



## Appeal Decision

Site Visit made on 8 September 2021

**by A M Nilsson BA (Hons) DipTP MRTPI**

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

**Decision date: 18<sup>th</sup> November 2021**

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**Appeal Ref: APP/X5210/W/21/3270363**

**Flat 9, 52-54 Gray's Inn Road, London WC1X 8LT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by IC Construction against London Borough of Camden.
  - The application Ref 2020/3884/P, is dated 24 August 2020.
  - The development proposed is the erection of roof extension and alterations to the fifth floor to provide additional bedrooms.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of roof extension and alterations to the fifth floor to provide additional bedrooms at Flat 9, 52-54 Gray's Inn Road, London WC1X 8LT in accordance with the terms of the application, Ref 2020/3884/P, dated 24 August 2020, subject to the conditions contained in the attached schedule.

### Preliminary Matters

2. The Council have commented that had they determined the application they would have refused planning permission for the development as they consider: the proposed development by reason of its siting, scale, bulk and detailed design, is considered to represent an uncharacteristic and unsympathetic addition which would have a detrimental impact on the character and appearance of the host building, adjoining terrace, and surrounding area; and the absence of a legal agreement to secure a construction management plan, and a construction impact bond would be likely to contribute unacceptably to traffic disruption and be detrimental to general highway and pedestrian safety, and neighbouring amenity including air quality.

### Main Issues

3. The main issues are the effect of the proposed development on 1) the character and appearance of the area and 2) highway and pedestrian safety and living conditions from its construction.

### Reasons

#### *Character and appearance*

4. The appeal property is part of a six-storey building with basement. When combined with nos. 48 and 50, the building it is part of forms part of a terrace of similarly designed properties, that is repeated at nos. 40 to 46 that are on the opposite side of the junction with Baldwin's Gardens. These properties have

grand window openings across the first to third floors, with attractive string course detailing after each floor. There are prominent dormer windows of a consistent design across the terrace. In addition, the building in which the appeal property is located has an existing roof extension, which, due to the close confines of the street, is not readily visible from the Gray's Inn Road street level but is visible from the rear when viewed from Baldwin's Gardens. There is also a roof extension to part of no. 48 which given its corner location is more noticeable from the street level than the roof extension to the appeal property. Although the surrounding area is by no means high-rise, there is a variety of building heights including several roof extensions.

5. The Council have stated that the building is locally listed but not within a conservation area. It is opposite a terrace of listed buildings that are within the Bloomsbury Conservation Area.
6. The proposed development would replicate the slope of the front part of the existing roof extension and use materials to match. In a similar manner, the existing terrace on the fifth-floor frontage would be infilled. At the front, due to its sloping nature and the tight confines of the street, the proposed development would not be readily visible from street-level. For these reasons, the development would not detract from the overall appearance of the building. It would represent a subordinate addition that would not dominate or dilute the significance of the building.
7. The proposed development would be sited opposite a terrace of listed buildings that are within the Bloomsbury Conservation Area. The buildings and the conservation area are defined by their setting in a dense urban area, with the buildings forming part of the defined townscape of lower rise buildings. For the reasons given above, the proposed development would not harm the setting of the listed buildings or the Bloomsbury Conservation Area.
8. The rear of the appeal property is of greater visibility when viewed from Baldwin's Gardens that runs perpendicular to Gray's Inn Road. From this location, the variation in building heights is noticeably more apparent than from Gray's Inn Road. This is particularly demonstrated in the difference in height with the adjoining building at no. 60 Gray's Inn Road. The existing roof mounted plant on the appeal property is also readily visible from this location, that adds to the overall bulk of the building.
9. The proposed development when viewed from the rear would be similar in height to the existing building at no. 60. Although there would be a drop in height, that would be greater than the existing drop in height, between the appeal property and no. 50, where there is no roof extension, due to the presence of a roof extension to no. 48, and Courtfield House on Baldwin's Gardens, this drop in height would not be readily visible from the rear.
10. It is likely that the proposed development would be visible from some private viewpoints surrounding the appeal site, although at the front this would largely be obscured by the dense street trees. Due to its design whereby, the development would appear relatively simplistic and would not create a dominant or prominent feature, it would not result in harm being caused.

11. The Council have referred to a previous appeal decision at the property<sup>1</sup> where an appeal was dismissed for the erection of a roof extension on top of the approved fifth floor extension. Notwithstanding a quotation from the decision, I have been provided with neither a copy of the appeal decision nor any details of the development that was proposed, aside from the description. It also predates the Framework and the current Local Plan. I therefore am unable to give this previous decision significant weight in the appeal, for which I have come to my own conclusion based on the individual planning merits and the evidence before me.
12. I therefore conclude that the proposed development would not have an unacceptable impact on the character and appearance of the area, nor would it adversely affect the setting of the listed buildings or conservation area opposite the site or the locally listed buildings. It would therefore comply with Policies D1 and D2 of the Camden Local Plan (2017) that seek to ensure, amongst other things, that development is of a high quality and standard of design and preserves or enhances the character and appearance of the historic environment.

#### *Construction phase*

13. The Council have stated that they would have refused planning permission as the absence of a legal agreement to secure a construction management plan, and a construction impact bond would be likely to contribute unacceptably to traffic disruption and be detrimental to general highway and pedestrian safety, and neighbouring amenity including air quality.
14. I agree that it is necessary to take these factors into account when considering the effect of the construction phase of the development.
15. The Planning Practice Guidance (PPG) 'Use of planning conditions', outlines that it may be possible to overcome a planning objection to a development proposal equally well by imposing a condition on the planning permission or by entering into a planning obligation. In such cases the local planning authority should use a condition rather than seeking to deal with the matter by means of a planning obligation. The Framework also advises that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
16. Policy A1(i) of the Camden Local Plan (2017) sets out that in managing the impact of development, one of the factors that will be considered is the impacts of the construction phase, including the use of Construction Management Plans (CMP). The supporting text of the Policy states that the CMP will usually be secured by planning obligation. I accept that in complex developments, or large-scale developments, the construction impacts of development may be of such that the monitoring of the construction impacts throughout may be necessary, and it therefore may be appropriate to secure a CMP by way of obligation.
17. In this case however, the development is relatively minor, involving the extension of an existing residential property, albeit at a high level. In terms of the proposed development, the impact on living conditions and highway safety

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<sup>1</sup> APP/X5210/A/08/2071674

from the construction phase can be dealt with by way of imposing a planning condition.

18. The Council's Supplementary Planning Document (SPD) on Developer Contributions (2019) gives the example of CMP's as may necessitating the need for a financial contribution. It also sets out that in respect of developments raising particularly complex construction or management issues where the Council will have to allocate resources to monitor and support delivery of obligations the Council may require payment of an upfront financial bond which the Council can draw upon if needs be. This guidance is also reflected in the Amenity SPD (2021).
19. The Council have set out the contributions that they consider would be necessary for a support contribution and Impact Bond. I have not been provided with the background of how these figures have been calculated, or what specifically, in this case, the funds would be allocated to. Therefore, although I have had regard to the SPDs, for the reasons set out above, I do not consider that the development proposal to be of such a complex nature that would necessitate the requirement for a planning obligation and contributions. Additionally, As the appellant has highlighted, any closure of public highways that may be required is covered under separate legislation.
20. The Council have commented that they would have refused planning permission for, amongst other things, the impact on air quality. There is no evidence before me however, that the development would have an unacceptable impact on air quality, and I consider that any such impacts from the construction phase can be adequately controlled via a suitably worded planning condition.
21. Therefore, subject to the imposition of a suitably worded planning condition, the proposed development would not have an unacceptable impact on highway and pedestrian safety and living conditions from its construction. It would comply with Policies A1, T4, DM1 and CC4 of the Camden Local Plan (2017) that seek, amongst other things, to ensure that the construction of developments does not give rise to unacceptable impacts.

### **Conditions**

22. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interests of certainty. In the interests of the character and appearance of the area, a condition requiring the use of matching materials is necessary. In the interests of clarity and certainty I have amended the wording as suggested by the Council.
23. I have also attached a condition requiring the submission of a Construction Method Statement. This is in the interests of highway and pedestrian safety and living conditions.

### **Conclusion**

24. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should succeed.

*A M Nilsson*      INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Fourth Floor Plan, Drawing Number 1929.PP.01 Rev A; Proposed Fifth Floor Plan, Drawing Number 1929.PP.02; Proposed Sixth Floor Plan, Drawing Number 1929.PP.03 Rev A; Proposed Roof Plan, Drawing Number 1929.PP.04 Rev A; Proposed Front Elevation, Drawing Number 1929.PP.05 Rev A; Proposed Rear Elevation, Drawing Number 1929.PP.06 Rev A; Proposed Section A-A, Drawing Number 1929.PP.07 Rev A.
- 3) The external materials used in the construction of the development hereby permitted shall match those used in the existing building.
- 4) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) measures to control the emission of dust and dirt during construction;
  - v) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

-----End of Conditions Schedule-----