



Appeal Decision

Site visit made on 8 August 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2023

Appeal Ref: APP/V5570/W/23/3315324

29 Chapel Market, Islington, London N1 9EN

- 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 P2022/3019/FUL, dated 13 August 2022, was refused by notice dated 1 November 2022.
 - The development proposed is add additional floor (floor 2) over studio flat D located at first floor rear of building (outhouse).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on:
 - the character and appearance of the host building, terrace, and the Chapel Market/Penton Street Conservation Area (the CA); and
 - the living conditions of residents of 29 Chapel Market with regard to outlook and light.

Reasons

Character and Appearance

3. The CA is of mixed commercial and residential character, stemming from its original development as a new residential estate and later development of Chapel Market as a thriving street market in the mid nineteenth century. The CA Design Guidelines¹ identifies that despite alterations and changing commercial requirements many of the old Georgian houses have survived. The wide variety of land use in the area is also highlighted as important to the character of the area. The significance of the CA in part derives from its architectural and historic interest associated with the development of the area and the evidence it provides of the architectural style and building techniques of the time.
4. Although there is variety in building heights, there is nevertheless some coherence to the built form in the vicinity of the appeal site. The properties within the terrace blocks have a relatively consistent width, with commercial units at ground floor fronting on to Chapel Market and residential accommodation above. To the rear, there is a more informal appearance due to

¹ Chapel Market/Penton Street (CA33) Conservation Areas Design Guidelines, January 2002

the variety of rear extensions that have been added over time. The building and the terrace which it sits within share many of these characteristics and make a positive contribution to the character and appearance of the CA by virtue of their scale, form and arrangement.

5. The 2017 Urban Design Guide Supplementary Planning Document (the SPD) advises that rear extensions must be subordinate to the original building. For this reason and also in order to respect the rhythm of the terrace, full width rear extensions higher than one storey, or half width rear extensions higher than two storeys, will normally be resisted, unless it can be shown that no harm will be caused to the character of the building and the wider area. The CA Design Guidelines contains similar advice.
6. The addition to the outhouse would form a third storey to the rear of the host building that would extend across much of its width. The proposal would appear to elongate the host building and would increase its mass to the point where it would appear unacceptably bulky and incongruous. As such, the proposal would not be subordinate to the host building and would disrupt the hierarchical character of its rear elevation and that of the terrace. The proposal would therefore result in an unsympathetic and dominant addition to the host building and terrace. Although it would not be visible from the public realm to the front, it would be visible from neighbouring residential properties and from public vantage points to the north looking towards the CA.
7. I appreciate that the CA Design Guidelines identifies the appeal building as one where traditional roof extensions may be permitted. Nevertheless, such proposals would still need to be acceptable. For the reasons given above, the proposal would be a discordant form of development.
8. Consequently, I conclude that the proposal would harm the character and appearance of the host building, the terrace and the CA. Accordingly, it would not preserve or enhance the character or appearance of the CA.
9. Given my reasoning above, I find that the harm to the CA is less than substantial in the context of paragraph 202 of the National Planning Policy Framework (the Framework). Even so, less than substantial harm does not equate to a less than substantial planning objection, especially where national policy expectations for conserving such assets have not been met. In such circumstances, paragraph 202 of the Framework states that the harm should be weighed against the public benefits of the proposal.
10. While appreciating the desire to create a larger space, and therefore an improved living environment for occupiers, this would not amount to a public benefit. Consequently, there would not be 'clear and convincing justification' for harm to or loss of significance of the designated heritage asset, as required by paragraph 200 of the Framework.
11. For the above reasons, the proposal would conflict with Policies CS8 and CS9 of the 2011 adopted Islington's Core Strategy and Policies DM2.1 and DM2.3 of the 2013 adopted Islington's Local Plan: Development Management Policies (the DMP). These require proposals to reflect the character of the area, be sympathetic to the local identity, make a positive contribution to the local character and distinctiveness of an area and conserve or enhance the significance of conservation areas, amongst other matters. The proposal would also conflict with the SPD and the CA Design Guidelines, as summarised above.

Living Conditions

12. The outlook from the rear kitchen/diner window of the first floor flat in the main property of 29 Chapel Market (described in the evidence as Flat A) is already towards, and close to, the wall of the outhouse. My attention has not been drawn to any definitions used by the Council, but it is reasonable that I take the view that the kitchen/diner is a habitable room in this case given the nature of the other rooms shown on the floor plan. The additional height proposed at such a close distance would result in an increased sense of enclosure, unduly dominating the outlook from the rear window of Flat A.
13. Due to the relative position of the rear window of Flat A and the outbuilding, the proposal would be unlikely to cast shadow over the window. Nonetheless, the Council's evidence illustrates that the proposal would clearly breach the 25-degree angle taken from the centre of the rear window, which is not specifically contested by the appellant through technical evidence as recommended by the guidance in the 2022 BRE document 'Site layout planning for daylight and sunlight, a guide to good practice' (the BRE Guide). In my judgement, based on the evidence before me and what I saw on my site visit, due to its height and proximity, the proposal would reduce the amount of daylight reaching the rear window of Flat A. This would make the room gloomier, which would significantly detract from its use and enjoyment.
14. The proposed addition would be less than six metres away from the rear windows of the second floor flat of no. 29 (Flat B). From the submitted evidence and what I saw on my site visit, at least one of the windows serves a habitable room. The flat has a rear external terrace which provides an additional area for what is not a large living space. It would be around 2.8 metres from the proposed additional storey. Due to the proximity to the rear of Flat B, the proposal would be appreciated as a dominant and enclosing development that would harm the outlook from the rear window and roof terrace.
15. For the above reasons I conclude that the proposal would have a significantly harmful effect on the living conditions of residents of 29 Chapel Market with regard to outlook and light. It would therefore be contrary to the amenity protection aims of Policy DM2.1 of the DMP.
16. The Council's second reason for refusal refers to a conflict with the BRE Guide. While the appellant has not undertaken the type of assessment recommended in the BRE Guide, I am mindful that this document provides non mandatory advice, and its purpose is not as an instrument of planning policy.

Conclusion

17. The proposal would conflict with the development plan taken as a whole. There are no material considerations that would indicate a decision other than in accordance with it. For the reasons given, the appeal should be dismissed.

F Wilkinson BSc (Hons), MRTPI

INSPECTOR