

Appeal Decision

Site visit made on 9 September 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

Appeal Ref: APP/V5570/D/24/3344803

50 Penn Road, Islington, London N7 9RE

- 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 Tellisa Clarke against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2023/2096/FUL.
 - The development proposed is erection of a single storey ancillary annexe.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- whether the proposal would preserve or enhance the character or appearance of the Hillmarton Conservation Area, and;
- the effect of the proposal on the living conditions of the occupants of 49 and 51 Penn Road in regard to noise and disturbance.

Reasons

Hillmarton Conservation Area

3. As the appeal site is within the Hillmarton Conservation Area (the CA), I have had regard to Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area.
4. The significance of the CA, as set out in the Hillmarton Conservation Area Design Guidelines 2002 (the CA Guidelines), is primarily derived from the historic and architectural quality of the buildings which include three and four-storey semi-detached villas and terraces. The CA Guidelines also set out that the area has a spacious scale with wide streets and is predominately residential.
5. The appeal site consists of a three-storey semi-detached house. The house is a Victorian villa and although it has been extended and altered, it retains

some of its distinctive architectural quality and detailing that is reflected across the adjoining property. At the rear of the house, there is a garden area which narrows due to the angled boundary treatment and includes some trees and vegetation. There is a change in ground level between the garden area and the house, with most of the garden sitting at a slightly higher level. The rear garden has a sense of spaciousness and openness as it is devoid of built form. The house and the space around it therefore make a positive contribution to the character and appearance of the CA, as a whole.

6. The proposal seeks to erect an annex at the bottom of the rear garden. As a result of its width, the annex would spread across nearly the full width of the garden. It would be very close to the side boundaries with little external space to the sides. This would be contrary to the guidance in the Urban Design Guide Supplementary Planning Document 2017 (the SPD) which is clear in setting out that garden buildings should be set away from boundaries. Whilst each application must be judged on its own merits, this does not mean that the guidance in the SPD can be overlooked. Even if a terracing effect would not occur, the siting of the annex would still be contrary to the guidance in the SPD.
7. The massing and scale of the annex arising through the combination of its width and length in this narrow part of the garden, would dominate the rear garden. This harmful effect would, in my view, result in a garden building that would be a discordant feature in this rear garden setting. Because of its overall size in relation to the width of the garden, the proposed use of the bi-fold doors and windows would not successfully break up the massing of the building to such a degree that would reduce its domineering presence.
8. Whilst the annex would not be visible from any public views, this harmful effect on the rear garden would be visible from the windows and rear gardens of the surrounding properties. The existing boundary treatment would provide some screening but not to such an extent that would prevent these views, particularly given the higher ground level in this part of the garden.
9. Despite the external floor area of the annex and the amount of retained garden space, its siting would erode the open character of this part of the rear garden which in turn would reduce the intrinsic spaciousness of the garden. This would diminish the positive contribution that the appeal site makes to the significance of the CA, causing harm to its character and appearance.
10. The external elevations of the annex would consist of a mix of red cedar cladding and grey cement particle board. Whilst this would give the annex a dark visual appearance, it would not have a substantial effect on the perception of the size of the annex. However, the suitability of these materials would not overcome my concerns about the dominance of the annex as a consequence of its siting, overall scale and massing.
11. Although localised in its effect, the harm caused to the CA would be less than substantial. Nevertheless, this attracts considerable weight and importance. In accordance with paragraph 208 of the National Planning Policy Framework, where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

12. The proposal would allow for the appellant's au pair to live on the site and provide childcare and support for the family. However, this would be a largely private benefit to the appellant. There would be some economic benefits arising through the construction phase and the employment of the au pair, but I have limited information before me to demonstrate that these benefits could not be achieved in a less harmful way. These factors reduce the weight I attribute to these benefits of the proposal to a limited level, which is insufficient to outweigh the less than substantial harm.
13. In the Planning & Heritage Statement, reference is made to development permitted under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The appellant asserts that if the height of the annex was reduced it could be built under Class E. The Council Delegated Report refers to an Article 4 direction covering the CA. I have not been provided with sufficient evidence to demonstrate that the appeal site benefits from permitted development rights to allow for Class E rights to be utilised.
14. For these reasons, I conclude that the proposal would fail to preserve or enhance the character or appearance of the CA and would therefore conflict with Policies PLAN1 and DH2 of the Strategic and Development Management Policies 2023 and the CA guidelines. These policies and guidance, amongst other things, require development to respond to the existing site context and conserve or enhance the significance of the conservation area. The proposal also conflicts with the SPD, as outlined above.

Living conditions of the occupants of 49 and 51 Penn Road

15. The nearest residential properties to the appeal site are 49 and 51 Penn Road. The annex would provide living accommodation for the appellant's au pair. It would be smaller than the main house, however, it would have its own bathroom. The appellant asserts throughout their planning application and appeal submission that the annex would have no separate address, post box, utility metres, services such as internet, phone line and television, parking, garden or access.
16. The Council's primary concerns on this issue relate to the use of the annex as separate living accommodation and the change of use of the garden space, but that is not what has been applied for and is not the proposal before me. If the structure is not used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required. Moreover, I am satisfied that if the application were acceptable in all other aspects, the use and occupancy of the annex could be controlled by a suitably worded planning condition which would ensure the use of the annex would be ancillary to the house. Such a condition has also been used in the appeal decisions referred to by the appellant¹.
17. The proposal would necessitate movement between the annex and the house, however, these would be residential pedestrian movements and I am not convinced that these would be excessively noisy. Given the nature of the proposal, it is unlikely to involve such a level of comings and goings that

¹ Appeal Ref: APP/Q5300/D/16/3147827 & Appeal Ref: APP/F5540/D/17/3181696

would cause considerable disturbance or be out of keeping within a residential context.

18. Whilst not mentioned in the reason for refusal, comments are made in the Council's Delegated Report that the uncontrolled access to the garden could adversely impact neighbours' homes and gardens through comings and goings and loss of privacy. However, loss of privacy is not mentioned in the reason for refusal. Notwithstanding this, even though there is a side gate, this is an existing access arrangement. This existing access could be used by the occupants of the house and their guests to access the rear of the house and the garden in any event. The appellant has also confirmed that no new access arrangements are proposed.
19. Although the annex would provide living accommodation within the rear garden, the appeal site is within a residential area. Typically, it is not uncommon to have such garden buildings within residential settings that can be used for various ancillary purposes. Such a use as proposed would not materially change the residential nature of the appeal site.
20. Third parties have raised concerns over the potential for other garden buildings to be used for commercial purposes. However, each planning application and appeal must be determined on its own individual planning merits.
21. For these reasons, I conclude that the proposal would not harm the living conditions of the occupants of 49 and 51 Penn Road in regard to noise and disturbance. The proposal would therefore comply with Policy PLAN1 of the Strategic and Development Management Policies 2023. This policy amongst other things, requires development to provide a good level of amenity, including consideration of noise and the impact of disturbance.

Other Matters

22. The Council raised no objections in terms of loss of daylight and sunlight to neighbouring occupiers or on grounds which relate to trees and biodiversity. However, compliance with relevant planning policies on these matters would be required for all proposals, so would neither weigh in favour nor against the appeal scheme.

Conclusion

23. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

L Reid

INSPECTOR