The Planning Inspectorate

Appeal Decision

Site visit made on 14 February 2017

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 24 March 2017

Appeal Ref: APP/V5570/W/16/3163710
Land, 29 Horsell Road, Islington, London N5 1XL

- 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 & Mrs George & Suzanne Petrides against the decision of the Council of the London Borough of Islington.
- The application Ref P2016/2427/FUL, dated 1 June 2016, was refused by notice dated 7 October 2016.
- The development proposed is new build house on existing empty site. Elevations to match existing.

Decision

1. The appeal is dismissed.

Background

2. An application for an identical proposal at the appeal site was granted planning permission in April 2016 (Ref P2014/5002/FUL). That permission was subject to a legal agreement requiring a financial contribution towards the provision of affordable housing within the borough.

Main Issue

3. The main issue is whether or not the proposal makes adequate provision for affordable housing.

Reasons

4. The appeal site comprises vacant land located between a row of traditional terraced houses and a brick built warehouse building in commercial use. From the submitted evidence it appears that the site previously contained a dwelling which was demolished sometime before 1952 and that the site has remained vacant since. The proposal would therefore result in one additional dwelling.

5. Part G of Policy CS12 of Islington's Core Strategy (CS) relates to affordable housing and requires all sites capable of delivering 10 or more units gross to provide affordable homes on-site. Schemes below this threshold will be required to provide a financial contribution towards affordable housing provision elsewhere in the borough. Though the CS and Policy CS12 pre-date the National Planning Policy Framework (the Framework), I consider the policy to be consistent with the Framework when taken as a whole.

6. Greater detail regarding the financial contribution required by Part G of Policy CS12 is set out in the Islington Affordable Housing Small Sites Contributions Supplementary Planning Document (SPD). The SPD states, in Section 4, 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.

7. As stated within the SPD, based on the evidence base, the Council expects that the large majority of proposals should be capable of providing the required sum of £50,000 without a significant impact on viability. However in the SPD the Council acknowledges that there may be site specific circumstances which mean that viability issues arise and in these cases the applicant should provide a statement with their application with a justification for not providing the full financial contribution.

8. As the proposal would result in one additional residential dwelling, in accordance with Policy CS12 and the SPD, a contribution of £50,000 towards the cost of providing off-site affordable housing is required unless it can be demonstrated that it would not be viable to make the full contribution. No financial contribution is offered as part of the proposal and the appellants have not submitted a viability appraisal. Consequently the proposal is contrary to Policy CS12 and the SPD.

9. 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 otherwise.

10. Whilst the appellants acknowledge the conflict with the development plan, they consider that significant weight should be given to current national policy regarding affordable housing contributions as set out in the Written Ministerial Statement dated 28 November 2014 (WMS) and within the Planning Practice Guidance (PPG). The approach set out within the WMS, which is re-iterated in the PPG, provides clarification on national policy and is to be read alongside the Framework. The WMS is therefore a significant material consideration to which I attach considerable weight.

11. 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 clear conflict therefore between the development plan and the WMS. Where there is conflict between the development plan and more recent national policy it is for the decision maker to decide how much weight to give to relevant policies having regard to material considerations including the underlying intention of the change in national policy and local circumstances.

12. The WMS considers that for sites of 10-units or less, affordable housing and tariff style contributions place a disproportionate burden on small scale developers and that by lowering the construction cost of small-scale new build housing the reforms outlined in the WMS will help to increase housing supply. Though the thresholds within the WMS are clear and unambiguous and whilst the WMS states that affordable housing contributions should not be sought on schemes of 10-units or less, the WMS is not mandatory. In this instance, the

Council draws particular attention to the implications of the WMS for the delivery of affordable housing.

13. Though the appellants have questioned the validity of the evidence base for Policy CS12 and the SPD given that it is now 6 years old, the Council's Officer Report and Statement sets out updated information regarding housing need and affordability in Islington and the important role that small housing sites play in delivering affordable housing in Islington given the densely built up nature of the area.

14. The Council states that approximately one third of new housing delivery in Islington comes from sites of 10 units or less and that to date it has received small sites contributions amounting to £7.2m which has either directly supported or helped to enable the delivery of a significant number of the 157 social rented homes delivered since 2012/13. The Council also states that a further £10.2m has been secured through signed planning obligations and will become due if the relevant proposals are implemented. Having regard to the Council's evidence, which has not been disputed by the appellants, it is clear that financial contributions secured from small scale housing schemes play a significant role in helping to meet the considerable need for affordable housing in Islington.

15. Moreover, the sums of money generated by contributions under Policy CS12 seem to suggest that housing continues to be delivered on small sites in the borough. It does not necessarily follow therefore that the requirements of Policy CS12 are generally disproportionate in these particular circumstances.

16. I acknowledge that the appellants appear to be the type of small-scale developers that the measures in the WMS seek to help. I also accept that the financial contribution of £50,000 required by Policy CS12 and the SPD would place a financial burden on the appellants, as would the provision of a viability appraisal. Nevertheless it is unclear why the cash flow issues that might be created would be of such significance that this particular proposal would not proceed when, it appears others have been able to do so. The harm that would result from any additional burden on the appellants needs to be weighed against the harm that would result to affordable housing provision in Islington if financial contributions from small scale schemes were no longer available.

17. Taking the above matters into consideration, I conclude that in this particular case there is evidence of considerable housing need in Islington and it has been demonstrated that financial contributions secured from small sites make a significant and important contribution to affordable housing delivery in the borough. In the absence of firmer evidence to indicate that the requirements of Policy CS12 represent a disproportionate burden, I attach very considerable weight to local circumstances and consider that these outweigh any harm to the appellants. As a result, in this instance the WMS does not represent a sufficient material consideration to outweigh the conflict with the development plan.

18. Consequently, having regard to the evidence before me, the contribution sought for affordable housing 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. The contribution would, therefore, meet the 3 tests set out in Regulation 122(2) of The Community Infrastructure Levy Regulations 2010.

19. My attention has been drawn by both main parties to a number of appeal decisions both in Islington and elsewhere where the issue of affordable housing contributions has been considered in light of the WMS. I note that in the Islington cases, Policy CS12 and the SPD have been in issue and that the most recent decisions indicate that significant weight was given to the particular circumstances in this borough, based on the case made by the Council. The evidence before me appears to be broadly similar and the approach I have taken here would be consistent with those more recent decisions.

20. Whilst the WMS is a material consideration of considerable weight, based on the particular circumstances of this case the conflict with national policy expressed by the WMS and any additional burden that would be placed on the appellants does not outweigh the conflict with the development plan and the harm that would result to affordable housing delivery in the borough. Consequently for the reasons given above, the proposal would not make adequate provision for affordable housing and it is therefore contrary to the development plan in particular CS Policy CS12 and to guidance within the SPD.

Other Matters

21. In reaching my decision I have had regard to the fact that there is some local support for the proposal and that it would provide an additional dwelling in an accessible location. The proposal would have some modest economic benefits by providing employment during the construction period and by supporting the local economy. There would also be some environmental benefits from the re-development of a vacant site adjacent to a Conservation Area and social benefits arising from increased housing choice and from the provision of family housing, which I understand to be a priority within the area. However the above benefits would be limited given that only one dwelling is proposed.

22. Finally the Housing White Paper published on 7 February 2017 (White Paper) sets out how the Government intends to boost housing supply and proposals for wider changes to national planning policy in relation to affordable housing. However as the majority of the proposals contained within the White Paper are subject to further consultation and are thus not currently Government policy, I afford them limited weight.

Conclusion

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

Beverley Wilders

INSPECTOR