those on the opposite side of Mercers Road, which have elevated views from upper floors and roof terraces. From these vantage points, the proposed dwelling would form a substantial and prominent structure that would occupy most of the rear garden space of No 30.
6. The proposal would undermine the consistent layout of the built form, standing forward of the side elevation of No 30 and the front building line of the terrace on Mercers Road and infilling the space in a crude manner with the dwelling standing extremely close to both the rear outrigger of No 30 and the front corner of 144 Mercers Road, showing a lack of consideration for the interrelationship with either dwelling or its position within a garden where structures are expected to be modest in size.
7. The forward position of the dwelling would exacerbate its incongruous presence between the two terraces. In views from the west on Mercers Road, the forward projection of the dwelling beyond the side wall of No 30 would be clearly visible. Moreover, the green roof and the openable rooflight, which would protrude above the wall, and the entrance door from Mercers Road, would all denote the presence of a structure on the site. The green roof would not replicate the appearance of a garden, as it would be interspersed with the rooflight and solar panels and would stand anomalously above the level of the street and neighbouring gardens. Together, these elements would clearly establish the presence of a dwelling in views from the street.
8. Moreover, the low, flat roof design of the dwelling would bear no relation to the scale, vertical emphasis and traditional appearance of surrounding development. The rear garden of No 30, whilst presently overgrown, is not a leftover piece of land, but is a deliberate part of the layout of these terraces, providing external space for No 30, but also forming a townscape gap that provides glimpses of the verdant gardens to the rear of the terraces. This would be replaced with a dwelling squeezed onto the site in a cramped, contrived and conspicuous manner that would result in the loss of the existing garden to No 30, and a disproportionately small external space to the rear that would undermine the existing consistent plot shapes along Dalmeny Road. In these respects, I find similarly to the previous Inspector that the proposal would fail to respond to local distinctiveness and would appear out of character with the area's urban grain.
9. I acknowledge the appellant's efforts to create a discreet form of infill development, and in certain views from directly in front of the site, one may only perceive a boundary wall. However, the visibility of the site from elevated vantage points on all sides means the dwelling would have a tangible effect on the pattern of development and overall townscape character. I note the appellant's arguments in respect of public versus private views; however the

¹ Appeal Ref: APP/V5570/W/19/3243075

effect is not that specific private views would be lost, but that there would be an obvious and harmful change in the built form which would be observable from surrounding dwellings.

10. For these reasons, therefore, I conclude that the proposal would significantly harm the character and appearance of the area, contrary to Policies CS8 and CS9 of the Islington Core Strategy 2011 (the CS); Policy DM2.1 of the Islington Development Management Policies 2013 (the DMP); and Policy D4 of the London Plan 2021 (the LP), which together require development to protect and enhance Islington's built environment through high quality design that successfully addresses factors including distinctive local built form, urban form, scale, patterns, building heights and massing.

Standard of Accommodation

11. The Council points to the dwelling failing to provide dual aspect or adequate outlook from habitable rooms, suffering from undue sense of enclosure and lacking defensible space around the front entrance. Policy 3.4 of the DMP requires that residential units provide dual aspect accommodation, unless exceptional circumstances can be demonstrated. The Mayor of London's Housing Supplementary Planning Guidance (March 2016) (the Housing SPG) sets out that single aspect dwellings are more difficult to ventilate naturally and more likely to overheat, and should be avoided whenever possible, with the possible exception of dwellings where the frontage is generous, the plan is shallow, the orientation and or outlook is favourable, and care is taken to mitigate the potential for overheating without the need for mechanical cooling.
12. The proposed window openings would all be to the southern side, with no windows addressing the frontage to Mercers Road, nor any to the sides facing No 30 or No 144. The appellant argues that the dwelling would be dual aspect, as the window to the main bedroom would face east. However, this is no more than a small change in angle to the other windows, which roughly face south-east. The outlook for occupants from all of these windows would be limited to the small, enclosed patio area, with a tangible sense of enclosure imparted by the proposed 1.8 metre boundary fence to No 32 at close range and the tall flank wall of No 144 immediately next to it. Both would dominate views from within the dwelling and its patio area, and the glimpses of trees to the south above the fence would not mitigate for the undue sense of enclosure that would exist.
13. The appellant points to the shallow plan form and to sufficient daylight being received to the main habitable rooms via the southerly facing windows, to other parts of the internal layout being lit by the single rooflight and to cross-ventilation being achieved via a louvered panel at the front door and the rooflight. However, these design elements would not compensate for the limited outlook that would exist. There would also be areas of the dwelling, including the entrance hall, bathroom and dining area, for which the only source of natural light would be the single rooflight that would result in gloomy internal spaces requiring artificial light much of the time.
14. Moreover, the appellant's plans indicate the use of shrubbery in front of the bedroom windows to obscure views of the patio area from the first floor terrace of No 30. However, to be effective, this planting would have to reach a height that would obscure views out from these bedrooms and, given their proximity to the windows, this may limit the amount of sunlight and daylight into the

rooms. Even then, the proposed shrubbery would not be sufficient to prevent the patio area from being overlooked by users of the first floor terrace of No 30. There would also be clear views from the upper windows of No 28, as a result of which occupants would not enjoy sufficient privacy within the patio area. In this respect, I note the appellant's willingness to set the railings of the terrace back to prevent overlooking, but this is not shown on the plans before me which are what I have based my considerations on.

15. I note the Council's concern that the dwelling would not be adequately ventilated, though the evidence before me is not conclusive that the appellant's proposed use of the rooflight and louvre at the entrance door would not achieve sufficient ventilation through the dwelling.
16. In terms of defensible space, doors opening directly onto the street are not uncommon, and surveillance could be provided by way of spy holes or modern doorbell cameras. Consequently, whilst the lack of outlook generally to this side is a concern, I am not persuaded that a lack of visible defensible space is of itself a significant drawback of the proposal that would diminish the quality of the accommodation.
17. However, for the reasons set out, I find that the cramped, enclosed layout of the dwelling would not provide an acceptable level of outlook for occupants and would result in an unacceptable standard of accommodation. This would conflict with Policy D6 of the LP; Policy CS12 of the CS; Policies DM3.4 and DM3.5 of the DMP, and the Housing SPG which together require high quality, dual aspect housing with acceptable shape, layout of rooms, outlook from habitable rooms, light and good provision for garden space.

Excavation

18. The Council points to the proposed excavation of ground levels in the order of one metre, close to the front corner of 144 Mercers Road and raises concern at the absence of a structural method statement as required by its Basement Development Supplementary Planning Document (2016) (the BDSPD).
19. However, the BDSPD defines basement development as *any excavation to form new or additional floorspace under the ground level (subterranean) of an existing property or within its curtilage and under its garden*. In this case, whilst there would be some lowering of the ground level of the garden, it would not comprise the creation of floorspace *under* the garden. To my mind, the level of excavation would not be dissimilar to that required for the foundations of other above ground structures. Other legislation exists, including the Building Regulations and the Party Wall Act, which would address the implications of building next to another property. Given the scale of the development, I am content that any necessary details of construction in proximity to No 144 could be provided through a method statement secured by planning condition were the appeal to be allowed.
20. The Council cited conflict with Policies CS9, CS10 and CS15 of the CS and Policies DM2.1, DM6.5, DM7.1 of the DMP. Several of these policies are of limited relevance to this specific issue of structural stability, including CS10 and DM7.1 which relate to zero carbon development and other sustainable building standards; CS15 which relates to open space; and DM6.5 which relates to trees and landscaping. Insofar as they generally seek high standards of design, I find no conflict with Policies CS9 and DM2.1.

Planning Obligations

21. Though not forming a reason for refusal, the Council indicates that financial contributions are required in respect of the provision of affordable housing and carbon offsetting, in accordance with Policies CS10 and CS12 of the CS and the Affordable Housing Small Sites Contributions SPD (October 2012). Having regard to the evidence before me, I am satisfied that these contributions meet the tests for planning obligations set out at Paragraph 57 of the National Planning Policy Framework (the Framework) and are necessary to make the development acceptable in planning terms.
22. The appellant has submitted a form indicating a willingness to pay these contributions but there is no completed planning obligation before me which would secure them. In the absence of a completed planning obligation, the development would not secure the contributions towards affordable housing and carbon offsetting, in conflict with Policies CS10 and CS12 of the CS. Whilst these are further concerns I raise against the proposal, I am mindful that with a completed obligation these matters could be readily addressed in future.

Other Matters

23. The Council did not refuse the development in respect of the effect on neighbours' living conditions, highway safety, cycle storage, waste storage, trees and accessibility. The evidence before me does not lead me to different conclusions in these matters. However, the absence of harm in these respects means they are neutral considerations in the overall planning balance.
24. The proposal would add a dwelling to the Borough's housing stock, in line with the key aim of the Framework to boost the supply of housing. However, a single unit would make a very modest contribution to the Council's overall housing target and therefore would attract only limited weight in favour of the proposal.

Conclusion

25. For the reasons set out, I conclude that the proposal would conflict with the development plan, taken as a whole, to which I afford significant weight. Material considerations advanced in this case would not outweigh this conflict so as to justify granting planning permission. Therefore, I conclude that the appeal should be dismissed.

K. Savage

INSPECTOR