
Appeal Decision

Hearing held on 27 and 28 September 2016

Site visit made on 28 September 2016

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 02 December 2016

Appeal Ref: APP/V5570/W/16/3144490
5, 7-11 & 13 George's Road, London N7 8HD

- 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 SE1 Property Services Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref P2015/1812/FUL, dated 1 May 2015, was refused by notice dated 23 December 2015.
 - The development proposed is the demolition of the existing buildings and structures on the site, together with the erection of a three storey (plus lower ground floor) building comprising 198sq.m of B1 floorspace and six residential dwellings (1 x 2 bed and 5 x 3 bed units), together with associated landscaping, cycle parking and refuse storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the fourth bullet of the above header is taken from the original planning application form. However, that description varies from that on the Council's decision notice which also refers specifically to excavation at basement level which would clearly be the case. I have therefore determined the appeal on that basis.
3. The Council, in its decision notice refers to its Urban Design Guide and Conservation Area Design Guidelines to which I have afforded some weight due to their role in supporting the relevant development plan policies.

Main Issues

4. The main issues are:
 - i) whether the proposed development would preserve or enhance the character or appearance of the St Mary Magdalene Conservation Area (the CA) and its effect on the character and appearance of the adjacent locally listed building (the LLB), St James Flats;
 - ii) whether the proposed development would provide acceptable living conditions for future occupiers, with regard to defensible space and outlook;
 - iii) the effect of the proposed development on the living conditions of the occupiers of Flat Nos 1 and 6, St James School, in respect of outlook;
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- iv) whether a financial contribution is necessary to make provision for affordable housing.

Reasons

Character or appearance of CA and effect on LLB

5. The site is located in the CA and as such special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the CA.
6. The CA is characterised by a variety of designs, sizes and types of buildings, which in the immediate vicinity of the site includes the LLB which fronts directly onto the road as do those buildings on the appeal site. The LLB is a fairly grand four storey building which, despite the existing site's single storey building abutting it, is notable in terms of its prominence in the street enabled by the space around it, particularly at the upper floor levels. The attractive flats opposite also have a significant presence but less so due to their set back from the road.
7. The existing single storey buildings on the site are not visually attractive features of the CA. However, due to their modest height, neither are they dominant in the overall streetscene, as is also the case with their irregular building line. Furthermore, they continue to be in active use, providing some degree of vitality to the street.
8. The three storey height of the proposed development would not in itself be out of place in the context of other higher buildings in the vicinity within the streetscene. Furthermore, I consider that the generally consistent fenestration design on the upper two floors, separated from the ground floor by a horizontal band, would provide an appropriate degree of verticality to the design. However, in following the line of the existing irregular front site boundary, the indentation of part of the front elevation extended upwards over three storeys would draw much more attention to that existing irregularity. As such, despite the intention to utilise materials that would complement other buildings in the CA, it would appear as an incongruous addition to the street in this respect, at odds with the otherwise more linear or regular lines of other frontage development in this part of the street.
9. The proposed development would be set down by one storey immediately abutting the LLB although, unlike the existing single storey building, would project higher than the distinctive horizontal banding of the LLB between ground and first floor. This in itself would cause noticeable conflict in the respective designs. Furthermore, there would only be a fairly small degree of separation between the LLB and the main full height part of the proposal which, despite not being as high as the LLB, would nevertheless dominate the space immediately to that side of it. Therefore, although the height of the majority of the development would represent a progression from the lower building to the east of the site to the higher LLB to the west, that LLB would, to an unacceptable extent, lose its distinctive degree of fairly isolated grandeur within the streetscene.
10. I have had regard to the existing contribution that No 5 George's Road makes to the CA. It is a building that to some extent reflects the traditional former functional character of the area, and I also appreciate that it is one of few remaining buildings of this nature in the CA in terms of illustrating the

development of the settlement. However, it is in a poor state of repair with few of the original detailed architectural features remaining. As such, I consider that its contribution to the CA is limited. Nevertheless, in the absence of a proposed overall scheme design that would represent an acceptable addition to the CA and not cause unacceptable harm to the character and appearance of the LLB, and with insufficient substantive evidence to indicate that it could not be renovated or repaired, I consider that its demolition would be unjustified.

11. For the above reasons, I conclude on this issue that the proposed development would fail to preserve the character and appearance of the CA and would cause unacceptable harm to the character and appearance of the LLB. As such, it would be contrary to policies 7.4, 7.6 and 7.8 of the London Plan, policy CS9 of Islington's Core Strategy (the Core Strategy) and policies DM2.1 and DM2.3 of Islington's Local Plan: Development Management Policies (the DMP), and the Islington Urban Design Guide and Conservation Area Design Guidelines, which together require development to be of a high quality design that preserves and enhances heritage assets. It would also be contrary to section 12 of the National Planning Policy Framework (the Framework) which relates to conserving and enhancing the historic environment.

Living conditions of future residents

12. Other than unit 4, the basement and ground floor rear rooms of the proposed dwellings would face onto very restricted rear amenity or void spaces in respect of their depth. Together with the substantial height of the back wall above those spaces, particularly in respect of the basement rooms, this would result in the outlook being dominated by that overbearing wall which would be likely to cause a considerable sense of enclosure and being hemmed in. The basement room of unit 4 would not have any direct outlook, other than from ground floor room windows at the level above via a void area, again likely to result in a significant sense of enclosure. This would be all the more were that void to be partially used in the future for a lift as shown on the submitted plans.
13. I acknowledge that there would be rooms on the upper floors with acceptable levels of outlook when considering the living conditions of the dwellings as a whole. However, those referred to above, at the lower levels, would still be likely to be well used habitable rooms where a good degree of amenity would be necessary.
14. I have had regard to another case referred to by the appellant at Compton Avenue where habitable rooms were allowed that had an aspect onto internal courtyards. However, the proposals are not clearly comparable whereby the appeal proposal relates instead to rear amenity areas with a high external wall. In any case, I have determined this appeal on its own merits.
15. In terms of defensible space at the front, I have had regard to the close proximity of the main ground floor windows to the adjacent footway. However, those windows would be obscure glazed and fixed shut and as such would not cause intrusion through passers-by looking in or in terms of significant noise disturbance from pedestrians. This would be all the more so as the proposed main living spaces on the ground floor would be set towards the rear of the dwellings. I am therefore satisfied that the situation with regard to defensible space would be acceptable.

16. I conclude on this issue that, despite my finding in respect of defensible space, the proposal would, for the above reasons, provide unacceptable living conditions for future occupiers, with regard to outlook to the rear. As such, it would be contrary to policy 3.5 of the London Plan, policy CS12 of the Core Strategy and policies DM2.1 and DM3.4 of the DMP which together, in respect of this issue, require high quality design to ensure residents have a good quality of life.

Living conditions of the occupiers of Flat Nos 1 and 6, St James School

17. Flat Nos 1 and 6 St James School, at ground/first floor and second/third floor respectively, have habitable room windows on the side elevation of that building directly facing the site and in close proximity to it. Although the living rooms concerned also have front facing windows, the side windows serving the double height living rooms, provide a key level of outlook, particularly in respect of No 1.
18. The direct side outlook from No 1 is currently to a screen wall with vegetated trellis atop. However, the proposed development, although one storey less than overall at the closest point to those windows, would introduce a hard, solid structure rising above the existing wall, as opposed to the softer trellis and vegetation. Furthermore, and importantly, the full height element of the proposal would taper across in direct line of sight of those living room windows of Nos 1 and the lower one of No 6, still in fairly close proximity. The combined effect of both of those elements of the proposal on the outlook from No 1, and No 6 to a lesser degree relating just to the tapering upper floor, would be to create an overbearing structure likely to cause an unacceptable sense of enclosure and being hemmed in.
19. For the above reasons, I conclude on this issue that the proposed development would cause unacceptable harm to the living conditions of the occupiers of Flat Nos 1 and 6, St James School, in respect of outlook. As such, it would be contrary to policies 3.5 of the London Plan and DM2.1 of the DMP which together, in respect of this issue, require development to be of high quality design that protects the residential environment as a place to live.

Affordable housing

20. Policy CS12 of the Core Strategy, in respect of affordable housing, sets out a requirement for a financial contribution towards such provision elsewhere in the borough where a proposed residential development would involve less than 10 units. Whilst it is the case that planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise, that policy predates the Written Ministerial Statement dated 28 November 2014 (the WMS) which is now confirmed as Government policy. The WMS sets out that such contributions for developments of 10 units or less, and which have a maximum combined gross floor space of 1000 square metres, should not be sought. That policy is reflected in national planning guidance in Paragraph 031 of Planning Practice Guidance (PPG). This is therefore a significant material consideration to which I have applied great weight.
21. I have had regard to the Council's evidence in respect of the continued need for small sites planning contributions for affordable housing, in light of the Borough's circumstances. These include high house prices, the high population density, the levels of poverty, and the proportion of housing delivery that

comes forward on small sites. I also note that the Council takes account of the viability of developments in the level of contributions expected. I have also had regard to those other appeal decisions referred to by the Council giving significant weight to the development plan policies, outweighing the WMS. However, those decisions relate to different local authority areas than that concerning this appeal, including different policies and circumstances and so I have afforded limited weight to them.

22. I have also had regard to a fairly recent appeal decision Ref APP/V5570/W/16/3149062 for a development within the London Borough of Islington at 139A Grosvenor Avenue. In that decision, my colleague concluded that those factors set out to justify such contributions relating to the Borough's housing market would not individually or cumulatively merit a departure from the national policy, whilst acknowledging the Council's viability approach to such contribution requirements. As that decision relates to the Borough of Islington and the same development plan policy as the current appeal, I have afforded substantial weight to that decision.
23. Although the Council claims that its note relating to the current stance in light of the WMS was not available to my colleague in that other appeal, the same key evidence in the form of policy CS12 and the Council's Affordable Housing Small Sites Contributions Supplementary Planning Document was, and these documents highlight the need for affordable housing. I am not convinced that the recent note provided by the Council demonstrates sufficient substantive evidence to represent a material change in circumstances since that Grosvenor Avenue decision was made.
24. For the above reasons, I conclude on this issue that, regardless of the dispute between the parties over viability and the appellants' position that a financial contribution towards affordable housing would be unviable, such a contribution would not be necessary due to the greater weight that I have afforded to the national policy set out in the WMS.

Other matter

25. I have had regard to the matters concerning the viability of the proposed development. This is in respect of whether it would make appropriate provision for business floorspace, having regard to the primary economic function of the area with the site being within a designated Employment Growth Area, and whether a financial contribution could be made to make provision for affordable housing. However, even if the appellants are correct in their conclusions set out in the submitted viability assessments and that additional business space and the affordable housing contribution could not be provided, I have found that there are compelling objections to the proposal in other respects.

Conclusion

26. The Framework sets out that there should be a presumption in favour of sustainable development and that to achieve this, economic, social, and environmental gains should be sought jointly and simultaneously through the planning system.
27. I acknowledge the benefits of providing additional housing and modern business floorspace to the local supply. However, these benefits would only be small due to the fairly small amount of such provision in this case, and would

be insufficient to outweigh the unacceptable harm that I have found would be caused in respect of the character and appearance of the CA and LLB and the living conditions of the occupiers of Flat Nos 1 and 6 St James School in respect of outlook, and the unacceptable living conditions for future occupiers, with regard to outlook. As such it would not be a sustainable form of development.

28. Therefore, for the reasons given above, and taking all other matters into account, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Graham Haworth	Architect – Haworth Tompkins
Sarah Hare	Architect - Haworth Tompkins
Joanna Burton	Beacon Planning
Charles Banner	Landmark Chambers
Simon Myles	Bidwells
Andrew Haynes	Bidwells
Nick Warmington	Philip Pank

FOR THE LOCAL PLANNING AUTHORITY:

Sandra Chivero	Case Officer
Ricky Ching	Development Viability
David Coate	Adams Integra
Lucy Crone	Design and Conservation Officer
Karen Montgomerie	Planning Policy
Siobhan Mc Cool	Planning

INTERESTED PERSONS:

Andrew Spencer	Local Resident
Jimi Smith	Musician at Nos 7-11 Georges Road
Mrs DeNobrega	Local Resident
Lucy Newham	Local Resident
Sasha Brown	Local Resident
Jordan Ruddick	7-11 Georges Road
Sarah Wege	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING:

1. Appendices 7-11 of Council's Statement of Case.
2. The following Supplementary Planning Documents: Development Viability; Basement Development; Inclusive Design in Islington; Islington Urban Design Guide.

3. Mayor of London: Housing Supplementary Planning Guidance March 2016.
4. Extract from UK House Price Index – Islington from August 2015 to September 2016.
5. Letter from Mrs DeNobrega (local resident) dated 26 September 2016.
6. Copies of internal Council consultee responses: Ricky Ching; Highways; Acoustics Officer; Street Environment Services; Policy Planner; Inclusive Design Officer; Design and Conservation Officer; Tree Preservation Officer.
7. Council statement entitled: Impact of the Written Ministerial Statement on the exemption of small sites from planning contributions on the delivery of affordable housing in the London Borough of Islington.
8. Copy of Savills World Research document: Spotlight Prime London Residential Markets, Autumn 2016.
9. Copy of RICS guidance note: Financial viability in planning.
10. Copy of RICS document: Financial Viability Appraisal in Planning Decisions – Theory and Practice, April 2015.
11. Letter from Anderson Bourne to the Council dated 21 June 2015.
12. LB Islington Employment Land Study.
13. Drawing No 1436_P_A_102 Rev P2.
14. Historic England Advice Note 1: Conservation Area Designation, Appraisal and Management.
15. Mayor of London: The 2013 London Strategic Housing Market Assessment.