



Appeal Decisions

Site visit made on 17 June 2025

by **A Parkin BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal A Ref: APP/V5570/W/24/3351285

382 City Road, Islington, London EC1V 2QA

- 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 Lin Xue of MR888 Property Limited against the Council of the London Borough of Islington.
 - The application Ref is P2024/1747/FUL.
 - The development proposed is Demolition of the basement level rear addition, landscaping works to the front and rear, and internal alterations and refurbishment works in connection with a change of use from commercial (Class E) to a single family dwellinghouse.
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Appeal B Ref: APP/V5570/Y/24/3351287

382 City Road, Islington, London EC1V 2QA

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Lin Xue of MR888 Property Limited against the Council of the London Borough of Islington.
 - The application Ref is P2024/1748/LBC.
 - The works proposed are Demolition of the basement level rear addition, landscaping works to the front and rear, and internal alterations and refurbishment works in connection with a change of use from commercial (Class E) to a single family dwellinghouse.
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Appeal A: Decision

1. The appeal is dismissed and planning permission is refused.

Appeal B: Decision

2. The appeal is dismissed and listed building consent is refused.

Preliminary Matters

3. As set out above there are two appeals at this site. Appeal A concerns an application for planning permission for a change of use and associated works, whilst Appeal B concerns an application for listed building consent for the associated works. In both cases the description of the proposal is the same. I have considered each proposal on its individual merits and with regard to relevant legislation, policy and guidance. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. These appeals concern the failure of the Council to issue decisions within the prescribed periods for applications for planning permission and listed building

consent. The Council's Statement of Case indicates that had it determined these applications they would have been refused. For Appeal A, this would have been on the basis that the loss of commercial floorspace at this location had not been adequately justified as required by the development plan. For Appeal B, this would have been because in the absence of planning permission for the change of use, the works would have been premature.

5. As the proposal is in a conservation area, and relates to listed buildings, I have had regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main Issues

6. The main issues are the effect of the proposal on:

Appeal A

- Business floorspace in the area; and,
- The significance of designated heritage assets.

Appeal B

- The significance of designated heritage assets.

Reasons

Business floorspace

7. The appeal building, and the other listed buildings within the terrace were originally constructed as dwellings. However, the current lawful use of the appeal building is Class E (commercial, business and service)¹. It is currently vacant, other than partial occupation by a caretaker, with most rooms empty or used for storage.
8. There is no dispute between the parties regarding the current lawful use or that the proposal would change the building back to its original residential use (Class C3 (dwellinghouse) of the UCO.
9. The Islington Local Plan Strategic and Development Management Policies 2023 (SDMP) indicates some 443,000sqm of office floorspace is needed across Islington over the plan period. To achieve this, the Local Plan will promote new business floorspace and ensure that existing business floorspace is strongly protected. I also note that an Article 4 Direction has been made, which removes permitted development rights for a change of use from Class E to Class C3² in this part of Islington.
10. The appeal building is located in the part of Islington covered by the Bunhill and Clerkenwell Area Action Plan 2023 (BCAAP), and within this area, it is further said to be within the City Road Spatial Strategy Area. The appeal building is also said to be located within the Central Activities Zone (CAZ).
11. The Local Plan identifies office floorspace as the clear priority land use within the BCAAP area³. The Local Plan further identifies that the northern part of City Road, which includes the appeal building, is a more suitable location for smaller offices⁴.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO)

² Under the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO)

³ Policy AAP1 (prioritising office use) Islington Local Plan BCAAP

⁴ Policy AAP4(D) (City Road) Islington Local Plan BCAAP

12. The Local Plan states that proposals which would result in a net loss of business floorspace within this BCAAP area, including changes of use, will be refused unless there are 'exceptional circumstances'. Such circumstances would need to demonstrate that there is no demand for the existing business floorspace; and, either the loss of the existing business floorspace and proposed replacement use would not compromise the operation of the wider area or it can be robustly demonstrated that the site is no longer suitable and cannot reasonably be redeveloped for continued business use⁵.
13. The appellant has submitted an office market report, dated 9 May 2024 and supplementary statement, dated 25 November 2024 for the property, which are said to provide an overview of the commercial office market in City Road. The report states the building was occupied by a firm of solicitors until mid-2022 and has been vacant and available to let since then.
14. From the supplementary statement, between 20 May 2024 and 25 November 2024, a period of just over six months, the listing of the property on what is said to be the most popular commercial marketing platform, is said to have been viewed over 10,000 times. However, just one direct enquiry is said to have been received during this period, with the premises considered unsuitable for the business requirements of the prospective tenant, after further details were provided. However, no substantive evidence to demonstrate the marketing over this period or the enquiry has been provided.
15. To demonstrate that there is no demand for the existing business floorspace, Policy B3(B)(i) of the SDMP requires that evidence demonstrating that the premises has been continuously marketed for a period of at least 24 months is submitted to the Council. This has manifestly not been done by the appellant and so the proposal conflicts with the policy.
16. As part (B)(i) of Policy B3 must be addressed, the subsequent policy issues addressing the effect of the loss of the existing business floorspace / proposed replacement use on the wider area (Part B(ii)) or robustly demonstrating that the site is no longer suitable and cannot reasonably be redeveloped for continued business use (Part B(iii)) fall away.
17. The appellant's position with regard to Policy B3 is thoroughly confused. The appellant ignores the wording of Part B(i) of the policy regarding a property being continuously marketed for a period of at least 24 months' in order to demonstrate there is no demand. Furthermore, whilst they correctly identify the requirement to satisfy Part B(i) and then either Part B(ii) or (iii), they go on to state that 'exceptional circumstances' (to justify the loss of commercial space) will exist if just Part B (iii) is satisfied.
18. In any event, I do not accept that Part B (iii) is satisfied in this case. The building was adequate for an office use up until recently and there has been some interest as a result of the recent marketing exercise. Whilst its current condition would require some repairs / maintenance works to be undertaken, it is not apparent that the building could not be used for smaller scale offices.
19. Furthermore, whilst No 382 is a listed building, this does not prevent the alteration or redevelopment for the current use. Indeed, the supplementary statement from

⁵ Policy B3(B) (existing business floorspace) SDMP

the appellant's chartered surveyors identifies refurbishment as an option to improve the attractiveness of the building. Whilst any refurbishment would need to be sensitive to the significance of the listed building, its listed status does not prohibit refurbishment.

20. I also note that the appellant's office market report contains research into the uses of buildings within the appeal terrace and on the opposite side of City Road. This shows there to be a mix of office, residential and other uses in the area, including within the Grade II listed terrace containing No 382. Consequently, it is not clear that the listed status of a building would prevent the operation of an office use.
21. Furthermore, I do not consider that Part B(ii) has been satisfied from the evidence before me. The proposal would entail the loss of some 241sqm of office space, which is a small amount relative to the office space to be found in the area, and the amount for which the Council is planning for over the Local Plan period.
22. However, whilst the amount of office space that would be lost at the appeal building would be small, reference is made to other changes of use from office to residential that have been granted planning permission in the area. Given this, it is not clear from the evidence what the cumulative effect of this would be, particularly for this type of small office space.
23. Notwithstanding the office market report, and the later comments of the appellant's surveyors about high vacancy rates, tenant preferences and market saturation, there remains commercial activity and interest in the area, and in buildings that are likely to be similar to the appeal building. I do not, therefore, find the appellant's comments that the building is not suitable for office use or for other commercial use within Class E to be compelling.
24. Whilst any requirements for alterations associated with Class E uses would be likely to need listed building consent, these would be considered in a similar way to the significant alterations currently proposed by the appellant.
25. For these reasons, the proposal would adversely affect business floorspace provision in the area. It would, therefore, conflict with Policies B1 (delivering business floorspace) and B3 of the SDMP, and with Policies AAP1 and AAP4 of the BCAAP.

Significance of designated heritage assets

26. 382 City Road is a Grade II listed building, forming part of a terrace on the southwestern side of City Road that was constructed in the early / mid-19th century⁶. The appeal building is similar to many of the buildings in the terrace, constructed of brick with four storeys plus a basement, and was originally a terraced house.
27. At the front, No 382 has a white stucco treatment at ground floor level (scored with some decorative detailing) and basement level. A lightwell, serving the front basement room, is separated from the hardstanding at the front by vertical metal railings. There is a low, and largely overgrown wall separating this area of hardstanding from a similar area at No 380 next door, whilst the boundary with No 384 is largely open.

⁶ Numbers 340-390 (even) and attached railings - List Entry Number: 1298069

28. The front elevation of the building contains aligned pairs of windows at ground, first, second and third floor levels. The windows have moulded stucco architraves and the first floor windows also contain pediments; at ground, second and third floor levels, the sash windows are of the original design. The front entrance has a decorative arched fanlight, above a panelled door that has been the subject of significant alterations.
29. Insofar as it relates to these appeals, the significance of this listed building stems from its historical development as part of a terrace of dwellings, together with its traditional design and materials, which are of architectural and historic interest.
30. The terrace containing the appeal building is located within the Duncan Terrace / Colebrooke Row Conservation Area (the CA). The CA is predominantly residential in character, although City Road is recognised as not being typical of this character in the Council's Design Guidelines. The buildings in the CA date from the 18th and 19th century and the CA also includes part of the Regent's canal.
31. Insofar as it relates to these appeals, the significance of the CA stems from its historical development, and from the buildings, streets and spaces to be found there.
32. The appeal proposal would change the use of the building to a single Class C3 dwellinghouse, with associated works. These works would include the demolition of the non-original rear basement extension, which would be replaced with a garden. At the front of the property, the hardstanding would be changed to a landscaped front garden containing bin and bicycle storage areas. It would be enclosed by dwarf walls topped with cast iron railings, with a gated access by the footpath on City Road.
33. Within the building, the historic layout would be retained with some original architectural features reintroduced or restored. The building would become a five bedroom dwelling, and amongst other things, would include three bath/shower rooms and a basement utility room. Externally, the brickwork at the front would be cleaned and the stuccoed elements also cleaned and refurbished.
34. The Council's indicative reason for refusal for Appeal B states that listed building consent for works necessary to accommodate a C3 use at the building would be premature whilst planning permission for such a change of use has not been granted.
35. The appellant states that restoring the building back to its original function would be consistent with the Council's own guidance for conservation areas and that removing the unsympathetic rear basement extension, cleaning and repairing the building and restoring architectural features are heritage benefits of the proposal. In terms of the works proposed, internally and externally, the Council considers they would preserve or enhance the significance of the listed building. I would agree that many of the proposed works would be consistent with this assessment.
36. The Government recognises that the long-term preservation of a listed building depends, to a great extent, on finding a viable use for it⁷. The building is currently vacant and in need of some repairs and refurbishment. However, as set out above,

⁷ Paragraph 210a) of the National Planning Policy Framework December 2024 (the Framework) and Planning Practice Guidance (PPG) – Historic Environment - Paragraph: 015 Reference ID: 18a-015-20190723 Revision date: 23 07 2019

it has not been demonstrated that the current lawful use of the building is not viable.

37. The proposed works would entail the loss of some employment and associated space, including the car parking spaces at the front; the rear basement extension; the conversion of a basement room to a kitchen; and a second floor room to a bathroom. The creation of the kitchen and bathroom, as shown on the submitted drawings, would be incongruous with the current lawful use of the building for Class E, and as such, would make letting the building for Class E considerably more difficult.
38. Whilst many of the proposed works are sympathetic to the listed building and not unacceptable *per se*, they would significantly hinder finding an occupier for the current lawful use of the building as Class E space. This would increase the likelihood of the building falling into further disrepair, which would be harmful to its significance.
39. The proposal would, therefore, cause less than substantial harm to the listed building. No 382 makes a positive contribution to the significance of the CA. Consequently, the harm that would be caused to the significance of the listed building by the proposal would also detract from the significance of the CA causing less than substantial harm. Any harm to a designated heritage asset attracts considerable weight⁸.
40. Many of the proposed repair, cleaning and restoration works are not dependent upon a change of use to residential, and could just as easily occur with the current office use, and would be likely to make the premises more attractive to commercial tenants.
41. The delivery of a five bedroom home would be beneficial to the housing stock of Islington, although the loss of employment space, and the provision of a single dwelling of a size that the Local Plan does not identify any demand for, means the weight attached to this public benefit would be very limited.
42. A signed unilateral undertaking dated 3 February 2025 has been provided by the appellant. Amongst other things, this seeks to provide a financial contribution towards affordable housing, which would be a public benefit of the proposal to be considered.
43. I note the Council has had the opportunity to comment upon the completed unilateral undertaking but has not done so. No evidence of title for the owner of the appeal site has been provided and the location plan attached to the obligation is illegible and so does not identify the appeal site. Consequently, I am not satisfied the obligation is legally sound and complete and so would be effective and so it carries no weight in my decision.
44. Even if I had been satisfied with the unilateral undertaking, the financial contribution towards affordable housing provision in Islington, together with the other limited public benefits of the proposal set out above, would not outweigh the harm to designated heritage assets I have identified⁹.

⁸ Paragraph 212 of the Framework

⁹ Paragraph 215 of the Framework

45. For these reasons, the proposed works would detract from the significance of the listed building and consequently, from the significance of the CA. They would, insofar as relevant, conflict with Policy HC1 (heritage conservation and growth) of the London Plan; Policy DH2 (heritage assets) of the SDMP and with the Framework, in this regard.

Conclusion

46. For the reasons given above, I conclude that Appeal A is dismissed and Appeal B is dismissed.

Andrew Parkin

INSPECTOR