

## Appeal Decision

Site visit made on 14 March 2017

**by G J Fort BA PGDip LLM MCD MRTPI**

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

**Decision date: 05 April 2017**

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**Appeal Ref: APP/V5570/W/16/3165294**  
**195 B Holloway Road, London N7 8DJ**

- 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 Hassan Yaman against the decision of the Council of the London Borough of Islington.
  - The application Ref P2016/1738/FUL, dated 1 May 2016, was refused by notice dated 10 November 2016.
  - The development is described as "1.Relocate front and rear elevation windows to original location. 2. Retain basement/ground floor flat C. 3. Retain mezzanine floor above original first floor for flat B"
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I saw at my site visit that measures included in the description of development given above had already been carried out to a substantial degree. I have thus treated the appeal as a retrospective one, insofar as it relates to the changes that have already been implemented.
3. The Council's Decision Notice references the 2015 iteration of *The London Plan: The Spatial Development Strategy for London- Consolidated with alterations since 2011* (the London Plan). Whilst this version of the London Plan has been superseded by the one adopted in March 2016, the policies relevant to this appeal have not materially altered. As a result no prejudice would occur to any party from my assessment of the appeal scheme against the relevant policies contained in the 2016 version of the London Plan.

### Main Issues

4. I consider the main issues in this case to be firstly, the effects of the development on the living conditions of future occupants in terms of access to daylight, sunlight and outlook; and secondly, whether the development would make an adequate contribution towards the provision of affordable housing.

### Reasons

#### *Living Conditions*

5. Situated in a long terrace of properties fronting Holloway Road, within the St Mary Magdalene Conservation Area, the appeal property is of three storeys,
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and like its near neighbours has a commercial use on the ground floor. The appeal seeks retrospective permission for elevational changes to the front and rear including the re-positioning of windows. Dormer windows have been added and the roof and its party walls have been lifted. Internal alterations have included the insertion of a mezzanine floor. The changes would facilitate residential use of the rear elements of the basement and ground floors and the entirety of the upper floors of the building.

6. The basement and ground floors would provide a one bedroom dwelling. Whilst this unit would meet the Government's *Technical housing standards-nationally described space standard*<sup>1</sup> (the Space Standard) for a unit of this type it would be of a single aspect, the only windows of which would be to two lightwells. I saw at my site visit that the limited size of these lightwells, combined with their positioning in the corners of some relatively deep rooms, and the presence of tall structures close to them in the external environment mean that the penetration of daylight and sunlight into the residential unit is severely restricted.
7. In terms of the smaller triangular lightwell at the corner of the kitchen and living room I saw that electric lights were fitted within it which were on at the time of my visit, and that these augmented the limited daylight and sunlight which penetrated it. Even with these lights on, the light penetrating into the kitchen and living room, both large rooms where it would be reasonable to conclude that occupants would spend a great deal of their time, was very limited and would provide a gloomy environment which would be of significant harm to the living conditions of the future occupants of the dwelling.
8. From the basement rooms, the only views available from its windows would be into the lightwells themselves. As a result, the constrained views available in the basement impart a claustrophobic character to the rooms they serve. At the ground floor, a similarly oppressive view would be available to occupants from the small triangular lightwell in the corner of the living room. The window that would serve the bedroom, whilst having marginally deeper views into the rear yard, would have an outlook dominated by the backs of buildings and a prominent metallic duct, which looms large within the view and is a dominant and enclosing presence. Consequently, taking these matters together, the appeal development would provide an extremely limited outlook from the basement and ground floor rooms that would be of significant harm to the living conditions of its future occupants.
9. I saw that the area annotated as a "games room" on the plans did not benefit from windows. This would limit its suitability for use as a habitable room, and whilst I am conscious that the appellant would be willing to have its use as a games room secured by condition, I am also mindful that use for this purpose, when combined with the cycle and bin storage areas, would mean that Flat B as annotated on the plan would fail to provide the minimum Space Standard requirement for dwellings of this type.
10. My attention has been drawn to the permitted development rights for rear extensions under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), and I am mindful of the appellant's comments with regard to potential restrictions of outlook, daylight and sunlight available to occupiers as a result of such

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<sup>1</sup> As incorporated into the development plan by virtue of Policy 3.5 of the London Plan

extensions. However, this matter has only a limited bearing on the current case, and I am unable to assess the appeal development against hypothetical schemes elsewhere. Each planning proposal has to be assessed on its own merits.

11. I am mindful of the appellant's comments that availability of daylight and sunlight is a Building Regulations matter and not a planning one. However, both national and local policies seek to protect the living conditions and residential amenity of the occupants of buildings, including access to daylight and sunlight. The National Planning Policy Framework (the Framework) establishes 12 core principles of planning (at paragraph 17) including that planning should "always seek to secure... a good standard of amenity for all existing and future occupants of land and buildings.
12. The appeal development would fail to provide an adequate amount of outlook, or daylight and sunlight to the future occupants of the ground and basement floor flat. This would be of significant harm to their living conditions, and as a consequence the appeal development would conflict with Policy CS12 of the Islington Core Strategy (Adopted February 2011) (the Core Strategy); Policies DM2.1 and DM3.4 of Islington's Development Management Policies (adopted June 2013); and Policy 3.5 of the London Plan. Taken together, and amongst other things, these policies seek to ensure that residential developments are of the highest quality internally and ensure that Islington's residents have a good quality of life in convenient and enjoyable spaces that provide a good level of amenity, including access to sunlight, daylight and outlook.
13. However, as Policy 3.6 of the London Plan concerns play and recreation facilities, I have been supplied with no substantive evidence to suggest that the appeal development would conflict with this. Nevertheless, whilst I discern no conflict with this policy, this would not outweigh or alter my conclusions in regard to the conflicts with the other policies of the development plan given above.

#### *Affordable Housing*

14. No mechanism to secure an affordable housing contribution has been provided as part of the appeal development. Neither have I been supplied with substantive evidence demonstrating that such a contribution would be financially unviable in this case. As a consequence, the appeal development conflicts with Policy CS12 of the Core Strategy and the Islington Affordable Housing Small Sites Contribution Supplementary Planning Document (adopted 2012) (the SPD) in this regard, which require schemes of less than ten dwellings to provide a contribution towards the provision of affordable housing, subject to a financial viability assessment.
15. However, my attention has been drawn to the national planning policy expressed in the Written Ministerial Statement of 28 November 2014 (the WMS), which states that "Due to the disproportionate burden of developer contributions on small-scale developers, for sites of 10-units or less... affordable housing... contributions should not be sought". Whilst this is a clear and unequivocal statement of national policy in these regards, and a consideration to which I attach very considerable weight, the WMS does not supplant the statutory status of the development plan as the primary material consideration in the assessment of planning proposals.

16. Moreover, I have been supplied with a considerable amount of substantive evidence regarding the local circumstances prevailing in Islington's housing market. HM Land Registry and Department for Communities and Local Government figures show that the Borough's house prices are amongst the highest in the country, with a median house price of £584,000 that is some 16 times the median income in the area. Other submitted figures demonstrate that the household income required to access even a property in the lowest quartile of house prices in the Borough would be from £120,000 to £135,000 per annum depending on the level of deposit. Valuation Office Agency figures show that median rental costs in the private rented sector are also considerably in excess of Greater London and national averages, limiting the affordability of housing in this sector also. None of the figures supplied by the Council have been contested by the appellant.
17. Furthermore, due to the density of the Borough, a substantial proportion of its new housing is delivered on sites that supply 10 dwellings or less. As a consequence, the delivery of the Borough's affordable housing requirement to meet its objectively assessed need is dependent to a considerable degree on contributions deriving from these smaller sites. The ability for an appellant to demonstrate that affordable housing contributions would be unviable under the development plan policy means that disproportionate burdens on developers of smaller sites could be avoided. Moreover, Policy CS12 and the SPD ensure that affordable housing contributions are directly related to proposed developments, and fairly and reasonably related in scale and kind to them.
18. These are considerations of very substantial weight that, taken together, provide strong support to the development plan policy, which as a result clearly outweighs the national policy as expressed in the WMS in this case. In arriving at this view, I have also had regard to the recent appeal decisions<sup>2</sup> supplied by the Council, several of which concern proposals within Islington, wherein Inspectors have concluded that due to local circumstances development plan policies outweigh the WMS in this respect.
19. As a consequence, the appeal development has failed to make an adequate contribution towards the provision of affordable housing to make the development acceptable in planning terms. It would thus clearly conflict with Policy CS12 of the Core Strategy, and the SPD. Taken together, and amongst other things, the policy and document seek to ensure that new developments make adequate and proportionate contributions toward the supply of affordable housing in the Borough.

### **Other Matter**

20. Whilst the appeal property is neither a listed nor a locally listed building it is within the St Mary Magdalene Conservation Area. I am thus conscious of my statutory duty arising from section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in this regard, and conclude that the elevational changes at the appeal building, including the repositioning of windows to a more sensitive pattern, and the removal of the previous rooflights have preserved the character and appearance of the Conservation Area. However,

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<sup>2</sup> APP/V5570/W/16/3164740; APP/V5570/W/16/3160795; APP/V5570/W/16/3160058; APP/V5570/W/16/3162003; APP/V5570/W/16/3160780; APP/V5570/W/16/3161073; APP/K3605/W/16/3146699; APP/V5570/W/15/3067561; APP/V5570/W/16/3157092; APP/V5570/W/16/3155770; APP/L5180/W/16/3142005; APP/W0530/W/16/3142834

compliance with this statutory test does not outweigh the proposed development's clear conflicts with the development plan.

**Conclusion**

21. The appeal development conflicts with the development plan insofar as the policies that have been drawn to my attention are concerned. No material considerations have been advanced that justify a departure from the policies of the development plan in this instance. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*G J Fort*

INSPECTOR