



Appeal Decision

Site visit made on 17 April 2023

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2023

Appeal Ref: APP/L5240/W/22/3302943

15 South End, CROYDON, CRO 1BE

- 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 Akbari against the decision of London Borough of Croydon.
 - The application Ref 21/05234/FUL, dated 13 October 2021, was refused by notice dated 27 May 2022.
 - The development proposed is Installation of 4 x aircon fans at the rear and construction of storage room for refuse and cycle store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The store is nearly completed and as such the appeal is for part retrospective development.
3. The Council has advised since the appeal was lodged that its Suburban Design Guide SPG is no longer included in the local development plan.
4. The statement for this appeal also refers to two linked appeals¹ that include works that are clearly part of this appeal. Nonetheless, this appeal has a different appellant, and as such I have treated this as a stand-alone decision.
5. There is a dispute between the parties as to whether Boswell House's now partly removed northern boundary wall is curtilage listed. The law relating to curtilage dates from 1969, and Boswell House was listed in 1954. As such the guidance suggests that the decision regarding curtilage is based on the position in 1969. The 1871 OS map shows that the current plot boundary with 15 South End (No 15) aligns with the boundary shown on that map and that in 1871 there was open space where No 15 is now located.
6. My observations on site lead me to conclude that No 15 was built against an existing wall, as that wall is visible as a separate entity along most of its boundary. In addition, where the wall is visible there is a clear line of coping bricks which also suggests that this was a separate boundary wall. There are no details before me to indicate that the wall and Boswell House were in different ownership in 1969. I conclude that the wall predates No 15 and formed the original plot boundary to Boswell House. It is therefore functionally linked to Boswell House and is curtilage listed.

¹ 3302940, 3302942

Main Issues

7. The main issues are:

- Whether the development would preserve the setting of the Grade II listed Boswell House and Boswell Cottage, or any features of special architectural or historic interest which they possess;
- The effect of the development on the character and appearance of the area;
- The effect of the development on the living conditions of occupiers of Boswell House, No 15 and Heathfield Gardens with particular regard to outlook, overlooking, noise and disturbance, and loss of amenity space; and,
- Whether the development would accord with local plans with regard to cycle storage and refuse arrangements.

Reasons

Heritage Assets

8. Boswell House (the House) is a five bay two-storey red brick townhouse with roof accommodation and dormers, with sash windows in cased frames arranged around a central doorcase with fluted Doric pilasters, triglyph frieze and panelled metopes, cornice and pediment. It has a tiled roof and the side elevation, described as rebuilt, is flint faced with two brick stacks. It is slightly set back from the underlying building line, and is separated from No 15 by a gated vehicular entrance. This leads down beside the House's flank wall to what appears to be a large flatted rear extension, with associated undercroft, which is used for commercial bins and parking. The rear extension is built in red brick and at least superficially reflects the building materials, articulation and design of Boswell House.
9. The listing indicates that the House dates from the late 17th century, and the 1871 OS map shows it sited within the linear frontage of what is now South End. Boswell Cottage (the Cottage), is of similar age and style to the House and is attached to the House's southern flank. However, the Cottage turns a corner with its principal elevation fronting a former yard now used for parking. Although the 1871 map shows that the House had gardens and openness associated with Boswell Court to its rear, this spaciousness has largely been lost through subsequent infill and urbanisation.
10. The significance of the House and the Cottage is derived from their high quality and intact historic fabric, their aesthetic qualities and positive contribution to the street scene, and the spatial relationship with each other and the evidential value relating to Croydon's evolution. Their settings have been heavily urbanised but the vehicular entrance between the House and No 15 gives some separation and allows greater appreciation of the historic fabric of the House's principal and side elevations.
11. The boundary wall to No 15 has an aged appearance and has random patterns of headers and stretchers which do not appear to conform to any standard or recognisable bond. The 1871 map indicates that there was formerly an attached building along part of the boundary wall, and it may be that the wall has been rebuilt piecemeal over time. I conclude that the significance of the boundary wall arises from its position, historic fabric and evidential value in

relation to the former layout of the House and the early development of Croydon.

Proposals and effects

12. A section of the boundary wall between No 15 and the House has been removed to excavate land behind No 15 and to build a single storey store. A short section of the original wall has been rebuilt in what appears to be banded multi second-hand brick. Although this section has been built in stretcher bond, there is a brick pier which mirrors an original a short distance away and the bricks are a sympathetic choice in this context.
13. However, the wall of the store has been built in a brick with a brighter and more uniform face. This is clearly a contemporary material, and it sits uncomfortably with the adjoining sections of wall. The incongruity of the new wall is reinforced by the crudeness of the cut rebates for the vents, and the poor detailing of the brick slip lintel over the new opening.
14. This section of the new wall is clearly out of keeping with the original boundary wall brickwork, as well as the section apparently built with second-hand bricks. Notwithstanding that the undercroft is not a particularly attractive space, the section of new wall and its oversized opening detracts further from this space which provides the setting for the House as well as entry to its flats.
15. As such, I conclude that the development fails to preserve the setting of the House or features of historic interest through the removal and replacement of the original boundary wall. This amounts to less than substantial harm.
16. The aircon units are located at the rear of No 15 and are not within the same visual envelope as the House. There is no harm to the setting of the House arising from those units.
17. Where there is less than substantial harm Paragraph 202 of the National Planning Policy Framework (the Framework) sets out that the harm is to be weighed against the public benefits of the proposal. I acknowledge that having a dedicated bin store would remove the unsightly rubbish from the undercroft. However, even if I gave weight to this, it would be dependent on access for refuse lorries which is considered further below. In all other respects I see no public benefits arising from the development.
18. Accordingly, the development is contrary to Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 which requires the decision maker to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The development is also contrary to LP Policy DM18 which requires development to preserve and enhance heritage assets and their settings, and that where development affects assets or their setting, it is to be of high quality design that makes a positive contribution to the historic environment.

Character and appearance

19. The appeal statement indicates that the open space now occupied by the store contained mature trees on raised ground, and provided a buffer between the rear of No 15 and the mansion block of Heathfield Gardens to the rear. The officer's report states that the site of the store was shown as amenity space for

No 15's flats on previously approved applications, and this is not disputed in the appeal statement.

20. The replacement of the open space at the rear of No 15 with a flat-roofed utilitarian building represents a significant addition to built form in what is already a heavily developed setting. The former open space, together with the space to the rear of the House's undercroft and the land between Heathfield Gardens and No 15's plot provided relief from the dense building pattern.
21. Furthermore, I also noticed that the space between No 15's ground floor flat and the store has been extended into and covered over. This further reduces any remaining openness at the rear of No 15.
22. Although the store itself would not be particularly visible to occupiers of the House and Heathfield Gardens, it would replace the buffer between No 15 and Heathfield Gardens. It would be cramped and represent overdevelopment. It would not contribute positively to the character and appearance of the area.
23. The aircon units are located on No 15's rear flat roof. In isolation this would not be particularly intrusive and neither would they be particularly incongruous in this setting. However, in combination with the additions to the rear of No 15 which I observed but which are not shown on the drawings, they add to the unsightly visual clutter at the rear of No 15. However, given their modest size I give this harm minor weight.
24. The development would have an adverse effect on the character and appearance of the area, contrary to LP Policies SP4 and DM10 which taken together require development to be of high quality and contribute positively to townscape, and to a lesser extent London Plan Policy D4 which is concerned with design strategy and delivery. There would also be conflict with LP Policy DM10.4 which seeks to restrict the extent to which the grounds of existing buildings can be developed.
25. The Council has cited other policies in its decision. However, London Plan Policy D8 is concerned with public realm. I am satisfied that a gated entrance with a key code does not represent public realm. LP Policy SP2 is concerned with new homes. These policies weigh neither for nor against the appeal.

Living conditions

26. The plans show that the store is about 3 metres from the French doors and bedroom window serving No 15's ground floor flat. The plans name this area as a patio. However, at my visit I noticed that this space was covered by a makeshift roof with translucent uPVC panels, and that the flat's living area has a lean-to extension in front of the French doors. As such the plans are inconsistent with what has been built.
27. Nonetheless, even if there was a patio between the flat and the store, the narrowness of the gap between the window and French doors would lead to considerable enclosure and loss of outlook for the flat's occupiers.
28. Moreover, as the pedestrian entrance to the store would be accessed from this patio, its use would result in a loss of privacy, and increased noise and disturbance for occupiers of the ground floor flat.

29. The Council has raised a concern that the store would occupy land that had been previously approved as external amenity space. Although the information before me shows that the land was sloping and occupied by mature trees, it was nonetheless available as external amenity space.
30. Although the store's roof would be higher than the previous ground level of the open space, I am satisfied that it does not intrude into the outlook of occupiers of Heathfield Gardens. There is a freestanding wall along No 15's boundary which is not shown on the drawings, this is about 8 metres from windows at Heathfield Gardens and I am satisfied that it would not have an adverse effect on outlook from Heathfield Gardens.
31. The store would have a vehicular access into the undercroft at the House. If used as intended in the appeal statement, there would be comings and goings associated with the cycle storage, as well as increased noise and disturbance associated with bin emptying or movement. This would be detrimental to the living conditions of occupiers of the House. However, I am satisfied that the store would not adversely affect outlook from the House to a significant degree as the store wall replaces the former boundary wall at ground floor level and it does not intrude into outlook at first floor level.
32. Concerns have been raised by interested parties with regard to noise emissions from the aircon units. At my visit I could not hear any noise above ambient levels although it is unclear whether they were switched on or not. In any case, although there is no technical data before me, if the appeal was allowed I am satisfied that emissions could be assessed through the submission of technical data and controlled by condition.
33. Nonetheless, the development would lead to adverse effects on the living conditions of occupiers of No 15 with regard to outlook, overlooking, noise and disturbance, and loss of amenity space. There would also be adverse effects on the occupiers of the House with regard to noise and disturbance. This would be contrary to Paragraph 130 of the Framework which states that developments shall create places that have a high standard of amenity for existing and future occupiers, as well as LP Policy DM10.6. This seeks to protect the amenity of existing and future occupiers.

Refuse collection and cycle storage

34. The drawings show that it is intended that refuse lorries access the parking area under the House through the gated entrance. However, there is no tracking information to verify that the space is large enough to accommodate a standard refuse lorry, or to allow for turning within the site. My experience and observations lead me to conclude that the gated entrance, the clearance below the undercroft and the size of the area would be insufficient to allow access and turning for a standard refuse lorry. Moreover, the space underneath Boswell House was being used for car parking at my visit which would further impede access.
35. There is some support from an interested party that the development would allow the commercial bins currently being kept in the undercroft to be stored under cover and out of sight. However, given the likely difficulties of refuse lorry access, it seems highly unlikely that the bins would be stored even further from the road if the appeal was allowed. In any case, the evidence before me indicates that previous approved applications have shown access for refuse

collection to be from the northern end of the site. As such, whilst I appreciate that the bins are unsightly, this argument carries very little weight.

36. There is nothing before me to indicate that secure cycle storage could not be provide within the refuse store.

37. Nonetheless, the development does not accord with local plans with regard to refuse arrangements and would therefore be contrary to LP Policy DM13 which requires that layouts are easily accessible by operatives and their vehicles.

Other Matters

38. I see no reason why adequate fire safety arrangements could not be addressed through condition, in line with London Plan Policy D12 if appeal was allowed.

Conclusion

39. The development conflicts with the Act, national guidance and the local development plan and there are no material considerations of such weight to lead me to conclude otherwise. The appeal is dismissed.

A Edgington

INSPECTOR