

Appeal Decision

Site visit made on 30 August 2016

by Kevin Gleeson BA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2016

Appeal Ref: APP/V5570/W/16/3141618
280-282 Holloway Road, London N7 6NJ

- 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 Mr Andrew Panayi against the Council of the London Borough of Islington.
 - The application Ref P2015/1455/FUL is dated 8 April 2015.
 - The development proposed is described as proposed single storey and part two storey extension (above existing second floor) to existing hostel to make 10 new studios; notwithstanding the fact the 2014 enforcement notice refers to the alleged use of the first and second floors as 27 self-contained flats, for the purposes of this planning application and the Design and Access Statement the building will be referred to as a hostel; internal alterations have been started to the first and second floors but these are considered as non-material alterations.
-

Decision

1. The appeal is allowed and planning permission granted for addition of third floor roof extension and fourth floor mansard roof extension to extend hostel by 10 additional units of accommodation (sui generis use), rearrangement of first and second floor hostel space and external alterations including Jackson Road elevation at 280-282 Holloway Road, London N7 6NJ in accordance with the terms of the application, Ref P2015/1455/FUL dated 8 April 2015, subject to the conditions in the schedule at the end of the decision.

Preliminary Matters

2. The Council amended the description of development in registering the application. I consider that the description it used more appropriately sets out the form of development and I have therefore used this revised description in my formal decision.
 3. The appeal was made on the basis of the Council's failure to determine the application within the prescribed period. Following the lodging of the appeal the Council indicated that they would have refused the scheme had they been in a position to determine the application.
 4. The Council's three putative reasons for refusal all relate to the lawful hostel use at first and second floor levels having changed to predominantly self-contained residential units.
 5. The Council issued an Enforcement Notice in October 2014 on the basis of the conversion of the first and second floors of the property from a hostel to self-
-

contained studio flats. The Enforcement Notice required the layout of the building to be re-instated to reflect its former hostel use. The Council also indicated that following a visit to the premises by an Enforcement Officer in December 2015 it considered that the Enforcement Notice had been complied with and the breach had been remedied. Nevertheless, the Council has stated that whilst the premises have reverted back to a hostel use the floor plans show a layout which differs from that shown in an application from 2009 which authorised the current hostel use.

6. During my visit, whilst recognising that there were discrepancies in existing and proposed plans for first and second floors, it was clear to me that both of these floors were in hostel use because of the presence of shared kitchens and bathrooms, although some living accommodation was self-contained. The appellant has described the hostel as providing accommodation for low income single people and that an on-site janitor is provided. I have no reason to dispute this description.
7. The appellant has indicated that proposed changes to the layout at first and second floor levels would involve the introduction of more en-suite facilities but that the existing use would remain as a hostel. In addition to the range of self-contained and non-self-contained residential units, two wheelchair accessible studio units are also proposed.
8. A separate planning permission would be required to sub-divide the building into separate self-contained flats. I have therefore determined the appeal on the basis that the first and second floors of the property are being lawfully used as a hostel.

Main Issues

9. The main issues are:
 - a) the effect of the proposed development on hostel accommodation;
 - b) whether the proposed development would provide acceptable living conditions for future occupiers with regard to internal living space and external amenity space; and
 - c) whether appropriate provision is made for affordable housing.

Reasons

Hostel Accommodation

10. The Council's first putative reason for refusal indicates that the proposed development would lead to a loss of hostel accommodation through the creation of predominantly self-contained residential units without justification or provision for alternative hostel accommodation.
11. Part F of Policy DM3.9 of the Islington Development Management Policies (DMP), 2013 states that the loss of hostels will be resisted unless one of three requirements is met. These are that adequate replacement accommodation will be provided for the particular group, or it can be demonstrated that the existing accommodation is no longer needed for the particular group, or it can be demonstrated that the existing accommodation is unsatisfactory for modern standards and /or not fit for purpose for its current use.

12. The Council has referred to the characteristics of hostel / homeless accommodation with reference to Circular 03/2005 which although now superseded by the National Planning Policy Framework (the Framework) includes reasoning which appears to be relevant. The Circular also made reference to the characteristics of dwelling houses within the C3 use class, which in the Council's view is the use of the majority of the existing accommodation.
13. On the basis of my site visit, the characteristics of hostel accommodation as described in Circular 03/2005 and the description of the layout provided by the appellant I find that the layout of the first and second floors at least demonstrates some of the characteristics of a hostel use. The proposed layout for the new accommodation would provide en-suite bathrooms and small kitchenettes, but this does not necessarily mean that the proposed development would comprise dwelling houses within the C3 use class.
14. As it has not been demonstrated to me that the existing first and second floor use or the proposed use would not be a hostel I find that the proposals would not conflict with Part F of Policy DM3.9 of the DMP which seeks to prevent the loss of hostel accommodation.

Living Conditions

15. Paragraph 3.105 of the DMP supports Policy DM3.9. This states that the Council's space standards and standards for internal arrangement will not apply to hostels. However, it goes on to state that hostels should provide high quality facilities to modern standards with a layout suitable for the type of services provided. The Council's Environmental Health Officer has raised concerns about the quality of accommodation with specific reference to the proposed layout of the accommodation on the first and second floors. Whilst recognising that the distance between bedrooms and bathing facilities would not provide high quality facilities to modern standards I consider that this is a consequence of a hostel layout where not all rooms have self-contained facilities. I therefore find that these internal alterations would not be contrary to the requirement in Part E (ii) of Policy DM3.9 to provide an acceptable standard of facilities.
16. The Council has determined that the proposal would result in predominantly self-contained residential units which would detrimentally impact upon the living conditions of existing occupiers and provide unacceptable living conditions for future occupiers. The Council indicated that the units would be sub-standard in terms of only having single aspect outlooks. However, as I have determined the existing use does not comprise a dwelling house within the C3 use class I find that the proposed development would not be contrary to Policy CS9 of the Islington Core Strategy, 2011 or Policy 3.4 of the DMP which seek to ensure that new homes provide dual-aspect accommodation, there being no indication that either of these policies relates to hostels as sui generis uses.
17. The proposed development would also not be contrary to Policy DM3.4 of the DMP in respect of housing standards or internal floor areas as this policy does not relate to hostels. Similarly, it is not apparent that Policy DM3.5 of the DMP which seeks to ensure that new residential development provides good quality private outdoor space applies to hostels and on that basis I find no conflict with that policy.

18. Policy DM2.1 of the DMP is concerned with design and in doing so makes reference to living conditions stating that development should provide a good level of amenity and consider noise and the impact of disturbance. It has not been demonstrated that the use would adversely impact on occupiers in respect of living conditions and therefore I find no conflict with this policy.
19. Part A of Policy DM3.9 requires all new hostels to be built to Islington's flexible homes standards with 10% of bed spaces to be designed to be wheelchair accessible. The Council's view is that this requirement has not been met because access to the two larger bedrooms on the first floor which are proposed in order to meet this requirement would be via a lift which has an inadequate turning circle for users exiting onto the first floor. However, I have no evidence that the units would not be wheelchair accessible and therefore find no conflict with Policy DM3.9. Nevertheless, this is also a matter which would need to be appropriately addressed through Part M of the Building Regulations.
20. Part E (ii) of Policy DM3.9 also requires all new hostels to provide an appropriate standard and level of facilities and to provide the necessary level of supervision, management and care / support. The Council has indicated that this requirement has not been met because adequate communal space and outdoor amenity space has not been provided but as I have found no conflict with Policy DM3.5 the proposal would not be contrary to Part E (ii) of Policy DM3.9 in this regard.
21. In addition, I have no reason to find conflict with London Plan Policy 3.4 which seeks to optimise housing potential. Whilst the London Housing Supplementary Planning Guidance (SPG) indicates that hostel type accommodation should adhere to the housing standards set out in Policy 3.5 of the London Plan which aims to ensure the highest quality in the design of housing developments, for the reasons already given in relation to the Environmental Health Officer's comments on the layout I find no conflict with London Plan Policy 3.5.

Affordable Housing

22. The Council's third putative reason for refusal is largely predicated on the development creating self-contained residential units. Part G of Policy DM3.9 states that where the loss of a hostel is acceptable, development should provide accommodation to meet an acute need identified by the Council's housing department, which may include social rented housing. However, as I have found that the proposal would not result in the loss of a hostel I find no conflict with this policy.
23. Policy CS12 Part G of the Core Strategy indicates a requirement for affordable housing and this is clearly a high priority for the Council. The Council states that even if the appeal proposal is considered on the basis of being a sui generis use affordable housing policies would be applicable. This position is backed up by reference to paragraph 3.5.1 of the London Housing Supplementary Planning Guidance (SPG) which states that affordable housing can be sought on residential schemes other than those comprising development within the C3 use class, thereby including sui generis uses. However, the SPG states that Local Plans should provide a robust framework for decision taking in relation to residential schemes and I can see nothing within Policy CS12 which indicates that it applies to hostels. On that basis I

find that the lack of affordable housing provision would not conflict with Policy CS12 of the Core Strategy.

Other Matters

24. Representations from neighbouring residents and the local MP have raised concerns about the quality of accommodation at the hostel, the way in which it is managed and anti-social behaviour arising from the use. However, these are matters which are appropriately addressed through other legislation. With regard to objections in respect of the scale, visual impact and appearance of the proposed extension I find that the development would be acceptable in terms of design and visual impact. Similarly I find that there would be no adverse impact on the living conditions of neighbouring residential occupiers based on the distance between the proposed development and properties on Dunford Road.

Conditions

25. I have had regard to the conditions which the Council has suggested in the light of Planning Practice Guidance. I note that they formed part of the Council's statement which the appellant commented upon although made no specific reference to the conditions.
26. In addition to the standard implementation condition I have imposed a condition specifying the relevant drawings as this provides certainty (Condition 2). I have attached a condition (3) in order to ensure that the proposed development remains car free, in accordance with Core Strategy Policy CS10H and DMP Policy DM8.5. Finally, a condition is necessary to ensure that the development is undertaken to appropriate standards of design and construction (4).

Conclusion

27. For the reasons set out above the appeal is allowed.

Kevin Gleeson

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the following approved plans:

3208/153, 3208/154, 3208/155, 3208/156, 3208/250/D, 3208/252/B, 3208/253, 3208/254, Letter from Colin Bargioni dated 8 April 2015 Ref: 3208.
3. All future occupiers of the residential unit hereby approved shall not be eligible to obtain an on street residents' parking permit except:
 - i) In the case of disabled persons;
 - ii) In the case of units designated in this planning permission as "non car free"; or
 - iii) In the case of the resident who is an existing holder of a residents' parking permit issued by the London Borough of Islington and has held the permit for a period of at least one year.
4. Notwithstanding the Design and Access Statement and plans hereby approved, the dwellings shall be constructed to Category 2 of the National Standard for Housing Design as set out in the Approved Document M 2015 'Accessible and adaptable dwellings' M4 (2). Evidence, confirming that the appointed Building Control body has assessed and confirmed that these requirements will be achieved shall be submitted to and approved in writing by the LPA prior to any superstructure works beginning on site. The development shall be constructed strictly in accordance with the details so approved.