

Appeal Decision

Hearing held on 14 September 2016

Site visit made on 14 September 2016

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 12 October 2016

Appeal Ref: APP/X5210/W/16/3147248

9 and 9a Hargrave Place, Camden, London N7 0BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Woodham Enterprise Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2015/4456/P, dated 3 August 2015, was refused by notice dated 17 February 2016.
 - The development proposed was originally described as “partial demolition and redevelopment of the buildings to create a mixed use scheme including retention of the existing PH with landlord’s accommodation and 5 residential flats.”
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The address given on the application form was 9 Hargrave Place, excluding the dwelling at No 9a which is within the site. The address I have used above more accurately reflects the site and was that used by the Council on their decision letter.
 3. The appeal is made by Woodham Enterprise Ltd, but the original application was made by Woodham Properties Ltd. However the same person, Mr Josh Moore, is identified on both the appeal and application forms.
 4. The description of the development was given on the Council’s decision letter as being “Demolition of building at 9A and partial demolition of 9 Hargrave Place and redevelopment of the site including a new 3 storey building to the rear; multiple storey rear extensions, basement extension, mansard roof addition and associated works to main building at 9; conversion of part of ground floor and upper floors from Public House (A4) to residential (C3) use and the creation of 5 residential flats (3x2 bed and 2x1 bed)”. This was also the description given on the appeal form. Accordingly I shall consider the proposal on this basis.
 5. A completed planning obligation was submitted at the Hearing which sought to address the reasons for refusal relating to car free housing and a contribution to highway works. I address this below.
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Main Issues

6. The main issues are:

- i. The effect of the proposal on the character and appearance of the locally listed buildings;
- ii. Whether the proposal would provide satisfactory living conditions for future residents of the development with respect to noise or disturbance and living space;
- iii. The effect of the proposal on the future function of the public house;
- iv. Whether the development would provide satisfactory cycle storage.

Reasons

Character and appearance of the locally listed buildings

7. The site is made up of two parts. The first part is the former Admiral Mann PH at No 9 which is currently vacant at ground floor level but is occupied as a residential unit on the first and second floors. The second part is a dwelling at No 9a which is primarily at first floor level, above the store rooms and disabled toilet at the Admiral Mann, but has its own pedestrian access from Hargrave Place.
8. Nos 9a and 9 are both locally listed buildings identified separately in the Council's local list. Policy SP25 of the Camden Development Policies (2010) (CDP) relates to the borough's heritage but makes no reference to non-designated heritage assets. At the Hearing the Council advised this was because the borough's local list post-dates this policy. Nonetheless, because of its lack of reference to locally listed buildings, I can give only limited weight to this Policy. Notwithstanding this, I give significant weight to paragraph 135 of the National Planning Policy Framework (the 'Framework') which advises that the significance of a non-designated heritage asset should be taken into account.
9. The Council confirmed at the Hearing that No 9a has historical and townscape significance only and not also architectural and social significance as stated in the Council's decision letter. In respect of its historical significance the building is one of the few remaining 19th century workers cottages in the area. Its small size and proportions, distinctive curved wall and shallow pitched roof contribute to its townscape significance.
10. I consider that the small scale and modest proportions of the building, indicative of its age, are its greatest characteristics and, juxtaposed with the modern, taller, and larger neighbouring development at Brecon Mews and No 1 Hargrave Place, the historical and townscape significance of the building is emphasised. No 2 Hargrave Place is also similarly older than its surrounding development, but it is the contrast in scale of No 9a with the adjoining modern developments that, in particular, accentuates its significance.
11. An annotation on drawing GAL 220 (PC) 008 Rev E states "existing curved brickwork detail to be retained and extended". It is disputed by the parties as to whether this means the curved wall would be demolished and rebuilt like for like, or retained. In any event, it is clear that the proposal involves the provision of a building on this part of the site which, whilst it would remain

smaller than that at No 9, would be significantly higher, deeper, and therefore have a greater bulk than the existing building at No 9a. This would result in the character and appearance of No 9a being detrimentally affected and its historic and townscape significance being wholly lost. Furthermore, although the property is not on a major road, the development would be visible from a large number of properties on the Long Meadow estate and from Brecon Mews and therefore would affect the property's townscape significance in the wider context.

12. I acknowledge the parties agree that the alterations to No 9 would not harm the character and appearance of that locally listed building. Nonetheless, the development would considerably harm the character and appearance of No 9a which would detrimentally affect its significance as a non-designated heritage asset. As such the proposal would be contrary to the aforementioned advice in paragraph 135 of the Framework. The development would also be contrary to Policy CS14 of the Camden Core Strategy (2010) (CCS) and DP24 of the CDP which require all development to be of the highest standard of design.

Living conditions - noise

13. The development would provide a PH at ground floor with five dwellings above. The Noise Impact Report (22207/NIA Rev 3) submitted with the application estimates that noise from a PH would be around 75dB L_{Aeq} and that sufficient acoustic insulation could be provided and secured by a planning condition, to ensure noise from the PH would not affect the living conditions of the residents above. Although the Council considers that this underestimates the likely noise, no evidence has been provided to suggest what a realistic level of noise would be.
14. Notwithstanding this, the Report suggests that in order for resident's living conditions to be protected, equipment to amplify music or speech "should only be used at a low level" and I was advised at the Hearing by the appellant's agent that such equipment exists which will 'cut out' at a specified limit. The Report is also based on the assumption that the PH ceases to operate at 23:00hrs and that habitable rooms in the flats are at least 14m².
15. A new license would need to be obtained for the proposed PH, and this, with a planning condition, could limit opening hours so that the PH closes at 23:00hrs. However one of the bedrooms directly above the PH would be 13.5m², contrary to the assumptions in the Report. Also it would be difficult to effectively control amplification equipment used within the PH. Additionally, there is no method to control general noise from the PH to ensure it would not adversely affect the residents above as any acoustic insulation could only reduce the volume of the noise heard from within the flats, not limit the volume of the source of the noise. As such, I am not convinced, from the evidence provided, that noise from the PH could be satisfactorily mitigated.
16. At the Hearing, the Council agreed that a condition proposed by the appellant which had been used in an allowed appeal¹, which proposed housing above The Leighton PH in Camden, would satisfactorily ensure noise from the PH would not adversely affect the living conditions of the residents of the flats above. However, the condition suggested by the appellant only ensures the acoustic insulation is of a specific standard and would not ensure noise to the flats

¹ APP/X5210/W/15/3095242

would be sufficiently mitigated. Were future occupants of the flats to consider that noise from the PH did adversely affect their living conditions, any formal complaints could result in the operations of the PH being restricted, which may affect the successful operation of the PH.

17. Additionally one of the clauses of the completed planning obligation requires the PH unit to be occupied before any of the dwellings above, and requires the marketing details and the leases for the flats to include details of the licensed hours of the PH and details of the entertainment provided therein. This means that any potential residential occupiers would already be aware of the presence and operational details of the PH use before they decided to occupy the dwellings. However, I do not consider this would necessarily prevent future occupiers from making complaints regarding noise from the PH if they considered their living conditions were being harmed.
18. I acknowledge the planning permission granted on appeal at The Leighton PH noted above, and I have been presented with officer's reports for the Richard Steele PH and the Magdala PH which both relate to the provision of flats above a PH and which both recommend approval on the basis that noise from within the PHs can be mitigated for by a condition. I accept that it may be possible to mitigate for noise from a PH and that in these other cases the evidence presented may have demonstrated this. However I am not persuaded by the evidence before me in this appeal that this would necessarily be the case here.
19. Furthermore, any acoustic insulation works would not mitigate the noise generated from outside the pub by the coming and going of customers or customers smoking and drinking outside. Although the pavements outside the property are not deep, so do not provide the opportunity for outdoor seating, and the PH is not of such a size that it would be likely to attract vast numbers of customers simultaneously, it is not unreasonable to consider it would generate a regular amount of outdoor noise. Whilst some mitigation would be provided through the quality of the glazing in the flats, this would only be effective when the windows are closed. Additionally, the site's location on a quiet backstreet would mean that outdoor noise would mostly be likely to come from customers of the PH and in this respect the development differs from The Leighton PH. Notwithstanding this, the Noise Impact Report makes no assessment of this aspect and I do not agree that it would be sufficient to control this through a premises license as suggested in the Report. The available evidence does not satisfy me, on the balance of probabilities, that such noise would be within acceptable limits.
20. Accordingly I am unable to find that noise from the proposed PH would not harm the living conditions of the future occupiers of the development. Therefore the development would fail to accord with Policy CS5 of the CCS which aims to protect the amenity of local residents, and Policies DP26 and DP28 of the CDP which seek the same with specific reference to noise.

Living conditions – living space

21. Unit 5 is identified on the plans as a 1 bedroom flat though it has a sizeable study which the Council suggest could be used as a bedroom, hence rendering the unit a 2 bed flat. The Government's Technical housing standards² advise that a minimum internal floor area for a 2 bedroom unit is 61 square metres

² DCLG. 2015. Technical Housing Standards – nationally described space standard.

and for a 1 bedroom, two person flat is 50 square metres. The plans identify flat 5 as being 54 square metres.

22. I acknowledge that the use of a room within a dwellinghouse for any domestic purpose is beyond the control of the planning regime, and I recognise the appellant's intentions to market the unit as a 1 bedroom flat. However I also consider that it would circumnavigate the intentions of the standards to label rooms as to be used other than as bedrooms in order to manipulate the occupancy of the unit. Indeed, paragraph 6 of the Technical housing standards advises that the standards do not imply occupancy or define the use of any room for a specific purpose.
23. Were the study too small to be able to be used as a bedroom, or were this room labelled as a room fundamental to the occupation of the unit, for example as its living room, I would be satisfied that the unit would be a 1 bedroom flat. However this is not the case and the room could readily be used as a single bedroom. Indeed, flat 3, directly below flat 5, has a very similar layout and similarly sized rooms to flat 5 and identifies the room below the study in flat 5 to be a single bedroom.
24. Accordingly I consider flat 5 would fail to meet the nationally described space standards and therefore would fail to provide satisfactory living space for future occupiers of the development. As such, whilst the development would contribute to the Council's housing target as set out in Policy CS6 of the CCS, it would fail to provide a quality home, also as required by this policy, and as supported by part c) of Policy CS5 of the CCS and Policy DP24 of the CDP. It would also fail to accord with criteria h) of Policy DP26 of the CDP which requires development to provide acceptable standards of accommodation.

Function of the public house

25. The Admiral Mann was listed as an Asset of Community Value (ACV) in 2014. In order to be identified as such, the Council considered at the time that the PH had furthered the social wellbeing of the local community and that within five years from the date of the listing it was realistic to consider that the building could again further the social wellbeing of the community. The ACV designation allows for a community interest group to bid to purchase the property should it be put up for sale. It was agreed by the parties at the Hearing that no such bid had emerged and as such the property is currently for sale to the open market. Nonetheless, despite the lack of a bid by the community, the ACV designation still applies and I have had some regard to it.
26. The ACV listing extends as far as the public areas of the Admiral Mann. It is not disputed that when the PH was last operational the first and second floors were used as ancillary staff accommodation, though in the past there had been a function room at first floor level. However, from many of the representations received it appears that, despite the lack of a function room in recent times, the PH still hosted events such as wakes, parties, events celebrating national celebrations and was home to sports teams including its own darts team.
27. At the Hearing I also heard, from the former manager, that the kitchen at first floor, whilst primarily was for his own domestic use, was also used to provide food for customers of the PH including for the aforementioned events and sports teams. However I also heard from the appellant's agent that no license

to sell food had been in place at the PH and that the 'What pub' website³, did not indicate that food was available. Nonetheless, I have no doubt that food was provided at the Admiral Mann, albeit on an informal basis, and that this may have contributed to the attraction of the PH to customers.

28. The proposal would not provide staff accommodation and therefore the opportunity for food to be provided, even informally, would be lost which would restrict the function of the PH, particularly if it were to resume hosting events at which food would be normally be provided.
29. From the evidence before me, there are a number of other PHs in the area where staff accommodation is not provided on site. As such I do not consider it would be essential for staff to live at the site, and the lack of staff accommodation in the development would not necessarily affect the attractiveness of the PH to potential managers. Indeed if a manager wished to live on site it is not unfeasible that one of the flats could be made available to them, particularly if the PH would be occupied before the flats above.
30. The proposal would provide a larger seating area at ground floor level, principally by relocating the existing toilets to the basement with the exception of a disabled toilet. Although I consider this alteration would make the toilets marginally less appealing, I do not consider they would be inadequate and basement toilets are not uncommon in PHs. As such in this respect the proposal accords with Policy DP29 of the CDP which seeks to promote fair access.
31. Overall, whilst it is clear that a PH use would be retained on the site with a larger ground floor seating area, and I note Policy DP15 of the CDP does not require the retention of ancillary facilities such as a kitchen, I consider that the proposed PH would not function to the same degree as that which the Admiral Mann did, due to the lack of the ability to provide food. As such, the proposed PH would fail to serve the needs of the local community adequately.
32. Furthermore as identified in paragraph 18 above, were it not possible to satisfactorily mitigate for noise from the PH being heard by the occupiers of the flats above, this could result in complaints from the residents which in turn could result in restrictions being placed on the PH which would further restrict its function and threaten its viability.
33. Consequently the development would fail to accord with Policy DP15 of the CDP and Policy CS10 of the CCS which seek to protect existing community facilities. It would also fail to accord with paragraph 4.8 of the London Plan which also seeks to prevent the loss of valued local community assets including public houses, and Paragraph 70 of the Framework which guards against the loss of valued facilities where this would reduce the community's ability to meet its day to day needs.
34. Policy C4 of the emerging Camden Local Plan also guards against the loss of pub floorspace including facilities ancillary to the operation of the public house where this would adversely affect the operation of the public house. This policy is yet to be examined, but has been subject of public consultation so I afford it some weight. Due to its lack of ability to provide food for customers of the PH, the development would conflict with this draft policy.

³ www.whatpub.com

Cycle storage

35. The proposed cycle storage area would be located within a room which is also identified as the waste bin store. Whilst the room would be physically large enough to accommodate both cycles and bins, any odour from the bins would make the room undesirable for cycle storage and the potential for overspill waste or the potential for the bins to be moved around the room in front of the cycle storage area, might make access to the cycle store area difficult. Also it would not be easy for residents to store bikes within their flats due to the stair access to all flats. I do accept the cycle and bin storage room could be made secure, but this would not address the poor environment the bikes would be kept in.
36. Consequently, the proposal would not encourage cycle use and so would be contrary to Policy CS11 of the CCS which seeks to promote sustainable travel, and Policy DP18 of the CDP which, in its explanatory text, advises that cycle parking should be convenient and easy to use. The development would also conflict with the Camden Planning Guidance 7: Transport which advises that cycle parking should be easily accessible in that a cycle can easily be stored and removed.

Other matters

37. A completed bilateral planning obligation was submitted at the Hearing. As well as seeking to address the issues of the relationship between the flats and the use of the PH as noted in paragraph 17 above, it also seeks to ensure the development is car free and that a contribution towards highway improvement works is made. In view of my conclusions on the main issues identified above it is not necessary for me to give this obligation any further consideration.
38. My attention was drawn at the Hearing to Policy CS6 of the CS and in particular paragraph e) which states that housing is the 'priority land use'. Whilst I acknowledge this, I do not consider that the benefit of the provision of the additional dwellings in the development outweighs the harm that the proposal would cause as identified above.

Conclusions

39. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Josh Moore	Appellant
Kieran Rafferty	KR Planning (Appellant's agent)
Ian Barden	Genesis Architects Ltd

FOR THE LOCAL PLANNING AUTHORITY

Jonathan McClue	Principal Planning Officer
Sarah Freeman	Conservation Officer
Jagdish Akhaja	Planning Technician

INTERESTED PERSONS

Richard Lewis	Chair of 'Save the Admiral Mann'
John Cryne	CAMRA (North London Branch)
Mick Todd	Former manager of the Admiral Mann PH
Cllr Georgia Gould	Ward Councillor
George Hanna	Local resident
Dee Searle	Local resident
Henrietta Nasmyth	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

Completed Statement of Common Ground

Completed S106 agreement

Current marketing details for the Admiral Mann