



Appeal Decision

Site visit made on 17 January 2024

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2024

Appeal Ref: APP/V5570/C/22/3312323

76 Lofting Road, Islington, London N1 1JB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Hilary Stonefrost against an enforcement notice issued by the Council of the London Borough of Islington.
 - The notice was issued on 21 October 2022.
 - The breach of planning control as alleged in the notice is the installation of a metal balustrade around the perimeter of the rear first floor roof to facilitate a roof terrace.
 - The requirements of the notice are:
 1. Remove the balustrade erected around the perimeter of the rear first floor flat roof area and all associated supporting posts and fixings.
 2. Following completion of 1. above, remove all resulting debris from the land.
 - The period for compliance with the requirements is: Two (2) months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

2. Since the appeal was lodged, a revised version of the National Planning Policy Framework (the Framework) was published (December 2023). However, the parts of the Framework most relevant to the appeal have not substantially changed from the previous iteration. Consequently, it has not been necessary for me to seek further comments from the main parties in this respect. I have determined the appeal accordingly.
3. Since the Council issued the enforcement notice, it has adopted the Islington Local Plan Strategic and Development Management Policies (ILP) in September 2023. The policies in the new Local Plan supersede policies from Islington's Local Plan: Development Management Policies (June 2013) and Core Strategy (February 2011) which were included in the Council's reasons for issuing the notice. I have determined the appeal based on the current applicable policies in the ILP, which the parties have had the opportunity to comment upon.

Ground (a) and the deemed planning application

Main Issues

4. The main issues are:

- The effect of the development on the living conditions of occupiers of neighbouring residential properties, with particular regard to privacy; and
- Whether the development preserves or enhances the character or appearance of the Barnsbury Conservation Area.

Reasons

Living Conditions

5. 76 Lofting Road is a mid-terrace property located on the northern side of Lofting Road. The metal balustrade, which is the subject of the notice, has been erected around the perimeter of the flat roof of a rear outrigger.
6. The roof terrace is accessed via a large window which opens outwards. The Council's reasons for issuing the notice include concerns regarding the impact of the use of the flat roof on the privacy of occupiers of nearby residential properties, including views towards and into neighbouring windows. The immediately adjoining properties, 74 and 78 Lofting Road, both have windows at upper levels on their rear elevation.
7. At my site visit I noted that the windows on the rear elevations of No. 74 and No. 78 were in close proximity. In particular, there were direct views from the roof terrace into the nearest window on the rear elevation of No. 74. Accordingly, whilst I note the representations received from the current occupiers of these properties, I find that the use of the roof area results in a loss of privacy to the occupiers of neighbouring properties.
8. Furthermore, due to the elevated view from the roof terrace, anyone standing on it has clear views into the rear gardens of these neighbouring properties. Although I appreciate that rear gardens do not lend themselves to ultimate privacy, and that windows in the rear elevations of the terrace of properties allows an element of overlooking, the use of the roof would undoubtedly increase the loss of privacy experienced by those using their private rear garden spaces.
9. The appellant contends that members of the family would sit on the roof prior to the balustrade being installed. It is therefore the appellant's view that the installation of the balustrade has not altered anything with regards to the use of the roof and any impact on the occupants of neighbouring properties.
10. However, the erection of the balustrade does facilitate the safe use of the flat roof as a roof terrace. Without the balustrade the use of the flat roof as a terrace would not be safe and would therefore be less likely to be used regularly for that purpose. The balustrade enables the occupiers of the appeal property to use the roof terrace for sitting out and socialising, which in turn increases the prospect of overlooking of the surrounding residential properties.
11. I therefore conclude that the development, insofar as it facilitates the use as a roof terrace, unacceptably harms the living conditions of occupiers of

neighbouring residential properties, specifically in relation to privacy. It is therefore in conflict with Policy PLAN1 of the ILP, and guidance contained within the Framework and Islington's Urban Design Guide Supplementary Planning Document (SPD) (January 2017). These seek, amongst other matters, to ensure that developments provide a good level of amenity including in relation to overlooking and privacy.

Character and Appearance

12. The host building is a mid-terrace property located on the northern side of Lofting Road. Its front elevation is decorative being part stucco and part brick with stone window surrounds. The rear elevation of the appeal property, and its immediate neighbours, is plainer than its frontage. Lofting Road and its surrounding streets are located within the Barnsbury Conservation Area (CA).
13. The CA is large and, as set out in the Barnsbury Conservation Area Design Guidelines (CADG) (January 2002), its special character is derived, in part, from many of the best examples of formal late-Georgian/early-Victorian residential developments in London. The CADG also indicates that the predominant character of the CA is residential.
14. The black metal balustrade installed is of a slim, traditional design which is not visually harmful and does not detract from the host building. Although there are no similar railings on the rear elevations of other properties on the terrace, this type of balustrade is not unusual in a residential environment such as this.
15. While there are close views available from the immediately adjacent properties, given its location to the rear of the property, the balustrade is not visible from Lofting Road and is also not prominent in the wider street scene. Fleeting views are possible from Mountfort Terrace to the rear of the site, however by virtue of its design and materials, the balustrade does not appear as an unsympathetic addition that fails to relate to the host dwelling.
16. The railings are therefore appropriate in appearance and materials in relation to this particular context. The CA is not experienced differently as a consequence, nor is the significance of the CA affected.
17. In view of the above, and having regard to my statutory duty under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, I conclude that the development preserves the character and appearance of the CA. It therefore accords with Policies PLAN1, DH1, and DH2 of the ILP, Policy HC1 of the London Plan 2021, and guidance contained within the Framework, the SPD, and the CADG. When taken together these require that developments protect and enhance the unique character of the borough, including its heritage assets and make a positive contribution to local character.
18. Policy D4 of the London Plan relates to processes and actions required to deliver good design. As it does not directly link to the harm identified, I find no specific conflict with Policy D4 in reaching my conclusion.

Conclusion

19. Whilst I have found that the development would preserve the character and appearance of the CA, the development unacceptably harms the living conditions of occupiers of neighbouring properties. The development therefore conflicts with the development plan when considered as a whole and there are

no material considerations that outweigh the harm identified and the associated development plan conflict.

20. For the reasons given above, I conclude that the appeal does not succeed. I have upheld the enforcement notice and refuse to grant planning permission on the deemed application.

David Jones

INSPECTOR