



Appeal Decision

Site visit made on 26 July 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2022

Appeal Ref: APP/V5570/W/22/3292551

100 Essex Road, Islington, London N1 8LU

- 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 Husseyn Guzel against the decision of the Council of the London Borough of Islington.
 - The application Ref P2021/2540/FUL, dated 31 August 2021, was refused by notice dated 29 November 2021.
 - The development proposed is described on the application form as, "Retain rear and roof extensions".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development shown above is taken from the planning application form. It differs from that shown on the appeal form and decision notice. The latter identifies the proposed development as the, "Retrospective application for the retention of a mansard roof extension, 2nd floor rear extension and extract duct to the rear of the property". I have taken this into account in my consideration of the appeal.
3. At the site visit, I observed that development had taken place at the appeal site. However, the as-built development does not reflect the submitted plans in a number of respects, including (amongst others) the front dormer window is shown to be set below a front parapet wall on the plans whereas as-built this window is fully exposed, and a window has been installed in the flank elevation of the rear extension at the 2nd floor but this window is not shown on the floor plans. Considering this, and for the avoidance of doubt, this appeal decision is based on the proposed development as shown on the submitted appeal plans, rather than what has been built.
4. The appellant has stated that the as-installed extract flue is to be replaced, the as-built window to the flank elevation is to be bricked up, and has referred to alterations to the as-built mansard roof. In this regard, the 'Procedural Guide: Planning appeals – England' makes it clear that 'the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought'.
5. In this case, no plans have been submitted relating to these proposed changes. Therefore, whilst the appellant's aspiration to brick up the 2nd floor window (mentioned above) would accord with the submitted plans, it is unclear

whether all the other proposed changes would materially alter the nature of the proposal and thereby deprive those who should have been consulted on the proposed changes, the opportunity of such consultation. Therefore, in the interests of fairness to interested parties, I have considered the same plans that the Council determined the planning application on.

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the surrounding area, including the settings of the Cross Street Conservation Area and the Canonbury Conservation Area; and
- the effect of the proposal on the living conditions of neighbouring occupiers, with particular reference to outlook and light.

Reasons

Character and appearance

7. The appeal site comprises a 4-storey property over a basement, which is adjoined to a larger terrace along Essex Road. The property wraps around the corner of Pickering Street. The wider area consists of a mix of residential, commercial, and retail uses, amongst others.
8. Based on the submitted plans, the proposed mansard extension would incorporate a front parapet wall which would be noticeably set down from the corresponding parapet wall on the adjacent properties in the terrace, and the roofline above the proposed window would not be in line with rest of terrace. Moreover, the front dormer window would be partially obscured by the parapet wall in front of it, which would be at odds with the fully-exposed dormer windows found on the rest of the front of the terrace. The style of the proposed mansard extension would not adequately mitigate the visually discordant appearance that would result.
9. Hence, the proposal would conflict with paragraph 5.153 of the Urban Design Guide Supplementary Planning Document (January 2017) (Urban Design Guide) which provides that, amongst other things, outside conservation areas, where a street frontage benefits from a consistent and unbroken roofline, alterations which would disrupt this consistent roofline and be visible from the public realm need to be designed in a style appropriate to the host building.
10. I observed that, apart from the as-built rear extension at the site which is not under consideration in this appeal, the existing rear extensions in the terrace are set-down at least a full storey below the eaves of the roof of the terrace. In contrast, the proposed rear extension would stand alone in the terrace as a full-height and almost full-width structure which, due to the site's corner location, would be clearly visible along Pickering Street.
11. Its clear lack of subordination with the terrace and its resulting incongruity in its context would also be visible from Dibden Street, a street that the other side of the terrace wraps around on to, and would be in direct conflict with paragraph 5.134 of the Urban Design Guide which provides that, amongst other things, rear extensions must be subordinate to the original building.

12. The evidence before me indicates that whilst an extract duct has been present at the site for several years, it was not visible from Essex Road or further afield. However, based on the proposed plans, the proposed extract flue would rise above the ridge line of the proposed mansard, above the central part of the chimney. As such, not only would it be clearly visible from the rear of the property along Pickering Street and Dibden Street but it would also likely be visible in some long-range views along Essex Road.
13. When viewed from Dibden Street, and from the long-range views mentioned, it would appear as a rather utilitarian addition to the terrace which has the appearance of being primarily in residential use on its upper floors. This element of the proposal would not accord with paragraph 5.184 of the Urban Design Guide which provides that, amongst other things, commercial extraction equipment should not be visible from public views.
14. It is recognised that previously the property may have been in a poor state of repair, and I have taken account of the photographs provided by the appellant in this regard, but there is no evidence before me to suggest that a less harmful scheme than that proposed here could not meet the aim of its improvement.
15. The appeal property is not a listed building or locally listed structure, and the site is not located within a conservation area. However, the site is in close proximity to the Cross Street Conservation Area, with Cross Street joining Essex Road a short distance from the site. Slightly further afield, the Canonbury Conservation Area adjoins the Cross Street Conservation Area not far from South Library, which lies almost directly across the road from the site.
16. As detailed in Islington's Conservation Area Design Guidelines (revised version) (2002), the Cross Street Conservation Area's significance as a designated heritage asset, as a whole, includes its numerous buildings surviving from the 17th to 19th centuries, many of which are characterised by their narrow plot-widths and small scales. Similarly, the Canonbury Conservation Area's significance as a designated heritage asset, as a whole, includes its surviving 18th and 19th century buildings and the notable architectural unity of many of its terraces.
17. The settings of these conservation areas which are part of the surroundings in which the heritage assets are experienced, includes the appeal site. The settings, including the appeal site and the wider terrace of which it forms a part, contributes to the significance of the conservation areas by the elegant and somewhat restrained frontages to the commercial units at ground floor and the broadly consistent alignment of the fenestration at upper floors which mimics that found in both conservation areas.
18. In this respect, given the prominence of the proposal in the street scene and the harm which it would cause to the character and appearance of the surrounding area as described above, the proposal would undermine the contribution that the settings make to the historic interest of the conservation areas. Consequently, the significance of the conservation areas would be materially harmed by the proposed development within their settings. Whilst the harm would be localised and accordingly would be less than substantial, it must be weighed against the public benefits of the proposal.

19. In this respect, the proposal would provide additional floor space, the usage of which would complement that which exists in the local area, thereby potentially providing wider social and economic benefits, although given the scale of the proposal these benefits would not likely be significant.
20. I recognise the considerable importance of the conservation areas as designated heritage assets, and in accordance with the National Planning Policy Framework (the Framework), I have given great weight to their preservation. Collectively, I give limited weight to all the public benefits of the proposal. Thus, those benefits do not, either individually or cumulatively, amount to public benefits which outweigh the harm that would be caused to the significance of the conservation areas.
21. I therefore find that the proposal would have an unacceptable and harmful effect on the character and appearance of the surrounding area, including the settings of the Cross Street Conservation Area and the Canonbury Conservation Area. The proposal would conflict with Policy CS8 of Islington's Core Strategy (adopted 2011) and Policy DM2.1 of Islington's Local Plan: Development Management Policies (adopted 2013) (DMP) which collectively provide that, amongst other things, in the areas of Islington outside the key areas the scale of development will reflect the character of the area, and all forms of development are required to be of high quality, incorporate inclusive design principles and make a positive contribution to the local character and distinctiveness of an area, based upon an understanding and evaluation of its defining characteristics.
22. In this way, the proposal would fail to deliver good design as required by Policy D4 of The London Plan (published 2021), and would conflict with paragraph 130 c) of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history.

Living conditions

23. The Council has mentioned that the neighbouring property at 102 Essex Road (No 102) has residential units at upper floor levels, and based on the evidence before me I have no reason to doubt this claim. No 102 has windows to the rear of the property, in close proximity to the rear of the site.
24. The Council has calculated that, based on the submitted plans, the so-called '45 degree rule' as set out in the relevant Building Research Establishment (BRE) guidelines would be breached by the proposal with respect to the rear windows of No 102 at 1st and 2nd floor levels, and this has not been disputed by the appellant. Consequently, due to the size, height, and siting of the proposed rear extension, which would introduce a structure of considerable height very close to these rear windows, the proposal would result in a tangible loss of outlook and daylight with respect to those windows. The proposal would therefore be likely to make the affected rooms at No 102 much less pleasant to use as a result.
25. I therefore find that the proposal would have an unacceptable and harmful effect on the living conditions of the occupiers of No 102, with particular reference to outlook and light. The proposal would conflict with Policy DM2.1 of the DMP which provides that, amongst other things, for a development proposal to be acceptable it is required to provide a good level of amenity

including consideration of daylight and outlook, and with 'Site layout planning for daylight and sunlight: a guide to good practice' (2nd Edition) (published 2011) (BRE), which provides at paragraph 2.2.1 that, amongst other things, a badly planned development may make adjoining properties gloomy and unattractive.

Other Matters

26. For the avoidance of doubt, the conduct of the Council during the processing of the planning application, including concerns relating to how the planning application was dealt with, are not matters that I can assess in the context of a planning appeal.

Conclusion

27. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR