



Appeal Decisions

Site visit made on 11 June 2024

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 10 July 2024

Appeal A Ref: APP/V5570/W/23/3334848

56 Richmond Avenue, Islington, London N1 0NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr David Andrew against the decision of London Borough of Islington.
- The application Ref is P2023/0420/FUL.
- The development proposed is demolition of the existing single storey building to allow for the creation of a self-contained single storey studio dwelling.

Appeal B Ref: APP/V5570/Y/23/3334851

56 Richmond Avenue, Islington, London N1 0NA

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr David Andrew against the decision of London Borough of Islington.
 - The application Ref is P2023/0431/LBC.
The works proposed are demolition of the existing single storey building to allow for the creation of a self-contained single storey studio dwelling.
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Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and listed building consent is granted for demolition of the existing single storey building to allow for the creation of a self-contained single storey studio dwelling at 56 Richmond Avenue, Islington, London N1 0NA in accordance with the terms of the application Ref: P2023/0431/LBC dated 8 February 2023 and subject to the following conditions:
 - 1) The works authorised by this consent shall commence not later than [3 years] from the date of this consent.
 - 2) Details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing on site. The details and samples shall include: a) solid brickwork (including brick panels and mortar courses) b) window treatment (including sections and reveals); c) roofing materials; d) any other materials to be used. The works shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.
 - 3) No works that affect the boundary wall (along the west elevation shared boundary between nos. 54 and 56 Richmond Avenue) shall be carried out until details in relation to the impact of the works on the integrity of that wall have been submitted to and approved in writing by the Local Planning

Authority. The works shall be carried out only in accordance with the approval given.

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) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. While I note description of development in the application form, the Appellant has accepted the description as set out in the decision notice and appeal form. Moreover, the evidence indicates that the proposal is for demolition of the existing building and not conversion. I have therefore used the description as stated in the decision notice in the banner above.
5. The Council adopted the Islington Local Plan Strategic and Development Management Policies September 2023 (SDMP) after the planning application and listed building consent were determined. I have therefore assessed the appeal on the basis of the adopted development plan policies.

Main Issues

6. In Appeal A the main issues are:
 - whether the proposal would provide a suitable living environment for future occupiers with regard to privacy, outlook and light;
 - whether the proposal would provide adequate contribution towards affordable housing; and
 - the effect of the proposal on nearby trees.

In both Appeal A and Appeal B the additional main issues are:

- whether the proposal would preserve a Grade II listed building, Numbers 54 and 56 (even) and attached railings and garden gate (Nos 54 and 56), and any of the features of special architectural or historic interest that it possesses and the extent to which the proposal would preserve or enhance the character or appearance of the Barnsbury Conservation Area (BCA);

Reasons

Living environment

7. The proposed living, kitchen and dining area would have a large window looking onto Boxworth Grove which serves as an access to the adjacent Barnard Park. As this front facade would be set at the back of the pavement, people using the pavement would be likely to gain views into the proposed dwelling at very close proximity. Accordingly, the proposal would unacceptably harm the privacy of future occupiers.
8. I note the examples of other properties with windows at the back of the pavement such as at Thornhill Road and Cloudesley Place. These windows are generally not full-height and their internal layout and use is unknown. Accordingly, the proposal is not directly comparable with these examples. The use of blinds may partially screen views into the dwelling from a distance, however, users of the pavement could still gain views into the property at close proximity and the outlook from within the space would be adversely affected. Therefore, a condition requiring

blinds to be installed would not fully mitigate the harm to privacy and outlook that would result from the proposal.

9. I note the Appellant's suggestion that 'one-way' glass or film could be used that would allow a full outlook for residents but no inward looking from the street. No further details of this have been provided to assess its effectiveness or how the appearance of such glass or film would affect the character of the area. Accordingly, there is no certainty that a condition securing this would be effective. Therefore, the proposal would have an unacceptable effect on the privacy of future occupiers.
10. Turning to outlook, as well as the window facing Boxworth Grove, the proposal would also have full height glazing facing the garden. As discussed above, it is likely that future occupiers would install screening such as curtains or blinds to the window facing Boxworth Grove that would significantly reduce outlook from this window.
11. While the glazing facing the garden would be full height, it would be at close proximity to the boundary wall with the adjacent property. The outlook in this direction would therefore be dominated by this wall. To the south lies a strip of land outside the red line boundary which currently consists of overgrown vegetation and a tall, planted chain link fence. While I acknowledge that glass blocks proposed in previous applications have been omitted, from my observations during the site visit, even if there were no boundary treatment along the south side of the garden, the outlook from the garden would be dominated by the overgrown vegetation and tall fence which would be in close proximity to the boundary. Therefore, the proposed internal and external space would feel oppressive and uncomfortable.
12. I note the evidence regarding the strip of land to the south of the garden being owned by the Council. However, as it lies outside the control of the Appellant, and would require long-term maintenance, a condition to secure the maintenance of the land would not pass the tests contained in the Framework. The submitted planning obligation does not in any event include provisions relating to the maintenance of this land. I also note the properties at No 37 Richmond Crescent and Almorah Road, the bedrooms of which lack windows. However, these properties appear to be larger than the appeal scheme and therefore not directly comparable with the proposal. As such, the proposal would not provide a suitable living environment for future occupiers in terms of outlook.
13. In terms of light, the proposal would exceed the 20% glazing required by DLP H4. However, as the glazing facing the garden would be in close proximity to high walls and a fence, there is no certainty that adequate levels of light would reach the internal spaces of the proposed dwelling from these directions. While there would be a large window facing Boxworth Grove, as discussed earlier, it is likely that future occupiers would install screening to mitigate against harm to privacy. Accordingly, there is no certainty that adequate levels of light would reach the internal spaces. While evidence may have been submitted with previous applications and appeals, there is no detailed technical evidence such as a daylight and sunlight assessment submitted with the application or appeal to demonstrate that the levels of sunlight and daylight would be adequate. Therefore, the proposal would not provide a suitable living environment for future occupiers with regard to light.

14. Consequently, the proposal would not provide a suitable living environment for future occupiers with regard to privacy, outlook and light. Therefore, it would conflict with Policy D6 of The London Plan The Spatial Development Strategy for Greater London March 2021 (The London Plan) which seeks development that provide adequate daylight and privacy. It would also conflict with SDMP Policies H4 and H5 which together seek new development that provide a good level of privacy, daylight and be a comfortable space.

Affordable Housing

15. SDMP Policy H3 states that sites delivering fewer than 10 residential units (gross) and/or which propose less than 1,000sqm (GIA) residential floorspace are required to provide a financial contribution to fund the development of affordable housing off-site. The level of contribution required will be £50,000 per net additional unit.
16. A Unilateral Undertaking (UU) was submitted with the appeal which provides a £50,000 financial contribution towards affordable housing. However, the UU also requires the owner to notify the Council prior to first occupation and prior to first payment of the affordable housing contribution if they intend on undertaking a late stage viability assessment.
17. SDMP Policy H3 does not make provision for late stage reviews for proposals of fewer than 10 units. In addition, the Affordable Housing & Viability Statement submitted by the Appellant concludes, among other things that the proposal would generate a residual land value that is higher than the previously assessed existing use value, whilst making allowance for a £50,000 financial contribution towards affordable housing. Moreover, the recommended Heads of Terms and suggested owner covenant within the statement does not include the provision of a late stage review.
18. I note the Appellant's concern that without a late stage review, there is a risk that the scheme would not be implemented if viability is marginal. However, there is no evidence before me to substantiate such a risk. Moreover, the Affordable Housing Small Sites Contributions Supplementary Planning Document October 2012 states that circumstances in which a contribution of £50,000 might pose viability issues for a scheme are very limited. Accordingly, this provision within the submitted UU is not necessary and therefore does not meet the tests within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
19. Consequently, the proposal would not make adequate provision for affordable housing. Therefore, it would conflict with SDMP Policies H3 and H8 which relate to affordable housing.

Trees

20. The land to the south of the site contains trees. In addition, the adjacent property also has a tree close to the boundary with the site. From the evidence, the footprint of the proposal is the same as a previous scheme refused by the Council in 2021 (2021 scheme) which included a basement level. While the proposal subject of this appeal appears to be less intrusive, there is no detailed evidence before me, such as an updated Arboricultural Impact Assessment, which assesses the scheme before me. In addition, I do not have any evidence before me which assesses any changes to the surroundings that may have occurred in the intervening time.

21. Consequently, it has not been demonstrated that the proposal would not harm surrounding trees. Therefore, the proposal would conflict with London Plan Policies G6 and G7 and with SDMP Policy G4 which together seek developments that manage impacts on biodiversity, retain existing trees of value and minimise impacts on existing trees.

Listed building and BCA

22. Nos 54 and 56 were first listed in 1972 and dates from around 1841. As stated in the Heritage Statement submitted with the appeal, No 56 forms part of a semi-detached pair, the form and profile of which is similar to Italianate styled houses of the period with a shallow hipped roof and projecting bracketed eaves, alongside stucco embellishment to the ground floor and around the upper floor windows. As such, the building has historic, architectural and evidential value as an example of late Georgian architecture. In particular, it illustrates the evolution of the area to a residential suburb.
23. Given the above, I find that the special interest of the listed building, insofar as it relates to these appeals, to be primarily associated with the form and character of the primary building and its visual relationship with the surrounding buildings.
24. The appeal building is a single storey garage sited to the rear of the site. While the original purpose of the outbuilding may have been to provide a carriage house and workshop facilities for the main house, it does not form part of the original grain or layout of the area. The garage has no intrinsic architectural or historic merit and is in need of maintenance. The elevation facing Boxworth Grove is largely blank except for the existing roller shutter and shutter box which are unsightly. Accordingly, the outbuilding provides a negative contribution to the special interest of the listed building.
25. The removal of the existing roller shutter, given its unattractive condition, would not harm the special interest of the listed building. The proposed dwelling would include a large window to this elevation in place of the roller shutter. The window would include a large expanse of glass with roughly square proportions. While the window would not be the same style as the windows of the main dwelling, it would be positioned at the far end of the façade away from the main building such that it would not appear dominant in comparison. In addition, as the overall scale of the proposed building would be only slightly taller than the existing dwelling, the window would be seen as part of the subservient proposed building and would not detract from the character of the host building. Moreover, as the size of the window would be similar to the existing roller shutter, it would not be a discordant departure from the existing elevation in terms of proportion. The proposed white roller shutter would be more in keeping with the existing white wall than the current roller shutter. Accordingly, the proposed large window facing Boxworth Grove would not harm the special interest of the listed building.
26. I note the examples of alternative fenestration treatments noted by the Appellant. However, these could alter the character and special interest of the listed building. Accordingly, a condition to secure alternative designs for the fenestration of the large window would not be appropriate. In any event, I have necessarily assessed the scheme before me.
27. The proposed three doors that would face Boxworth Grove are proposed to be white frameless and seamless doors, fitted flush with the façade. Accordingly,

these doors would have a minimal impact on the character of the façade which is largely blank and would not harm the special interest of the listed building.

28. Turning to the BCA, its significance, insofar as is relevant to this appeal, lies in the evidence of examples of formal late-Georgian/early Victorian residential developments in London that results in a rare quality of consistency and completeness.
29. The proposed elevation facing Boxworth Grove would be seen not only from this street, but also from Richmond Avenue, from which the main building is accessed. As the window and doors would not harm the character of the listed building, it would also not harm the character of the BCA and would preserve its significance.
30. Consequently, the proposal would preserve Nos 54 and 56 and any of the features of special architectural or historic interest that it possesses and would preserve the character or appearance of the Barnsbury Conservation Area.
31. Therefore, it would not conflict with London Plan Policy HC1 or SDMP Policies PLAN1, DH1 and DH2 which together seek to conserve or enhance Islington's heritage assets including conservation areas and respond to existing site context. SDMP Policies do not relate to heritage and are not directly relevant to this main issue.

Other Matters

32. While the second reason for refusal in the decision notice for refusal of planning permission relates to the quality of internal and external amenity spaces, from the wider evidence, the Council's concerns in this respect relate to privacy, outlook and light which are discussed above. Although not mentioned in the reasons for refusal, I note the Council's concerns regarding noise. As I am dismissing Appeal A for other reasons, this matter has not altered my overall decision.
33. I note the Council's concerns regarding biodiversity. As a green roof is not proposed in accordance with SDMP Policy G5, the proposal would conflict with the Policy in this respect. While I note the evidence that a green roof could be incorporated and secured via a condition, as sufficient details are not before me to demonstrate the effect a green roof would have on the design of the building, a condition would not be appropriate in this instance.

Conditions

34. The conditions attached to the listed building consent are necessary in the interests of certainty and to safeguard the special interest of the listed building and character of the surrounding area.

Conclusion

35. For the reasons given above it is concluded that Appeal A should be dismissed, and planning permission is refused, while Appeal B should be allowed and listed building consent is granted.

R Sabu

INSPECTOR