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# Appeal Decisions

Site visit made on 29 October 2024

**by A Edgington BSc (Hons) MA CMLI**

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

**Decision date: 11 November 2024**

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## **Appeal A Ref: APP/V5570/W/24/3343732**

### **53 Canonbury Park South, LONDON, N1 2JL**

- 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 Ian Huffman against the decision of the Council of the London Borough of Islington.
  - The application Ref is P2023/3331/FUL.  
The development proposed is single storey side extension and associated works to garden.
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## **Appeal B Ref: APP/V5570/Y/24/3343730**

### **53 Canonbury Park South, LONDON, N1 2JL**

- 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 Ian Huffman against the decision of the Council of the London Borough of Islington.
  - The application Ref is P2023/3337/LBC.
  - The works proposed are single storey side extension and associated works to garden.
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## **Decision**

1. Appeal A is dismissed.
2. Appeal B is dismissed and listed building consent is refused.

## **Preliminary Matters**

3. In order to avoid duplication, I have dealt with these appeals together where appropriate.
4. The heritage statement considers only the adjacent 49 and attached 55 Canonbury Park South in relation to the settings of listed buildings. It also states that there is no direct visibility between the appeal site and other listed buildings in the area. However, setting is not necessarily predicated on intervisibility. This is set out in Historic England's advice<sup>1</sup> which states *buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the connection of each*. In any case, my experience was that there was intervisibility between the northern and southern sides of the road near the appeal site. As such, and mindful of my statutory duties as given in the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have

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<sup>1</sup> The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) 2015

considered the effect of the development on the settings of other listed buildings in the area.

5. Paragraph 208 of the National Planning Policy Framework (the Framework) requires that where a development will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use. This is more restrictive than Policy DH2 of the Local Plan (LP), but as the current version of the Framework was issued after the local development plan, I conclude that LP Policy DH2 carries substantial but less than full weight.

## **Main Issues**

6. The main issues are whether the proposals would preserve the Grade II listed 53 and 55, 45, 47 and 49, 50 and 52, 54 and 56, 58 and 60, and 62 and 64 Canonbury Park South, including their settings; and whether the development would preserve or enhance the character or appearance of the Canonbury Conservation Area (Appeals A and B).

## **Reasons**

7. Numbers 53 and 55 Canonbury Park South (Nos 53 and 55) form semi-detached villas dating from around 1845, developed by Charles Hamor Hill (C H Hill) who was an important designer and developer of the period, and responsible for a significant proportion of dwellings in the Canonbury area. Each house comprises a two-storey yellow brick main house with a hipped slate roof, and is two storeys over a basement, with attic. The entrance door is reached by a flight of steps, and has an architrave cornice on consols and panelled door, and an over-light. All the window openings are flat arched with gauged brick heads, and have sashes with margin lights.
8. Numbers 45, 47 and 49 Canonbury Park South (Nos 45, 47, and 49) form a three dwelling terrace, arranged on three storeys with attic and basement. Although not attributed to C H Hill, the terrace was also built in the mid-19<sup>th</sup> century, again with yellow brick and a slate roof. Overall, notwithstanding the additional storey, the terrace displays similar design characteristics and proportions as Nos 53 and 55.
9. On the other side of the road there are four pairs of listed semi-detached villas, 50 and 52, 54 and 56, 58 and 60, and 62 and 64 Canonbury Park South. These were also built by C H Hill, are arranged over two storeys with a basement and attic, and are similar in scale, design and materials to Nos 53 and 55.
10. Collectively all these dwellings, although displaying some alteration and extension to varying degrees, have an underlying coherence and architectural consistency which is reflective of the period. They have each retained substantial intact and well-maintained historic fabric, and the five pairs of villas designed by C H Hill have a further commonality derived from their historic architectural association.
11. As such, all the listed buildings at this end of the road make a highly positive contribution to the street scene and contribute to an appreciation of London's 19th century expansion and the prevailing architectural styles of the period. The voids and lateral separation of the original development pattern remain

evident to a very large degree, even though some dwellings have had single storey side extensions. In that regard, although Nos 53 and 55 are opposite the other C H Hill villas, the settings of all these villas make overlapping and reciprocal contributions to the settings of the others.

12. There is what appears to be a lead clad pyramidal canopy above No 53's side door. This does not appear to be mentioned in the heritage statement. Its design and at least some of the materials appear to be original fabric. If this is the case, and I must take a precautionary approach, it contributes to an appreciation of No 53's original fabric, architecture and design.
13. The significance of No 53 arises primarily from its fine and largely intact historic fabric, its aesthetic contribution to the area and the strong symmetry and architectural consistency with the attached No 55. The undeveloped void of its side garden also contributes to its setting as it reinforces the underlying building pattern. To a lesser extent Nos 53 and 55 contribute to the settings of the other listed buildings nearby.

#### Canonbury Conservation Area (CCA)

14. Most of Canonbury was developed in the late 18th and 19th centuries, and notwithstanding bomb damage, and post war redevelopment, it is characterised by the distinctive pattern of semi-detached villas and short terraces laid out along the wide tree-lined roads experienced today. Canonbury Park South also has a large proportion of listed buildings which is reflective of the contribution the 19<sup>th</sup> century development made to the locality's unique distinctiveness.
15. There is a distinct shift in the building pattern towards the convergence of Canonbury Park North and South. There is increasingly insufficient space for two building lines. Towards the junction the rear gardens of dwellings on Canonbury Park North become more important in the street scene of Canonbury Park South due to the loosening and changed alignment of the building line and the curvature of the road, as shown by Nos 53 and 55, and then by the omission of dwellings on Canonbury Park South altogether.
16. The significance of the CCA is derived from the sheer extent of planned high quality 19th century residential development, and the very high proportion of buildings presenting with original form and fabric. There is also an underlying generosity in the building pattern which contributes to a distinct spaciousness and an ability to appreciate the elegance of the buildings of large plots, as well as allowing the development of mature garden vegetation. There is also significance derived from the historic fabric of individual buildings, the predominance of particular developers, and the overall consistency and coherence of scale, style and materials.

#### Proposals and Effects – Listed buildings

17. The proposals would comprise a single storey extension attached to No 53's flank wall, set back 400mm from the principal elevation, and around 3.4 metres tall to align with the height of the side extension to No 49. The extension would extend to the side plot boundary. The floor level of the extension would be raised above the existing garden level, to provide level access from No 53's raised ground floor, and to avoid conflict with the underground vaults which are located adjacent to the flank wall.

18. The proposed extension's front elevation would comprise a blank brick wall with a simple door opening, accessed from two steps. The argument is advanced by the appellant that the height of the front elevation and its lack of feature would reflect the design and height of No 49's side extension but it would also reinforce that extension's utilitarian design and featureless appearance. The proposed extension's front elevation would extend in height to the level of the over-light on No 53's panelled entrance door. Its overall scale and bland appearance would appear heavy and incongruous against the considered detail and smaller scale of No 53's principal elevation.
19. With regard to the alignment of roof heights with No 49, the Council notes that the existing side extension to No 49 is compliant with the Conservation Area Design Guidelines (CADG) which requires extensions to be no more than 3 metres in height. Having assessed the brickwork, I see no reason to disagree with the Council, even though this is not what is shown on the drawings<sup>2</sup>. As Nos 49 and 53's gardens appear to be on level ground, I am unable to conclude that the parapet heights of the existing and proposed side extensions would align, particularly as the evidence indicates that the extension would not involve excavation of No 53's garden.
20. Moreover, although the extension's front elevation would replace a brick garden wall which is topped by a light timber fence, there is nothing before me to indicate that the height of the fence is lawful. The fence is a lightweight structure which is visually semi-permeable. It has a lightness that complements the setting of Nos 53 and 55. It also allows an appreciation of the lateral separation between Nos 53 and No 49, and the void between the dwellings that forms an integral part of the original development pattern. In any case, the timber fence is significantly lower than the proposed height of the extension. What is proposed would be substantially different from the existing situation.
21. In addition, from some angles in the street, the relationship of the development to No 49's extension, would result in them being perceived as one continuous structure, punctuated only by a gated entrance to the rear of No 49. The side elevation of the development would also be visible from some directions, so the development would not necessarily appear to be a garden wall. The development would also have a longer front elevation than No 49's extension, and by virtue of its being closer to No 53's principal elevation, which is one storey lower than No 49, would have proportionally more impact on the appreciation of its host dwelling.
22. The proposals would therefore introduce significant massing and bulk between No 53 and No 49, and would be incongruous and overscaled in design and extent. They would not preserve the void between these dwellings and would introduce a bulky and bland feature which would from some angles be seen to link the dwellings together. I agree with the Council that the flatness and lack of feature would exacerbate visual dominance in relation to No 53.
23. The appellant advances the argument that there are many other instances of linked developments that fail to conform with the guidance. This is discussed further below.

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<sup>2</sup> Dwg. No 026-DWG-120 Existing and Proposed Front Elevations, Dwg. No 026-DWG-110 Existing and Proposed Section

24. The extension would be accessed internally from an existing side door that currently opens into the side garden. This door has a canopy supported by narrow iron rods. This appears to be original historic fabric, which would be removed if the appeal was allowed.
25. I conclude that the proposals would introduce an intrusive and unsympathetic feature into the void between Nos 49 and 53, which would have an adverse effect on setting, and would remove an element of external historic fabric. The significance of Nos 53 and 55 would therefore be diminished. With regard to the pairs of villas on the other side of the road, the contribution Nos 53 and 55 makes to the settings of these listed buildings would also be diminished, although to a minor degree.
26. There is inconsistency between the design and access statement (DAS), and the heritage statement with regard to harm to the listed building in that the DAS finds harm in this regard, and the heritage statement finds no harm. Nonetheless, the impacts of the development would diminish significance, as set out above, amounting to less than substantial harm.

*Proposals and effects - CCA*

27. I do not dispute that the Canonbury Park South has varied built form, which appears to be partly linked to post-war and piecemeal development following bomb damage. This is particularly noticeable at its western end where there are semi-detached two-storey 20<sup>th</sup> century dwellings which are sometimes linked by garage extensions, as well as taller blocks of flatted development. Nonetheless, towards the junction with Canonbury Park North, where No 53 is situated, the original 19th century villas are perceived as the predominant feature in the street scene. Garden vegetation as well as street trees make a significant and highly positive contribution to the character and appearance of the area.
28. Notwithstanding that No 49 has lawfully built a side extension which is very similar to what is before me, it does not necessarily follow that this should set a precedent. It demonstrates the visual impact of what would be a similar extension at No 53. In any case, the combined and cumulative effects of two similar extensions would result in more harm than if each was considered in isolation. I disagree that a similar extension at No 53 would preserve or enhance the character or appearance of the CCA.
29. I appreciate that from street level the upper crowns of trees only can be seen between Nos 49 and 53, above and through the fence, but there will also be views from the building line to the rear and also from the upper floors of nearby dwellings which would have a better view of the void between Nos 49 and 53.
30. Moreover, visibility from the public realm is not necessarily determinative when assessing the impact of the development on the character and appearance of a conservation area, as situations may change. In any case, the extension would intrude across the void in views from the rear where there is a charming arrangement of the largely unaltered rear elevations of dwellings on Canonbury Park North and South. Views of the rear of Nos 53 and 55 and the attendant voids, also contribute to an appreciation of the original architecture and layout. My reasoning is reinforced by the CADG which in setting out limits on side extensions in terms of overall height and

setback, states that the *existing gaps between villas afford pleasant views to trees and rear gardens, and give Canonbury a spacious and distinctive character. The construction of large and side extension erodes this character and blocks the views of green and open spaces.*

31. I conclude that the development and works would erode the significance of the CCA and would fail to preserve or enhance the character or appearance of the CCA. This would amount to less than substantial harm.

#### *Heritage conclusion and balance*

32. The proposals would therefore fail to preserve Nos 53 and 55, including setting. They would also fail to preserve the settings of the aforementioned listed buildings on the other side of the road, and would fail to preserve or enhance the character or appearance of the CCA. They would therefore be contrary to Sections 16(2), 66(1) and 72(1) of the Act.
33. As such, the proposals would also conflict with LP Policy DH1 which requires development to conserve or enhance the borough's heritage assets, as well as LP Policy DH2 which requires development within conservation areas to conserve or enhance the significance of the area and to be of a high quality contextual design. This policy also states that the buildings, spaces, and street patterns which contribute to the significance of a conservation area must be retained, and highlights the harm arising from the cumulative impact of incremental change. There would also be conflict with LP Policy PLAN1 which sets out general design expectations.
34. With regard to the London Plan there would be conflict with Policy HC1 which is concerned with safeguarding heritage assets, and Policies D3 and D4 which are concerned with general design principles. The proposals would fail to accord with Section 16 of the Framework which is concerned with the protection of designated heritage assets, and the guidance set out in the CADG.
35. Paragraph 205 of the Framework states that great weight should be given to an asset's conservation when considering the impact of development. This is irrespective of whether the potential harm amounts to substantial or less than substantial harm. LP Policy DH2 sets out that harm to the significance of designated heritage assets must provide clear and convincing justification for that harm. This is consistent with Paragraph 206 of the Framework.
36. Whilst I acknowledge that investment is essential to maintain and enhance building stock, No 53 appears to have undergone considerable renovations in recent years, including the substantial excavation of part of the rear garden to accommodate a basement kitchen and adjoining paved area. The plans before me indicate that there is generous living accommodation and I see no reason to suppose that the bedrooms on the upper floors are not of a high standard. Whilst I appreciate that a side extension would benefit the occupiers, it does not necessarily follow that this would be a public benefit. Nor is there anything before me to suggest that the dwelling would be at long term risk or no longer suitable for living accommodation on the open market if the appeals were dismissed. As such, I give very little weight to the arguments advanced in relation to sustainability, public benefits or optimal use.

37. Consequently, I conclude that there are not sufficient public benefits arising from the development and works to outweigh the less than substantial harm identified above in relation to the listed buildings and CCA. Notwithstanding that I give less than full weight to the conflict with LP Policy DH2, there would be conflict with the Act, the local development plan, the London Plan and the Framework and the harm arising from this conflict would not be outweighed by public benefits.

#### *Other matters*

38. The appellant has given examples of similar side extensions to the listed buildings on the other side of the road. However, although I acknowledge that those extensions are not always set back from principal elevations, they do not appear to be as tall as what is before me, and either have openings for both a door and window, or a garage door. As such their overall intrusion into the lateral separation of the building line is less than what is proposed, and they are not as featureless. Moreover, it is unclear when those works were given approval and they may predate the current policy context. The situations are not directly comparable.
39. The heritage statement also sets out examples of side extensions along Canonbury Park South. There are linked garages at 33 and 35, and 11 and 13 Canonbury Park South, but these are post war two storey dwellings and are not listed. Numbers 10 and 12 Canonbury Park South are also a pair of two storey post-war dwellings in a section of dwellings with linked garages. However again, these are not listed buildings, and the garages appear to be significantly lower than what is proposed.
40. Number 38 Canonbury Road South is a detached dwelling with side extensions on each side wall, each of which has a significant set back from the principal elevation. Numbers 50, 52 and 54 Canonbury Road South have side extensions that are garages and that are not as tall as what is proposed. They also share a building line which is well established in that section of the road, which is not the case here. Number 20 has a two storey side extension but is not listed, and in any case there is a distinct void between that extension and the adjacent dwelling. I am unable to conclude that any of these examples are comparable to what is before me. In any case, each case is considered on its merits.
41. The appellant argues that setting the extension behind the existing garden wall would result in an incoherent appearance from the street scene which would be more harmful than the appeal proposals. However, that is not before me. It would be inappropriate to comment on the merits or otherwise of that alternative.
42. The argument is also advanced that setting the extension back from No 53's principal elevation would disrupt the building line but as I have set out above, Nos 53 and 55 are not aligned with Nos 45, 47 and 49.
43. Although raised by the Council, I have not found particular harm in relation to the proposed extension's footprint, and as such this has not formed part of my reasoning.

## **Conclusion**

44. In the light of the above I conclude that the development and works would be contrary to the Act, the local development plan and the Framework. There are no material considerations of such weight to lead me to conclude otherwise. Appeal A is dismissed. Appeal B is dismissed and listed building consent is refused.

*A Edgington*

INSPECTOR