



Appeal Decision

Site visit made on 28 October 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2024

Appeal Ref: APP/M5450/W/24/3342763

91 Stanmore Hill, Stanmore, Harrow HA7 3DZ

- 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 Mohsin Khan against the decision of the Council of the London Borough of Harrow.
 - The application Ref is P/1403/23.
 - The development proposed is change of use from retail (Class E) to café/restaurant (Class E) with single storey rear extension & extraction flue. Following demolition of 5 No. of storage units and conservatory.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Mohsin Khan against the Council of the London Borough of Harrow. This is the subject of a separate Decision.

Preliminary Matters

3. The National Planning Policy Framework (the Framework) was revised in December 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comment.
4. The appellant has requested that I consider changes which were before the Council when it took its decision but were not considered. These relate to the removal of the roof lantern and the reduction in the number of openable bi-folding doors. I have considered these taking into account the tests on Holborn Studios Ltd¹. Given the extent of the changes proposed, I do not consider that the amendments would lead to the scheme being substantially different to that considered at the application stage. The description and the footprint of the proposed development remain the same. Interested parties and the Council have had an opportunity to submit comments on the amended plans during the course of the appeal. In these circumstances and given the representations received during the course of the application, I am satisfied that my consideration of the proposed amendments would cause no injustice to any party were I to consider them as part of the appeal documentation. I have therefore determined the appeal on the basis of plans 2023/041-01, 2023/041-03 Rev D and 2023/041-04 Rev D.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

5. It was apparent during my site visit that the works have commenced through the demolition of a number of storage units to the rear. However, any breaches of planning control do not fall within my assessment of the appeal scheme, which has been decided on the basis of the existing and amended proposed plans (listed above).
6. The proposal is for the change of use from retail (use class Ea) to restaurant (Use class Eb), the construction of a single-storey rear extension and the installation of extract flue at the rear following the demolition of five storage units and conservatory. From the evidence before me, the Council has indicated that it has no objection to the change of use, installation of an extract flue or the demolition of the five storage units and conservatory. Based on the evidence, I have no reason to take a different view. The dispute between the parties therefore relates to the erection of the single-storey rear extension to the rear and this shall be the focus of my assessment.
7. The site is also proximate to Park House, a Grade II listed building. In considering whether to grant planning permission, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special regard is given to the desirability of preserving a listed building or its setting. I have borne in mind this statutory duty when deciding the appeal.
8. The appeal site also lies within the Stanmore Hill Conservation Area (the CA), and under s72(1) of the Act, it is my duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
9. The Council contends that the proposed development would result in noise and disturbance which would harm the living conditions of neighbouring properties. Whilst not outlining specific criteria of Policy D3 in its refusal with regard to noise, it does state conflict with the Policy. As Policy D3 (D9) relates to noise I have therefore relied upon this criterion within my assessment.

Main Issues

10. The main issues are:
 - the effect of the proposed development on the living conditions of nearby residents, with regard to noise and disturbance, and
 - the effect of the proposed rear extension on the character and appearance of the host property; and whether the proposed extension would preserve or enhance the character or appearance of the CA and the setting of the adjacent Grade II Listed Building of Park House².

Reasons

Living conditions

11. The appeal site (No 91) is located within a neighbourhood parade, which also appeared to be a busy transport route. I saw that residential accommodation was to the upper floors of 89 and 91 Stanmore Hill (Nos 89 and 91), and to the rear on Green Lane.
12. Given the commercial nature of Stanmore Hill, noise levels at the time of my site visit were significantly higher to the front than to the rear. Whilst Green Lane is

² Historic England List Entry Number: 1079720

a through road, given its width and residential character it appeared to be a secondary road. Even though noise was audible to the front from passing traffic, this would likely diminish into the evening and noise levels to the rear would be significantly lower.

13. The proposed rear outrigger would extend close to the rear boundary with Green Lane. Whilst the amended plans remove the bi-folding doors, they do still show two sets of openable doors to the 'sitting area' and a large area of glazing. While I note the intention of the appellant's amended plans would be to reduce the extent of the apertures from the plans upon which the Council made its decision, it is clear that openable doors would still allow noise from patrons to be emitted externally and there is nothing in the evidence to confirm that the windows would not be openable. Given the lower noise levels to the rear, noise would be audible by residents of Nos 89 and 91 and Green Lane, especially during the evening when background noise levels are lower.
14. I have considered whether a condition to secure the doors and windows remain closed at all times would address the Council's concerns. However, given that the proposed rear extension would be utilised by a number of patrons, it is reasonable that a degree of air circulation would be required. Without openable doors or windows, this could result in mechanical ventilation. Therefore, given my concerns with regard to noise levels within the rear, I am not satisfied that the use of a condition would be reasonable in this case.
15. In the absence of any mitigation, I conclude that noise and disturbance would result in harm to the living conditions of nearby residents which would fail to ensure adequate living conditions. This would conflict with Policy D3 of the London Plan 2021 which states, amongst other matters, that development should help prevent or mitigate the impacts of noise.

Character and Appearance and Heritage Assets

16. The Stanmore Hill Conservation Area Appraisal & Management Strategy Supplementary Planning Document 2013 (CAAMS), identifies No 91 as being located towards the upper reaches of Stanmore Hill. The significance of this part of the CA is characterised by linear development, reflected in Stanmore Hill being a primary route for travellers to and from London. Stanmore Hill and the upper reaches of Green Lane are arranged in a relatively dense form of development which is in contrast to the lower reaches of Green Lane and Stanmore Hill. Despite having a denser built form, there is a clear distinction between the rear of Stanmore Hill and Green Lane.
17. No 91 is a three-storey, gable-fronted property fronting Stanmore Hill. Its gable elevation and roof form add interest to the street scene which contributes positively to the setting of the CA. The space between its rear elevation and Green Lanes offsets the density of the development and contributes towards the historical context of the streetscape. This in turn contributes positively to the CA.
18. Levels rise from The Broadway up to Stanmore Hill. Within the immediate context properties on Green Lane are significantly higher than No 91, with the height of the shared boundary reflective of such differences.
19. The Grade II listed Park House is located on Green Lane. It is a three-storey brick dwelling with sash windows and decorated fanlight to the front and windows to the flank elevation. It is set back from the Green Lane by a private

garden and is to the rear of No 91. Its significance and special interest are largely derived from its overall footprint and height compared to the neighbouring cottages, its architectural execution designed to overlook the front and flank elevations and how it is experienced from Green Lane and its curtilage.

Effect of the Proposal

20. Submitted plans show that there were a number of detached storage units set within the rear. As noted above, some of these have been removed. The exceptions to this are the glazed roof store (conservatory) attached directly to the rear of No 91, which is approximately the same width as the appeal premises, and the 'shed storage' unit located close to the shared boundary with No 89 and to the rear of No 91a. This store is set on a plinth, raised above ground levels within the rear and is visible from Stanmore Hill, viewed between the flank elevations of Nos 91 and 91a, and above the security gates of the appeal premises.
21. The proposed rear extension would project across the main rear elevation of No 91 and would extend approximately 5.3 metres beyond the flank elevation. This would approximately double the width and depth of the property to the rear, extending it close to the shared boundary with No 89 and Green Lane. The overall footprint of the proposed extension would visually compete with the scale of the host property. Even if the extension would comprise of materials consistent with those present in the locality, it would significantly increase the footprint of No 91 to the rear and project above the existing gates and roof of No 91a. Its extension approximately up to the limits of the site with Green Lane and No 91a would introduce significant bulk between the flank elevations. Its design, scale and massing would erode the existing spaciousness which can be experienced between Stanmore Road and Green Lane.
22. The CAAMS acknowledges that the CA has a relatively dense and urban nature, however from the evidence before me the buildings fronting Stanmore Hill retain separation from Green Lane. Even though No 91 contained further additional outbuildings to those I saw on site, the submitted plans indicate these were detached and set spaced out within the rear. As such, this would have created a sense of relief in the built form. In contrast, the proposed rear extension would significantly enclose the rear of No 91, resulting in little rear open space being retained. This would significantly increase the density of this part of the CA. Despite the existing dense nature of this section of the CA, further enclosure of the rear to the extent proposed would be contrary to its special character.
23. Given my findings above with regard to the setting of Park House and taken together with the level change it and No 91, the proposed extension would have no harmful influence on its setting and therefore preserve the significance of this Grade II listed building.

Public Benefits and Heritage Conclusion

24. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 213 further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 215 advises that this harm should be weighed against the public benefits of the proposal.

25. The proposal would bring about a number of public benefits, including the removal of the storage units and the reuse of a vacant commercial unit on brownfield land within a settlement. The construction works associated with the building and the operation of the proposed restaurant would also bring about benefits to the local economy. These benefits can be afforded a modest degree of weight in favour of the scheme. The proposed energy-saving measures would reduce the energy demand; however, this would be limited in extent to the appeal site. Furthermore, the provision of a flush threshold and safe and convenient access would be a likely requirement of any scheme.
26. Given my findings above, the benefits do not outweigh the harm that the development would cause to the character or appearance of the CA as a designated heritage asset.
27. Whilst the proposed rear extension would not harm the significance of the listed building through development within its setting, I have found that it would fail to preserve the character or appearance of the CA and would also have an adverse effect on the character and appearance of No 91.
28. As a result, the proposed rear extension would fail to meet the requirements of section 72 of the Act. There would also be conflict with Policies D3 (D(1) and (11)) and HC1 C of the London Plan, and Policy CS1 of the Harrow Core Strategy 2012, Policies DM1 A, DM1 B (a), (b) (c) and DM7 of the Development Management Policies 2013, insofar as they seek to ensure proposals positively respond to local distinctiveness through their layout, orientation, scale and appearance; and conserve and sustain heritage assets and their setting. There would also be conflict with the Stanmore and Edgware Conservation Areas Supplementary Planning Document 2013 and CAAM, which collectively seek to preserve or enhance those qualities of the CA. The proposal would also be contrary to the provisions of the Framework in relation to heritage assets, which also seeks to ensure, amongst other matters, that development is sympathetic to local character.
29. The Council contends that the proposal would be contrary to its Supplementary Planning Document: Residential Design Guide (2010), however, this relates to residential development. Given that the proposal relates to the change of use and extension of an existing commercial unit, this guidance is not directly relevant in this case.

Other Matters

30. Pinnacle Place, 1-4 Green Lane³ (Nos 1-4) is a two storey Grade II listed building, situated on Green Lane and adjoining Park House to the rear of No 91. Its significance largely derives from the group value and architectural merit depicted on the front and experienced from Green Lane and its curtilage. Given the degree of separation between No 91 and my findings above with regard to Park House, the proposed rear extension would not harm the significance of the listed building through development within its setting.
31. Even if the separation distances between the primary windows and flank walls to the upper levels of the appeal building and those nearby would remain as existing, the ground floor would be significantly closer. Despite the absence of opportunities for overlooking, and therefore harm to the living conditions of

³ Historic England List Entry Number 1079719

existing nearby occupants, given my findings above with regard to noise and disturbance carries little weight in my assessment.

32. Furthermore, the absence of harm with regard to privacy or daylight and sunlight are neutral matters in the overall planning balance, as these are likely requirements of any well-designed development.

Conclusion

33. The proposal conflicts with the development plan when taken as a whole, and material considerations, notably the stated benefits of the proposal, do not indicate that the appeal should be decided other than in accordance with it.

34. I conclude that the appeal should be dismissed.

L Clark

INSPECTOR