

Appeal Decision

Site visit made on 2 November 2016

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 24th November 2016

Appeal Ref: APP/V5570/W/16/3155770

27 Fonthill Road, Islington, London N4 3HY

- 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 Islington Holdings LLP against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/0821/FUL, dated 2 March 2016, was refused by notice dated 10 June 2016.
 - The development proposed was described as "Convert an existing A5 Hot Food Takeaway shop into a C3 residential dwelling. Demolish the existing lean to structures, external stairs and duct to the rear of the shop. Erect a new single storey residential extension of similar size in its place."
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Islington Holdings LLP against the Council of the London Borough of Islington. This application will be the subject of a separate Decision.

Background

3. A previous scheme was dismissed at appeal (APP/V5570/W/15/3128237). I have had regard to the Inspector's findings in respect of the effect of this earlier proposal upon the character and appearance of the area, the living conditions of future occupiers and affordable housing. I note that the scheme before me has been amended in light of the previous Inspector's findings, and that the Council raise no objections to the current proposal with regard to its effect upon the character and appearance of the area or living conditions.

Main Issue

4. The main issue is whether the appeal proposal should make appropriate provision for affordable housing.

Reasons

5. Islington's Core Strategy Policy CS12 sets out the Council's strategic housing policy. The supporting text to Policy CS12 explains that Islington's Housing Needs Study 2008 clearly demonstrates that affordability is, and will continue to be, a major issue in the borough.
-

6. Part G of Policy CS12 relates to affordable housing. It requires all sites capable of delivering 10 or more units gross to provide affordable homes on-site, and states that schemes below this threshold will be required to provide financial contribution towards affordable housing provision elsewhere in the borough.
7. Policy CS12 is based on meeting objectively assessed needs identified in the Core Strategy evidence base. As such, it is consistent with paragraphs 47 and 50 of the National Planning Policy Framework (the Framework), which requires local planning authorities to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area and, where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified. The policy is also consistent with Policy 3.13 of the London Plan, which states that boroughs are encouraged to seek a lower threshold through the LDF process where this can be justified in accordance with guidance¹.
8. The Islington Affordable Housing Small Sites Contributions Supplementary Planning Document (SPD) provides greater detail regarding the financial contribution required by Part G of Policy CS12. Section 4 of the SPD sets out that all minor residential developments resulting in the creation of one or more additional residential unit(s) are required to provide a commuted sum of £50,000 per unit towards the costs of providing affordable housing units on other sites within the borough.
9. The evidence base for financial contributions is contained in the London Borough of Islington Affordable Housing Financial Viability Assessment - Sub Threshold Contributions 2011, which examined the level of financial contribution likely to be viable for the majority of developments in the borough with fewer than 10 residential units.
10. The supporting text to Policy CS12 states at paragraph 3.3.17 that each scheme will be examined very carefully in order not to restrain residential development. It goes on to state at paragraph 3.3.30 that if the overall supply of housing appears to be seriously threatened by economic conditions, the Core Strategy policies are sufficiently flexible to enable the council to tailor its approach to changing circumstances with the view to maximising delivery. This is reflected in the SPD, which acknowledges at paragraph 4.0.9 that there may be site-specific circumstances which might give rise to viability issues. In such circumstances, the SPD sets out that the Council will accept viability assessments.
11. This flexible approach to the application of Policy CS12 is consistent with paragraph 173 of the Framework which states that to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
12. The appeal proposal would result in the creation of a new residential unit. As such, in accordance with Policy CS12 and the SPD, a contribution of £50,000

¹ The Mayor of London Housing Supplementary Planning Guidance provides guidance on strategic housing policies in the London Plan.

- towards the cost of providing off-site affordable housing would be required, unless it can be demonstrated that it would not be viable to make the full contribution.
13. The appellant has not provided written confirmation of an agreement to make this contribution, and has not submitted a viability assessment. Therefore, the appeal proposal does not accord with Policy CS12.
 14. As set out in paragraph 196 of the Framework, the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise².
 15. A material consideration of direct relevance to the appeal proposal is the Secretary of State's Written Ministerial Statement (WMS)³ and the subsequent alterations to the Planning Practice Guidance (PPG)⁴ on planning obligations for affordable housing and social infrastructure contributions. The policies in the WMS are Government policy to be read alongside the Framework and, accordingly, they are a material consideration to which very considerable weight should be attached.
 16. The WMS states that for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought. There is therefore conflict between Government policy and development plan policy in respect of small sites affordable housing contributions in Islington. It is a matter for the decision-maker to decide how much weight to give to relevant policies, with regard to material considerations including local circumstances.
 17. Building on the Core Strategy evidence base in support of Policy CS12, the Council's statement of case sets out updated information in respect of housing need and affordability in the borough and the importance of small sites to Islington, which the appellant has not disputed.
 18. The evidence demonstrates that median house prices in Islington are among the highest in England and Wales, and have been increasing in price far more rapidly than in other areas. The borough also has exceptionally high lower quartile house prices. The submitted figures show that the median and lowest quartile house prices are respectively around 16 times higher than the median and lowest quartile incomes in the borough. This represents a considerable affordability gap. Furthermore, the Council's evidence shows that rents in Islington are markedly higher than in Greater London as a whole, demonstrating that affordability is also an issue in the private rented sector. The Council has also provided data which shows that the borough has the highest population density in the UK and is one of the most overcrowded and deprived local authority areas in England. Child poverty rates are the second highest in the country and a substantial number of households have very low annual incomes.
 19. Based upon the evidence before me, it is clear that there is a significant need for affordable housing in Islington.

² Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

³ House of Commons: Written Statement (HCWS50) 28 November 2014.

⁴ Planning Practice Guidance paragraphs 013-017, 019-023 and 031.

20. As would be expected in such a densely developed urban area, the Council states that around a third of new housing delivery in the borough is derived from small sites of ten units or fewer. The evidence shows that the Council has received small sites contributions of £7.2m. This demonstrates that small sites play a key role in helping to deliver affordable housing in Islington.
21. The aim of the WMS is to reduce the disproportionate burden of developer contributions on small-scale developers and help increase housing supply. In line with the Framework, there is flexibility within Policy CS12 depending upon the individual site circumstances and viability of the project, which ensures that the requirement for a financial contribution towards affordable housing will not place unacceptable burdens on developers and consequently threaten housing delivery.
22. The appellant states that a financial contribution would detrimentally affect the viability and sustainability of the scheme. However, I have not been provided with any substantive evidence such as a viability appraisal to demonstrate that making the required contribution would render the scheme unviable. I therefore have no reason to believe that payment of a contribution towards the cost of providing off-site affordable housing would prevent the scheme from coming forward and delivering an additional residential unit in the borough.
23. Overall, there is substantial evidence of considerable affordable housing need in Islington, and it has been demonstrated that small sites make an important contribution to affordable housing delivery in the borough. I attach very significant weight to this consideration.
24. On the basis of the evidence before me, the contribution sought would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. As such, the contribution would meet the 3 tests set out in Regulation 122(2) of The Community Infrastructure Levy Regulations 2010.
25. As set out above, the WMS is a material consideration of very considerable weight. However, based upon the particular local circumstances of this case, in this instance the WMS does not outweigh the relevant development plan policy, which I have found to be consistent with the Framework.
26. The appellant makes reference to provisions set out in section 159 of the Housing and Planning Act 2016 which enable the Secretary of State to make regulations in respect of planning obligations and affordable housing. However, such regulations have not been introduced and therefore I can give this matter very little weight.
27. My attention has been drawn to a number of recent appeals⁵ regarding affordable housing contributions in respect of other small housing schemes in Islington. Based on the other Appeal Decisions before me, it is not clear that the other Inspectors had the same level of detail before them regarding housing need and affordability in Islington and the importance of small sites to housing delivery in the borough. It would therefore appear that these other cases are not directly comparable with the appeal proposal before me. In any event, I am required to reach conclusions based upon the individual circumstances of this appeal.

⁵ APP/V5570/W/15/3004676, APP/V5570/C/16/3146334, APP/V5570/W/16/3149106, APP/V5570/W/16/3150129, APP/V5570/W/15/3035855.

28. For the reasons set out above, the appeal proposal would not make appropriate provision for affordable housing. As such, the appeal proposal is contrary to the affordable housing aims of Islington's Core Strategy Policy CS12 Part G and the Islington Affordable Housing Small Sites Contributions Supplementary Planning Document.
29. In addition to the development plan policy and guidance referred to above, I have had regard to the presumption in favour of sustainable development set out in the Framework.
30. The appeal proposal would result in the creation of an additional residential unit in an accessible location. In these ways, the proposal would make a positive contribution to the economic and environmental roles set out in paragraph 7 of the Framework. However, for the reasons set out above, the proposed development would not make any contribution towards objectively assessed needs for affordable housing in the borough, as required by paragraph 47 of the Framework. As a result, the appeal proposal would fail to contribute to the supply of housing required to meet the needs of present and future generations, as required by the social role set out in paragraph 7 of the Framework.
31. The three dimensions of sustainable development are mutually dependent, and I consider that the conflict with the social dimension would outweigh any positive contributions the appeal proposal would make towards the economic and environmental dimensions. As such, the proposal would not constitute sustainable development when assessed against the policies contained within the Framework as a whole.

Conclusion

32. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

C L Humphrey

INSPECTOR