

## Appeal Decision

Site visit made on 22 February 2017

**by Roy Merrett BSc(Hons) DipTP MRTPI**

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

**Decision date: 14 March 2017**

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**Appeal Ref: APP/V5570/W/16/3164740**  
**208 Hornsey Road, Islington, London N7 7LL**

- 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 Mr M Krishnamohan against the decision of the Council of the London Borough of Islington.
  - The application Ref P 2016/3078/FUL, dated 2 August 2016, was refused by notice dated 10 October 2016.
  - The development proposed is change of use of existing residential flat unit on upper floors into 3 self-contained residential flat units.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are i) the effect of the development in terms of the availability of larger residential accommodation within the Borough and ii) whether the proposal not to make any provision for affordable housing would be acceptable.

### Reasons

#### *Larger accommodation*

3. Policy DM3.3 of the Islington Development Management Policies 2013 (DMP) sets out that to maintain a supply of larger homes in the Borough, the Council will normally oppose the conversion of dwellings into one person sized units or multiple one double bedroom units. It goes on to state that for dwellings providing in excess of 140 square metres of floorspace, such as in this case, at least one two bedroom and one three bedroom unit should be provided, unless exceptional circumstances can be demonstrated.
  4. The proposal involves the conversion of a four bedroom unit into three one bedroom units at first, second and third floor levels. In support of his case, the appellant, whilst conceding that there may be an oversupply of one bedroom units, does not regard the property as suitable for larger family accommodation on the basis of its central location and the fact that it does not incorporate external amenity space.
  5. It seems to me that whilst there is an absence of amenity space associated with the property, this deficiency would equally impact on residents of small single bedroom units and is not therefore a strong argument in favour of
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conversion. Whilst I accept that the lack of amenity space would not be ideal from the point of view of the needs of a larger household / family, it does not justify the loss of larger scale accommodation, the supply of which the Council seeks to protect. Put another way, in the context of an over-supply of smaller units, it seems to me that it would be preferable to have some larger accommodation available, albeit deficient in certain amenities than it not being available at all. Furthermore it is unclear, why the appellant takes the view that such provision in a central location close to public transport links, local services and a public park would be less suited to family use.

6. I acknowledge that the proposal would increase the supply of housing units at a time of a general shortage in housing numbers; that smaller units would be less expensive and would potentially be attractive to young professional workers. However to be weighed against this, is the consideration that an over-supply of smaller units within the Borough is not disputed and though it could be argued that such units would be cheaper, in relative terms they would not constitute the affordable housing which is acknowledged to be in acute need within the Borough.
7. The appellant argues that Policy DM3.3 should not be applied in this case on the basis that it seeks to maintain the supply of larger homes which, in his view, would not apply to the existing unit as a large flat. However it seems to me that the existing unit would nevertheless still constitute a home that could be used by a larger family and I am not therefore persuaded by this argument.
8. The appellant has also made the point that if the appeal were to fail the property could be converted into a House in Multiple Occupation (HMO) without the need for planning permission. This fallback position, which would result in the loss of family accommodation in any event, should therefore be regarded as an important material consideration. Whilst I acknowledge that this may be a potential outcome, I have not been presented with any evidence such as finalised drawings that would indicate the appellant is committed to such alternative plans. I therefore give this consideration limited weight in favour of granting planning permission.
9. I conclude that the proposal would harm the availability of larger scale accommodation in the Borough. It would therefore be in conflict with Policy DM3.3 of the DMP and Policy CS 12 of the Islington Core Strategy 2011 (CS) which seek to protect the mix of dwellings there and the need for larger family homes by resisting the conversion of property into small units of accommodation.

#### *Affordable Housing*

10. Policy CS 12 of the CS sets out the Council's policy towards the provision of affordable housing, which is acknowledged within the explanatory text to that policy to be a major issue in the Borough. It is based on meeting objectively assessed needs identified in the Core Strategy evidence base. The policy states that for schemes of fewer than ten units, a financial contribution will be required towards affordable housing provision elsewhere in the Borough.
11. The Council, in its statement has set out updated information in respect of housing need and affordability in the Borough. Amongst the key findings are that house prices in Islington are amongst the highest in England and Wales and have been increasing far more rapidly than in other areas. The submitted

figures show that the median and lowest quartile house prices are respectively around 16 times higher than the median and lowest incomes in the Borough. Furthermore rents in Islington are notably higher than in Greater London as a whole. In addition there is significant deprivation in the Borough with very high levels of overcrowding and the second highest rate of child poverty in the country.

12. Based on this information, I am firmly of the view that there is a demonstrable affordability issue in both the home ownership and private rented sectors and a significant need for affordable housing in Islington. Whilst the appellant has challenged the Council's approach to demonstrating this affordability issue, by claiming that much of its information is narrative and / or somewhat out of date, it does not challenge the veracity of the statistics used by the Council to inform its position. Furthermore no more up to date evidence has been provided by the appellant that would serve to contradict the Council's evidence.
13. The Islington Affordable Housing Small Sites Contributions Supplementary Planning Document identifies the appropriate level of affordable housing contribution to be £50,000 per unit in relation to proposals for fewer than ten units. This level of contribution was derived following a process of viability threshold testing. Notwithstanding this the guidance still allows for flexibility, where it can be demonstrated by a developer through a bespoke appraisal that a contribution would render an individual scheme unviable.
14. The Council sets out in its statement that a large proportion of its housing delivery comes from relatively small sites, an inevitable consequence of the densely built-up nature of the Borough. This demonstrates the key role that such smaller sites have in the delivery of affordable housing in Islington and is therefore a consideration that attracts very significant weight.
15. This approach to seeking financial contributions to the provision of affordable housing in the Borough is therefore consistent with paragraph 50 of the National Planning Policy Framework (the Framework). This states that where need for affordable housing has been identified, local planning authorities should set policies for meeting that need on site unless a contribution to off-site provision can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
16. However, the Government's Planning Practice Guidance confirms that following the order of the Court of Appeal dated 13 May 2016 giving legal effect to the policy set out in the Written Ministerial Statement (WMS) of 28 November 2014, there are specific circumstances where contributions for affordable housing should not be sought from small scale development<sup>1</sup>. These circumstances include developments of 10-units or less and which have a maximum combined gross floorspace of no more than 1000 sqm.
17. The WMS, as national policy, is therefore a material consideration that carries significant weight and with which Policy CS 12 would not be consistent. The appellant makes the point that there are other appeal decisions within London which support their case that the WMS should outweigh the Council's policy. However, irrespective of decisions elsewhere, based on the specific circumstances of this case, in which there is such an acute need for affordable housing and where contributions from small sites form a key element in the

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<sup>1</sup> Paragraph: 031 Reference ID: 23b-031-20161116

overall delivery strategy, there is a compelling case that the WMS does not outweigh the relevant plan policy.

18. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for the development where it meets three tests. The tests, which are restated in paragraph 204 of the Framework are as follows:

- 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.

19. In the absence of a viability appraisal from the appellant, based on the evidence before me, I conclude, on balance, that the requirement for a contribution to off-site affordable housing provision would be justified and required in this case. The appellant has not provided such a contribution and accordingly the proposal would fail the aforementioned CIL and Framework tests. I therefore conclude that the proposal not to make any provision for affordable housing would be unacceptable.

### **Conclusion**

20. For the aforementioned reasons, and having had regard to all other matters raised, I conclude that the appeal should not succeed.

*Roy Merrett*

INSPECTOR