



## Appeal Decision

Site visit made on 26 September 2023

**by R Major BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> November 2023**

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**Appeal Ref: APP/V5570/W/23/3319834**

**Flat 1, 9 Waterfront Mews, Islington, London N1 7FE**

- 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 Cityshape Investments Limited against the decision of the London Borough of Islington.
  - The application Ref P2022/3270/FUL, dated 7 September 2022, was refused by notice dated 21 December 2022.
  - The development proposed is creation of a roof extension to provide a new self-contained 2 bedroom flat with roof terrace.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council's reasons for refusal on the decision notice refer to a number of policies within Islington's Core Strategy (2011) (CS) and Islington's Local Plan: Development Management Policies (2013) (DMP). However, since the planning application was determined the Islington Local Plan Strategy and Development Management Policies (September 2023) (LP) has been adopted. The LP has replaced the CS and DMP and thus those documents, and the subsequent policies listed in the reasons for refusal, are no longer relevant in the determination of this appeal.
3. The Council has provided a list of relevant policies from the recently adopted LP, and both parties were invited to provide comments on the implications of these in relation to the appeal proposal. As such, this appeal has been determined in accordance with the most up-to-date policies in the recently adopted LP.
4. For the avoidance of doubt, the London Plan (2021) policies referred to in the reasons for refusal on the decision notice are still relevant in the determination of this appeal.

### Main Issues

5. The main issues are the effect of the proposal on:
  - the living conditions of the occupiers of the neighbouring terrace properties on Arlington Avenue with regard to daylight, sunlight and outlook; and
  - the character and appearance of the host property, surrounding area and the Arlington Square Conservation Area (CA);

## Reasons

### *Living conditions*

6. The appeal relates to a three-storey block of flats known as Waterfront Mews, which is accessed from Arlington Avenue, and backs onto Regents Canal. This block of flats is located directly to the rear of a terrace row of properties fronting onto Arlington Avenue.
7. The appeal proposes an extension atop of the existing roof to provide a 2no. bedroom self-contained flat, with an external terrace area. The proposed extension would raise the height of the existing building by 2.6m and would have a flat roof design.
8. The proposed extension would be situated directly to the rear of the end terrace residential property at 83 Arlington Avenue (number 83), which has windows in its rear elevation facing towards the appeal site, and in line with the proposed extension. The proposed development, by raising the height of the existing building, would unacceptably impede the outlook enjoyed from the windows in the rear elevation of number 83, as well as resulting in a dominant, oppressive and overbearing impact when observed from these rear windows and the rear yard area of this property. The proposal would also result in a greater sense of enclosure for the occupants at the rear of the property and the separation distance between the rear elevation of number 83 and proposed development is not sufficient to overcome my concerns.
9. I acknowledge that the existing three storey building does already result in some sense of enclosure, have some impact upon the outlook enjoyed from the windows in the rear of number 83, as well as having a somewhat overbearing impact. However, the proposal would only worsen the existing situation and have a further impact upon the occupiers of this property to an unacceptable level.
10. The proposal would also be visible from the rears of a number of other dwellings within this terrace row, however the impact upon number 83 would be particularly harmful in respect of the above issues as a significant proportion of the extension would be situated directly in line with a number of windows in the rear elevation of this property.
11. With regard to daylight and sunlight, the application was accompanied by a Daylight and Sunlight Assessment<sup>1</sup> (the assessment), and this assessed the potential impact of the proposed development on the windows within the neighbouring properties at 81, 83 and 85 Arlington Avenue, and 8 Waterfront Mews. The assessment was carried out in accordance with the Building Research Establishment (BRE) criteria, contained within the BRE 'Site layout planning for daylight and sunlight: a guide to good practice' (Third Edition 2022).
12. The submitted assessment concludes that the proposal would comply with the BRE criteria in respect of all these properties windows, and consequently changes to daylight and sunlight received within these properties would not be significant and thus is unlikely to be noticeable by the occupants. The Council's Officer Report raises no issues with the findings and conclusions of the

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<sup>1</sup> Prepared by Herington Consulting Limited – Dated October 2022

- assessment in respect of the impact of the proposal upon the windows in these neighbouring properties, and I have no reason to disagree with this conclusion.
13. With regard to potential overshadowing of neighbouring properties outdoor amenity space, the submitted assessment examined the potential impacts upon the properties at 77, 79, 81, 83 and 85 Arlington Avenue, and 8 Waterfront Mews.
  14. The BRE guidelines recommend that at least half of a garden or amenity space should receive at least 2 hours of sunlight on the 21<sup>st</sup> March; or the existing area of outdoor amenity space which currently receives 2 hours of direct sunlight should not be reduced to less than 0.8 times its former value, as a result of a development.
  15. The assessment found that the proposed development would not adhere to the above mentioned BRE guidelines in respect of the impacts on numbers 79, 81 and 83 Arlington Avenue, as the proposal would result in a ratio of change at these properties of 0.75, 0.48 and 0.21 respectively, which is below the 0.8 guide. Whilst it is acknowledged that the 0.75 figure in relation to number 79 is marginally below the guide, the ratio of change at numbers 81 and 83 is significant, especially at number 83.
  16. The assessment seeks to justify this breach of the guidance by explaining that these three garden / amenity areas are already surrounded by buildings and therefore these areas already receive low levels of light. Whilst I acknowledge this point, it does not alter the fact that the proposal would result in levels of overshadowing to these outdoor amenity spaces above the BRE guidelines.
  17. In order to further justify the proposed impacts in respect of overshadowing, the assessment undertook a further analysis of the potential impacts on the 21<sup>st</sup> June, as opposed to the 21<sup>st</sup> March, as the author of the assessment considers that this is the time of year that outdoor amenity spaces are most likely to be used. This further analysis concludes the proposal would result in no noticeable reduction in sunlight to these outdoor amenity areas on the 21<sup>st</sup> June.
  18. Whilst I accept that the assessment shows no noticeable reduction in sunlight to outdoor amenity areas on the 21<sup>st</sup> June, occupiers of these properties would still have their outdoor amenity areas overshadowed, beyond the BRE guidelines, at other times of the year. Furthermore, outdoor amenity areas are not solely used in the summer and serve a number of useful purposes including growing vegetation, drying clothes etc... throughout the year. Therefore, the increased levels of overshadowing resulting from the proposal would impact upon the quality of these outdoor areas, thus having a negative impact upon the living conditions of the occupiers.
  19. I acknowledge the appellant's comments that the impact of the proposal on neighbouring properties, namely 83 Arlington Avenue, was a key consideration in the design process. The appellant also states that the extension has been set back and designed so as to be as unintrusive as possible. In response to this, the submitted plans show a very minor setback on the extension from the existing building on the elevation closest to the terrace row fronting onto Arlington Avenue. Nevertheless, even with the intentions of the appellant for the proposal to be as intrusive as possible, for the reasons detailed above I

conclude that the proposal would have an unacceptable impact on occupiers of neighbouring properties.

20. In view of all the above, the proposed development would result in a severe loss of outlook, from the windows in the rear elevation, for the occupiers of number 83 Arlington Avenue. Furthermore, the proposal would also result in unacceptable levels of overshadowing to the outdoor amenity space of numbers 81 and 83 Arlington Avenue. The proposal is therefore contrary to Policy D6 of the London Plan (2021) and Policies PLAN 1 and H5 of the Islington Local Plan Strategy and Development Management Policies (2023) (LP), which together seek to ensure, amongst other things, that new development consider overshadowing impacts and provide a good level of amenity in respect of sense of enclosure, outlook and sunlight.
21. Furthermore, the proposal is also considered contrary to paragraph 130(f) of the National Planning Policy Framework (the Framework), which seeks to ensure a high standard of amenity is provided for existing users.

*Impact upon the character and appearance of the host property, surrounding area and the Arlington Square Conservation Area.*

22. The appeal site is located on the edge of, but within, the Arlington Square Conservation Area (CA), and directly to the rear of a row of locally listed terrace dwellings fronting onto Arlington Avenue (numbers 47 – 83 (odds)).
23. The Council have not drawn my attention to any specific heritage policies in the LP that they consider to be relevant in the determination of this appeal proposal. As such I have considered the proposal against the heritage policies contained within the London Plan and national guidance contained within the Framework, as well as the Arlington Square (CA04) Conservation Area Design Guidelines (2002) (CADG).
24. Furthermore, in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Arlington Square Conservation Area.
25. The CA's significance is derived from its historical and architectural interest attributed to the strong visual unity provided by the rows of 1840's terrace properties, with most of the houses retaining their external architectural features. Of particular importance are the many wide streets, providing a spacious environment and this is emphasised by the enclosed public square / garden which provides a strong sense of distinctive identity within the CA.
26. The appeal property however fronts onto the canal, and the character of this part of the CA is defined by larger and more modern buildings which represent, and have replaced, the industrial nature of the factories and workshops that previously existed on the canal frontage. The appeal property is very much characteristic of this part of the CA, being a relatively large residential building comprised of two and three-storey elements, finished in a mixture of brick and timber boarding at ground floor level, with white rendered walls and metal louvres above. The specific section of the building to which the appeal relates is flat roofed and three-storeys high, however the elevations visible from the canal are currently lacking in character.

27. The appeal property is therefore significantly different in terms of its scale, age, materials, architectural form and design, in comparison to the more traditional buildings commonly found within the CA. In its present form I consider the appeal building has a neutral impact upon the CA and is clearly viewed in context with the larger and more modern buildings situated along both sides of the canal.
28. The proposed extension would create a four-storey section to this building, and whilst I acknowledge the Council's comments that historically the appeal site was occupied by a two-storey factory building, there are now various examples of large buildings fronting onto the canal of a similar scale to the proposed, including a large building directly to the side at Canalside Square. As such the scale of the proposed extension, and host building, when viewed from the canal side would very much remain in keeping with surrounding buildings. Additionally, the visual impact of the proposal from the canal side is somewhat reduced by the proposed set back of the extension on this side of the building.
29. Furthermore, the proposed extension, being situated above the existing roof of the building would not impede views into the CA, or screen the existing terrace row on Arlington Avenue, to any greater level than the existing three storey building currently screens these views from the canal.
30. When viewed from the Arlington Avenue side, and from within the CA, the proposed development would be largely screened from views at street level by the existing row of terrace houses, and block of flats at Canalside Square, situated between this street and the appeal property. There would be a view of the proposed extension between the gable elevation of number 83 Arlington Avenue and the neighbouring block of flats at Canalside Square from certain vantage points. However, this view would be fleeting and I do not consider it to be harmful to the CA given the surrounding context and scale of buildings.
31. My attention has been drawn to paragraph 4.8 (iii) of the Arlington Square CADG which states that roof extensions visible from the street, including long views from neighbouring streets, will not be allowed. Paragraph 4.9 of the CADG goes on to explain that the ad hoc construction of roof extensions is damaging the architectural unity of the area and the character and appearance of the CA.
32. In respect of this document, it was published in 2002 and therefore before the appeal property was built, which according to the Council's Officer Report was approved in 2009. As such, I do not consider that this guidance relates specifically to concerns over roof extensions on more modern buildings, such as the appeal property, and seeks to ensure that the more historic and traditional buildings within the CA are not damaged by such roof extensions. Nevertheless, and in this particular case, I have found no harm arising from the proposed extension to this modern building in the CA.
33. With regard to materials, the proposed extension would be finished in acetylated wood panels, which would contrast with the existing metal cladding and louvres on the host building. The ground floor of the existing building however contains timber boarding and thus the use of wood panelling is not an alien feature on the building. Furthermore, the dark colouring of the proposed finish would provide a suitable contrast to the glazed elements, and clearly identify this section of the building as a modern and contemporary design feature. As such, the proposed materials are considered to be acceptable.

34. In view of the above, I consider the proposed development would be of a quality design that is in keeping with the scale and design of the host building, and would not harm the visual quality of the neighbouring locally listed terrace row or the surrounding area in general. Furthermore, the proposed extension would avoid harm to the significance of, and would preserve the character and appearance of, the Arlington Square Conservation Area.
35. The proposal therefore accords with Policies D4 and HC1 of the London Plan (2021), and Policies PLAN1 and H4 of the Islington Local Plan Strategy and Development Management Policies (2023), which together seek to ensure, amongst other things, that new development is of high-quality design, conserves the significance of heritage assets by being sympathetic to the asset's significance. The proposal also complies with Chapter 16 of the Framework.
36. I note the reason for refusal refers to the Urban Design Guide Supplementary Planning Document (2017), however the Council's submissions have not drawn my attention to any specific sections or guidance within this document to which the proposed development would be in conflict. From my own review of this document I note that it is in general accordance with national and local planning policies, in that it seeks to ensure that all developments are of a high quality design, and I have found no conflict with this document.

### **Other Matters**

37. I acknowledge the appellant's comments that the proposal would result in the addition of an extra home, thus increasing the Council's housing land supply on a brown field site. Whilst this is a benefit in favour of the proposal it does not outweigh the harm I have identified to the living conditions of neighbouring occupiers.

### **Conclusion**

38. The appeal scheme would have a detrimental impact upon the living conditions of the occupiers of the neighbouring properties at 81 and 83 Arlington Avenue. The proposal is therefore contrary to the development plan and there are no material considerations that outweigh this finding, or the conflict with the development plan when taken as a whole. As such, the proposal is unacceptable, and the appeal is dismissed.

*R. Major*

INSPECTOR