



Appeal Decisions

Site visit made on 17 July 2023

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Appeal A Ref: APP/V5570/W/23/3320154

17 College Cross, Islington, London N1 1PT

- 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 Daniel Morgenthau against the decision of London Borough of Islington.
 - The application Ref P2022/3664/FUL, dated 14 October 2022, was refused by notice dated 3 February 2023.
 - The development proposed is described as: 'Small addition to rear extension, internal alterations to plan on Basement level, minor material changes internally, new window to rear attic storey'.
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Appeal B Ref: APP/V5570/Y/23/3320155

17 College Cross, Islington, London N1 1PT

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Daniel Morgenthau against the decision of London Borough of Islington.
 - The application Ref P2022/3708/LBC, dated 14 October 2022, was refused by notice dated 3 February 2023.
 - The works proposed are described as: 'Small addition to rear extension, internal alterations to plan on Basement level, minor material changes internally, new window to rear attic storey'.
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Decisions

1. *Appeal A*: The appeal is dismissed.
2. *Appeal B*: The appeal is dismissed.

Preliminary Matters

3. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
5. The new Islington Local Plan (2023) (the LP) has been adopted since the submission of the appeals. I have determined the appeals on the basis of the most up to date policies.
6. The appeal property, 17 College Cross, forms part of a Grade II listed terrace¹ referred to on the National Heritage List for England as: '1-23, College Cross'.

¹ List Entry Number: 1208239.

Notwithstanding the assertions in the Council's delegated report and appeal statements, it is not Grade II* listed.

7. There are a number of different elements of the proposal. From the evidence before me, the disputed elements between the parties include: a glazed extension to the rear elevation and reconfiguration of the basement plan form; replacement of timber floorboards in the entrance hall with stone flags, installation of glazing to the roof of the existing ground floor outshot; changes to the internal layout of the first floor bathroom, including the relocation of a radiator; and the re-instatement of internal glazing at the third floor level.
8. Elements of the proposal that, from the evidence before me, are not disputed include: the reconfiguration of the cloakroom in the ground floor outshot; the provision of bi-fold doors in the existing ground floor opening between the two reception rooms; replacement of spotlights with pendant lighting in the entrance hall ceiling; replacement of ceramic tiles to the external front steps and landing with stone flags; the infilling of the opening between the master bedroom and the bathroom; the insertion of a replacement sliding sash window to the rear dormer window; and the removal of the built-in cupboard at third floor level. I see no reason to disagree with the Council's assessment on these elements. I therefore conclude these elements of the proposal would preserve the special interest and significance of the listed building and meet the requirements of the Act and Policies DH1, DH2, PLAN1 and SP1 of the LP and policies D3, D4 and HC1 of the London Plan (2021) which together, in summary and amongst other things, seek to ensure proposals constitute high quality design that conserves and enhances heritage assets in a manner appropriate to their significance and safeguards local distinctiveness and townscape.
9. I have therefore focused my reasoning principally on the disputed elements of the proposal. However, I shall return to consider the non-disputed elements in the public benefits and balance below.
10. The Council's reasons for refusal in both appeals refer to the effect of the proposal on the setting of the listed building. Given the extent and nature of the development and works, any effects primarily relate to the building itself. I have determined the appeals on this basis.

Main Issues

11. The main issues are the effect of the proposal on the special interest of the Grade II listed building 1-23, College Cross, or any features of special architectural or historic interest which it possesses; and whether the proposal would preserve or enhance the character or appearance of the Barnsbury Conservation Area (the CA).

Reasons

Special Interest and Significance

12. The appeal building, 17 College Cross, is a three-storey plus basement house with rooms in the attic. It forms part of a Grade II listed terrace comprising the odd numbers 1-23 College Cross which were first listed in 1972 and, according to the list description, constructed between 1836 and 1843.
13. The façades of the houses making up the terrace are characterised by white stucco basements and ground floors, the latter with banded rustication, and

yellow brick on the upper floors. The elegant windows are arranged symmetrically and those to the first floor are of piano nobile proportions with individual cast iron balconies, emphasising the relative importance of the rooms on this level.

14. The front elevation of No 17 has maintained its neoclassical architectural form, although the rear has been subject to change, notably through the insertion of modern tri-fold glazed doors and application of an external cement render around the large opening. It is understood that the installation of this alteration followed an Inspector's decision at appeal. However, I have not been provided with a copy of that decision, or the precise circumstances under which it was allowed. Internally, whilst at basement level this has been compromised through the removal of internal walls and insertion of the glazed doors, the historic plan form and internal hierarchy of floor and rooms remains legible.
15. From the evidence before me, the special interest and significance of the listed building are largely derived from its illustration of mid nineteenth century domestic architecture and its development over time; along with its polite architectural style and composition. Important contributors in these regards which are pertinent to the appeals, are the surviving historic fabric; the legibility of its historic plan-form and resulting historic circulation patterns; and the discernability of its historic internal hierarchy of floors and rooms.
16. The CA is characterised by its late-Georgian and early-Victorian residential terraces and villas. As set out in the Barnsbury Conservation Area Guidelines (2002), stylistically, the early Victorian buildings here were a continuation of the Georgian style. The listed terrace, with its stucco and brick exterior, elegant fenestration and symmetry is evidence of this and underpins the distinctive townscape of the CA and contributes to its significance. In this regard, the significance of the CA, insofar as it relates to these appeals, is derived from its illustration of the development of London in the mid-nineteenth century and the prevalence of polite architecture, comprising of predominantly handsome terraces and villas.

Appeal Proposal and Effects

17. The proposed extension would link the opening at the rear of the basement level to the existing doorway in the side elevation of the outshot. The extension would be modest in scale, lightweight, contemporary in style, and would occupy a similar portion of this elevation to the existing modern glazed opening. As such, having regard to the existing situation, I am satisfied that the proposed extension would not amount to harm to the special interest or significance of the listed building.
18. With regard to the first floor bathroom, the proposed stud screen wall to the shower would be low in height and clearly readable as a shower screen. The equidistant walls to either side of the window would still be evident due to the low height of the screen and it being open at one end. Given that the room has already been compromised through partition and that a tall shower cubicle exists in this position at present, I am satisfied that the screen wall for the shower is not harmful to the legibility of the plan form.
19. The appellant argues that the plumbing route for the proposed relocated radiator in the first floor bathroom would follow the line of the joists. It is proposed to remove the existing tiled floor and restore the floorboards

beneath. On this basis, I am satisfied that the precise detail of the route of the pipework for the radiator could be provided as part of a condition, were I to allow the appeals.

20. On the site visit I was able to view the existing internal window in the wall between the third floor bathroom and the staircase compartment. This does not appear to be a modern feature due to its slender glazing bars and the bead in the plaster to its edge, as highlighted in the appellant's heritage statement. The whole of the window, including its glazing, has been painted over. Its reinstatement would be beneficial to the legibility and authenticity of this part of the building and consequently would be unlikely to amount to any harm to special interest or significance. Nevertheless, due to the extent of overpainting, the condition of the glazing beneath is unclear and, therefore, were I to allow the appeals it would be on the basis that further details of paint removal and the need for the replacement of any damaged panes were submitted and agreed as part of a planning condition.
21. The Council refers to the need to consult with Building Control, however no specific reason for this is provided which limits the weight I can give to this argument. Moreover, Building Regulations are a separate matter to listed building consent that are governed by separate legislation.
22. The works and development to the basement would partly involve the reinstatement of a substantial part of the historic basement plan form, including the staircase compartment and part of the spine wall. An element of this aspect of the proposal would be the insertion of a new modern partition, midway along the staircase enclosure. This would block off this part of the newly re-instated staircase compartment, meaning that the only means of accessing the rear of this space would be through the proposed glazed extension, utilising the existing outshot door. Whilst I accept that the basement's plan form has already been compromised, this aspect of the proposal would, nonetheless, disrupt the historic patterns of circulation within this space, preventing access to the outshot from the rear of the staircase, to the detriment of the significance of the building.
23. The existing timber floorboards to the front entrance are subject to indentations and there is evidence of wear at this point. Some individual boards appear to be in better condition than others, despite evidence of aggressive sanding in the past. Whilst the appellant argues that the floorboards are not original, they are clearly of some age and form part of the historic fabric of the building. Their wholesale removal for a new, different, material in the form of stone flags, would result in harm to the authenticity and integrity of the house, adversely affecting the special interest and significance of the listed building.
24. The appellant states that: '*Stone flags are a standard Georgian domestic hallway material*', however, this is not supported by any evidence, particularly with regard to their use in London townhouses of this period. I note that stone flags are present externally here and at other houses in the terrace, as referred to above. However, I have seen no compelling evidence that this material is architecturally and historically appropriate within this space, the principal entrance hall, at the expense of historic fabric.
25. The proposed glazing in the roof of the existing outshot would increase light levels to the staircase in the vicinity, which could be considered to be similar to light levels achieved prior to the construction of the outshot. However, the

outshot forms part of the legibility of the development of the building over time that contributes to its special interest and significance. The reduction in internal light levels as a result of the construction of the outshot contribute to that legibility. The glazed roof would thus alter the character of this space, and would, to a degree, erode the legibility of the development of the building over time. Moreover, the proposal would introduce a more modern roof treatment, not present on the existing building, to the detriment of its architectural integrity and authenticity.

26. Whilst I have found that some of the disputed elements referred to above would preserve and potentially enhance, the special interest of the listed building, there are nevertheless a number of elements that, for the above reasons, would fail to preserve the Grade II listed building, 1-23, College Cross, or any features of special architectural or historic interest which it possesses. This would be contrary to the requirements of sections 16(2) and 66(1) of the Act. As such the proposal would cause harm to the significance of the listed building.
27. In terms of the effect on the CA, the rear basement level of No 17 is only discernible from neighbouring properties and is not readily publicly visible. The proposed extension would be positioned partly below the level of the garden which would screen much of it from neighbouring properties. Given the small scale and lightweight nature of the extension, in my view it would appear little different to the existing large, glazed opening, in the limited views that could be achieved. Having regard to the existing situation I am therefore satisfied that the proposed extension would preserve the character and appearance of the CA.
28. The ceramic tiles to the existing external entrance are visible from the pavement. Having regard to the presence of stone flags as part of other external entrances in the terrace, and the condition of the existing tiles, I am satisfied that replacement of the tiles with stone flags would preserve the character and appearance of the CA, subject to the provision of precise details through a planning condition, as set out above.
29. The glazing proposed to the roof of the existing outshot would have extremely limited visibility, being screened from public views by the parapet. The proposal would therefore not adversely affect the character or appearance of the CA.
30. For these above reasons I conclude that the proposal would preserve, and potentially enhance, albeit in a small way, the character and appearance of the CA in line with the requirements of section 72(1) of the Act.

Public Benefits and Balance

31. With reference to Paragraphs 201 and 202 of the National Planning Policy Framework (the Framework), in finding harm to a designated heritage asset, the magnitude of that harm should be assessed. Given the extent and nature of the proposal, I find that the harm in this instance would be 'less than substantial' but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 202 advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimum viable use.

32. Collectively, a number of elements of the proposal would sustain and enhance the special interest and significance of the listed building. These include reinstatement of historic plan form at basement level, blocking up of the first floor opening from the bedroom, removal of spotlights, re-instatement of the internal glazed opening, and the provision of bi-fold doors in the existing ground floor opening between the two reception rooms.
33. Other aspects, including the replacement of the modern sliding sash window in the dormer with a new window and glazing pattern reflective of the windows below, and the replacement of the tiles to the external entrance steps (subject to the provision of precise details and a condition controlling those details), would potentially represent an aesthetic improvement to the listed building as well as the character and appearance of the CA, albeit in a small way.
34. The Planning Practice Guide (PPG) sets out that '*sustaining or enhancing the significance of a heritage asset and the contribution of its setting*' amounts to a public benefit. On this basis, I agree with the appellant that some aspects of the proposal would constitute a public benefit. Collectively these benefits carry moderate weight in favour of the proposal. However, those works and development are not dependent upon those aspects of the proposal that I have found to be harmful. I am therefore not persuaded that the only way of securing such benefits would be via the particular scheme that is before me.
35. Moreover, in terms of the property's optimum viable use as part of a designated heritage asset, I have not been provided with any convincing evidence that the appeal property would not be useable or viable as a dwelling, or that its conservation as part of a designated heritage asset would be at risk if the appeals were to fail and the proposal, as submitted, was not implemented.
36. Paragraph 200 of the Framework is explicit in its requirement that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification, which, in all of the respects outlined above, I find not to be the case in the appeals before me.
37. Whilst I give moderate weight to the recognised public benefits, including heritage benefits, these are not sufficient to outweigh the considerable importance and weight I attach to the identified harm to the significance of the designated heritage assets, including the loss of historic fabric.
38. In the absence of sufficient public benefits that would outweigh the harm that I have found, I conclude that the proposal would fail to preserve the Grade II listed building, 1-23, College Cross, or any features of special architectural or historic interest which it possesses. Whilst I have found that the proposal would preserve the character and appearance of the CA, this is a neutral consideration in the balance. Overall, the proposal would be contrary to the clear expectations of sections 16(2) and 66(1) of the Act and the provisions within the Framework which seek to conserve and enhance heritage assets. The harmful impact would also be contrary to Policies DH1, DH2, PLAN1 and SP1 of the LP and policies D3, D4 and HC1 of the London Plan (2021), insofar as they seek to ensure proposals constitute high quality design that conserves and enhances heritage assets in a manner appropriate to their significance.
39. As I have concluded that the proposal would preserve the character and appearance of the CA, I have not found conflict with the guidance contained

within the Barnsbury (CA10) Conservation Area Design Guidelines (2002). The Council has referred to the Islington Urban Design Guide in its decision. Similarly, given the nature of the harm I have identified, I have not found conflict with the Islington Urban Design Guide (2017)

Other Matters

40. The appellant has directed me to another scheme that was granted listed building consent at 19 College Cross, that forms part of the listed terrace. This was for a full width basement extension that resulted in a predominantly open plan treatment at this level, through removal of internal walls. The appellant considers that this scheme was harmful to the special interest of the listed terrace. However, this decision is of some age and pre-dates the first publication of the Framework in March 2012 and the adoption of the current Local Plan, which limits the weight I can give to this. Moreover, I would note that evidence of existing harm is rarely justification for additional harm.

Conclusions

41. *Appeal A:* The proposed development would conflict with the development plan. There are no material considerations that indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that Appeal A should be dismissed.
42. *Appeal B:* For the above reasons and having regard to all matters raised I conclude that Appeal B should be dismissed.

Paul Martinson

INSPECTOR