
Appeal Decision

Site visit made on 5 November 2025

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2025

Appeal Ref: APP/V5570/W/25/3370341

104 Highbury Park, Islington, London Islington N5 2XE

- 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 Omar Habibi, Mihan Restaurant against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2023/2914/FUL.
 - The development proposed is Installation of new ventilation/extraction system.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The appeal site is located within the Sotheby Road Conservation Area (CA). I am therefore mindful of my statutory duties in respect of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. During the process of this appeal, I asked the parties for comments on the noise assessment submitted with the appeal. This is because the Council referred to it as a concern within their delegated report although it did not form a reason for refusal within their decision notice. The appellant clarified to me that they had submitted a noise assessment to support their proposal.
4. Given the potential effect of noise and vibration associated with the extraction plant on the living conditions of local residents, I have therefore included it as a main issue within my decision letter and assessed the proposal against the relevant local plan policy the Council have referred to in their delegated report.

Main Issues

5. The main issues are whether or not the proposal would preserve or enhance the character or appearance of the Sotheby Road Conservation Area, and the effect of the extraction plant on the living conditions of the adjacent occupants by way of noise and vibration.

Reasons

Character and appearance

6. The appeal site is an Afghan restaurant located mid terrace within a three-storey building situated along a commercial parade on Highbury Park with ground floor retail, and other business uses, with residential accommodation above. A narrow rear access passage runs parallel to the businesses from Sotheby Road to the

- service yards of some of these units within the parade. The rear yard of the appeal site has been substantially extended into, occupying most of the space.
7. The surrounding area is densely built up and urban in character. Along this part of Highbury Park, there is a variety of commercial uses at ground floor with residential units above, and the side streets residential in character.
 8. The significance of the CA is derived from the 19th century planned housing development characterised by good quality and decorated brick terraces. The curved windows and brick arches over, and combination of finished brick material creates variety to the parade and the varied appearance of buildings including the design of fenestration across the CA provides interesting contrast that overall enhances its significance.
 9. With regards to the proposal before me, there is an existing flue detached from the rear elevation of the building and extending through the kitchen onto part of the flat roof and terminating away from the existing outrigger of the host building. The proposed flue would vent through the existing opening and extend low level across part of the existing flat roof before extending vertically along the back of the building. A discharge cowl would disperse odours above the eaves level of the building.
 10. From my assessment of the appeal site whilst there, it was only possible to view the proposal from on top of the flat roof of the restaurant. Due to its proposed position at the rear of the building and in this context, I could see it was not visible from any public vantage.
 11. The flue would be of a reasonable size and circumference as well as height and would be visible from the rears of the surrounding dwellings. Although it would be seen in private views within the CA, extraction flues are common along the back of this parade, and views of the proposal would be experienced largely in oblique views given the relationship with the site and these buildings, and orientation.
 12. The extraction plant would be absorbed into the context of the rear elevations of the parade with the many extensions, roof terraces, dormer windows, chimneys and flues that are part of the varied rear-scape together with the myriad of low-level extensions that creates an inhomogeneous character along the rear façade of the parade. The cowl would extend above eaves level although it would not be visible in views from the street level of Highbury Park.
 13. In this location I find that the proposal would not adversely harm the character and appearance of the conservation area. Therefore, the proposal would meet the expectations of the Act by preserving or enhancing the character and appearance of the CA.
 14. To conclude on this main issue, the proposal would accord with the good design and heritage protection aims of the London Plan policies D3, D4 and HC1 and policies PLAN1, DH1 and DH2 of the Islington Strategic and Development Management Policies which seek to deliver high quality design amongst other things, and to protect the historic significance of Islington's heritage assets, as well as the advice contained in the Urban Design Guide and the Sotheby Road Conservation Area Design Guidelines (2002).

Living Conditions

15. There are residential properties occupying the building of 104 Highbury Park as well as adjacent, and therefore the mounting of extraction plant in this location can be a source of noise and vibration, potentially adversely impacting on the living conditions of local occupants.
16. The appellant submitted a Noise Assessment to identify the closest sensitive noise receptors and details of the noise data collected from the noise monitoring equipment installed on the flat roof of the restaurant over a given period of time. This included noise emitted from the existing extraction unit supported by British Standards dB(A) levels.
17. The Noise Assessment identified the extraction flue would be located within close range of A habitable room window. The noise assessment identified the current background dB levels within the Background Sound Level Summary Results to be around 40dB without the existing extraction in operation and a further 15dB's above when the fan was in operation
18. The noise assessment explains that the noise emitted from the duct breakout from the external fan duct can be mitigated by way of fan casing, and the effects of vibration can be controlled through the installation of isolation pads and anti-vibration mounts.
19. Whilst measures to mitigate the effects of noise and vibration could be incorporated into the plant, nevertheless, its effectiveness by way of noise levels is required to be substantiated by the appellant.
20. The Noise Assessment stated that the 'highest value of 30dB(A) is to be considered externally at 1m from the receiving residential window.' The supporting table refers to British Standards BS8233:2014 levels for resting/sleeping conditions in a bedroom during daytime hours as 35 dB. Furthermore, the Noise Assessment summary concludes that 'A Rating level of 29dB has been calculated which is -11dB below the representative background noise level'. From the evidence presented to me, it is not precisely clear how the differing noise levels have been arrived at, and given the noise assessment is based on dB noise levels in a 'Design range for resting/sleeping conditions in a bedroom during daytime', and not at any other time, this is especially significant as the extraction plant would be in operation until 23:00, seven days a week.
21. Therefore, it has not been demonstrated by way of the noise assessment undertaken that the installation of the plant would safeguard the living conditions of local residents. On this basis the proposal would conflict with policy PLAN 1 of the Islington Strategic and Development Management Policies in its broad aims to provide a good level of amenity.

Balance & Conclusion

22. I have concluded that the proposed extraction plant would be policy compliant in so far as it would not cause harm to the character and appearance of the CA and the proposal would therefore preserve or enhance the character or appearance of the Sotheby Road Conservation Area. However, as a main issue, the effect upon the living conditions of adjacent occupants as a consequence of the siting of the

extraction plant, has not been satisfactorily demonstrated to be safeguarded. For this reason, the proposal must fail.

23. Therefore, the proposed development would lead to conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Alison Scott

INSPECTOR