
Appeal Decision

Site visit made on 27 February 2025

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 March 2025

Appeal Ref: APP/V5570/W/24/3353362

62A Whistler Street, Islington, London N5 1NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr & Mrs Sanei and Hopkins against the Council of the London Borough of Islington.
 - The application Ref is P2024/1798/FUL.
 - The development proposed is ground floor extension, first floor extension & internal alterations and repairs.
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Decision

1. The appeal is dismissed and planning permission for ground floor extension, first floor extension & internal alterations and repairs, is refused.

Preliminary Matters

2. The appeal has been submitted against the Council's failure to determine the planning application within the statutory timescales. Whilst no formal decision was issued, the Council's Statement of Case (SoC) outlines the likely reasons for the refusal of planning permission. I have relied on these putative reasons to establish the main issue.
3. The Council's SoC also notes that amended plans were submitted but were not formally consulted on. Although the appellant has provided a copy of an amended plan, the appeal submission does not indicate that this revised scheme is under consideration. Therefore, I have determined the appeal based on the drawings listed under section J. 05.(b) of the appeal form.
4. The updated version of the National Planning Policy Framework, which came into force on 12 December 2024, introduces no changes that would materially affect the outcome of this appeal.

Main Issue

5. The main issue is whether the proposed development would safeguard the living conditions of neighbouring occupiers, with specific regard to the effect on the outlook and light afforded to No.63 Whistler Street due to the fence proposed along the shared boundary.

Reasons

6. The appeal site is a two-storey, end-terrace property within a predominantly residential area formed of terraced streets. It occupies a corner plot, with its

boundaries adjoining neighbouring properties on Whistler Street. To the rear, it abuts the rear gardens of homes on Battledean Road, which are situated on higher ground.

7. The property features an irregularly shaped rear garden, divided into two sections, each accessible via separate doors from the ground floor kitchen. The garden is multi-levelled, with raised areas, including decking, near its boundaries.
8. To the north, the appeal site adjoins No.63 Whistler Street, a mid-terrace dwelling. The appeal property includes a ground-floor rear projection that abuts the boundary with No. 63 and extends slightly further back than its corresponding rear elevation. The rear elevation of No.63 has ground floor French doors with a first-floor window above. It also has a two-storey rear outrigger, which is set back from the boundary and features side-facing windows on both floors, facing the appeal site.
9. One section of the appeal property's rear garden sits adjacent to the boundary with No.63 and is accessed from the ground floor rear projection. A staircase leads from the ground floor door to a small, raised area near the rear boundary. This raised area is positioned above No.63's adjoining rear yard and is not currently enclosed by boundary treatments.
10. The proposed development would replace this area with a ground floor rear extension, effectively extending the massing of the existing ground floor projection along the entire boundary with No.63. Above this extension, an upper-level garden would be created, enclosed by close-boarded fencing along the full boundary with No 63.
11. This fencing, combined with the extension, would introduce a tall, solid structure close to No.63's rear windows. No.63 already experiences a degree of enclosure due to the appeal property's existing built form and raised garden area. However, the proposal's increased height and solid construction would intensify this effect, appearing overbearing and reducing outlook to the extent that the living conditions of the neighbouring occupiers would be harmed.
12. No technical assessments have been provided regarding daylight or sunlight impacts. My assessment of this issue is therefore based on my observations on site and the available evidence. Given No.63's orientation, it can reasonably be expected to receive most of its sunlight from the south, where the proposed development would be located. As previously established, the fence's scale and proximity to No.63's windows would already diminish outlook. It therefore follows that it would also lead to a harmful reduction to both daylight and sunlight.
13. The appellant contends that similar fencing could be constructed under permitted development rights, but no substantive evidence, such as a certificate of lawful development, has been provided to support this claim. I therefore attach limited weight to this consideration.
14. The appellant also suggests an alternative boundary treatment could be proposed, which could be secured by condition. However, no drawings or details have been presented to demonstrate how this would overcome the previously identified harm. Furthermore, given the significant concerns regarding the living conditions of

neighbouring occupiers, and having regard to the *Holborn Studios*¹ judgment, securing such details by condition would deprive those entitled to be consulted of the opportunity to make further representations on the planning application. This would therefore not be a suitable approach.

15. For the reasons given above, I conclude that the proposed development would harm the living conditions of the occupiers of No.63 Whistler Street through loss of outlook, daylight and sunlight. It would therefore conflict with Policy PLAN1 of the Islington Local Plan Strategic and Development Management Policies, September 2023, which seeks to ensure that development provides a good level of amenity.

Other Matters

16. The appeal site is within the Whistler Street Conservation Area (the CA). Accordingly, the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the area.
17. The CA is a small, well-defined area encompassing only the dwellings of Whistler Street. These are primarily traditional terraced houses facing on to a narrow street, with some scattered examples of more contemporary development. Notable exceptions include a row of modern terraces to the CA's northwest corner and some individual contemporary dwellings to the southeast corner, which generally maintain the characteristic scale of the CA's traditional architecture. The significance of the CA lies predominantly in its compact street layout and the collective contribution of its buildings, both historic and modern, whilst preserving a broadly consistent scale of development.
18. The proposed development would feature contemporary design features and would be largely confined to the rear of the property, where modern extensions and alterations are common within the CA. Consequently, it would not harm the significance of the CA, preserving its character and appearance. However, the absence of harm in this regard is a neutral factor that does not weigh in favour of the proposal.

Conclusion

19. The proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with the plan. For the reasons given above, I therefore conclude that the appeal should be dismissed, and planning permission refused.

P Storey

INSPECTOR

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