

Appeal Decision

Hearing Held on 3 May 2017

Site visit made on 4 May 2017

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 06 June 2017

Appeal Ref: APP/Y5420/W/16/3162812
86 Victoria Road, Hornsey, London N4 3SW

- 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 Jon Davis (Indigo Scott) against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2015/3288, dated 26 October 2015, was refused by notice dated 24 October 2016.
 - The development proposed is the demolition of the existing buildings and redevelopment to provide 9 residential units (Class C3) with associated access, parking and amenity space provision.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Mr Jon Davis (Indigo Scott) against of the Council of the London Borough of Haringey. This application is the subject of a separate Decision.

Procedural Matters

3. The Council's first reason for refusal refers to inadequate natural lighting to the principal rooms of the basement floor. However in its Statement the Council stated that the reason was incorrectly drafted and should have in fact referred to inadequate natural lighting to principal rooms with the Council's concerns relating specifically to unit 4. I have dealt with the appeal accordingly.
 4. An amended first floor plan (A14/SA257/2/06L) was submitted with the appeal and an amended elevations plan (A14/SA257/2/08K) was submitted at the hearing. The amended plans revise the proposal and remove the balcony from bedroom 2 of unit 7 and reduce the size of the shared balcony to the living room and bedroom 3 of the same unit. The appellant has amended the proposal in order to improve daylight levels within the living/kitchen/dining room of unit 4 to overcome the Council's first reason for refusal (as amended) in the event that I agree with the Council that unit 4 would have inadequate daylight levels. In addition drawing number A14/SA257/2/12B was submitted at the hearing. This drawing does not alter the proposal but provides additional information and I have had regard to it in reaching my decision.
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5. The Council's reasons for refusal refer to policies contained within Haringey's Development Management DPD Pre-Submission Version January 2016 (DMDPD). The DMDPD has not yet been adopted. At the hearing I heard evidence regarding the advanced stage of the DMDPD and I note that it contains a number of policies that are relevant to the proposal. Whilst I acknowledge that there is some disagreement between the parties as to how much weight ought to be attached to DMDPD policies and whilst there appears to be some conflict with DMDPD policies, as I have found conflict with existing development plan policies there is no need for me to consider this matter further.
6. Subsequent to the application being determined by the Council, the appellant sought and obtained prior approval for the use of existing buildings on the site for residential purposes (Refs HGY/2017/0770 and HGY/2017/0771). In reaching my decision I have had regard to these prior approvals insofar as they are relevant to the proposal.

Main Issues

7. The main issues are:
 - the effect of the proposal on the character and appearance of the Stroud Green Conservation Area;
 - the effect of the proposal on the living conditions of the occupiers of neighbouring properties having particular regard to outlook and privacy;
 - whether future occupiers of the proposed residential units would have adequate living conditions having particular regard to the amount of daylight that would be received by the living/kitchen/dining room of unit 4.

Reasons

Character and appearance & Conservation Area

8. The appeal site is located in the Stroud Green Conservation Area (CA). The CA covers a relatively large area and mainly comprises 19th century terraced housing. The Council has not produced an appraisal of the CA. However in assessing the character and appearance of the CA I have had regard to the appellant's Heritage Statement and Impact Assessment (HSIA) and to the Initial Stroud Green Conservation Area Appraisal prepared by Stroud Green Conservation Area Advisory committee dated July 2015, though I am unsure as to the status of the latter. I have also had regard to the evidence given by all parties at the hearing and to my observations of the area.
9. It appears that the majority of the CA was developed from the mid-19th century onwards, prior to which it was largely undeveloped, and that most residential development within the CA was complete by the end of the 19th century. The HSIA acknowledges that the rapid and expansive 19th century development and the architectural styles and tastes are still evident today and provide the area with its distinctive character. Both main parties agree that the late 19th century residential development in Stroud Green represents Haringey's most diverse example of Victorian domestic architecture concentrated in any one area.

10. Whilst there is diversity within the CA and whilst this diversity significantly contributes to the character and appearance of the CA, I agree with the Council that the diversity derives from the variety of domestic building styles and architectural detailing from within a very narrow period of development and that despite this variety there is also strong consistency within the CA in terms of plot rhythm, urban grain and the palette of materials used. Development surrounding the site mainly comprises two storey traditional dwellings constructed from brick and render under pitched, tiled roofs with timber windows and doors. Any flat roofs tend to be on subservient structures such as rear dormers and rear outriggers.
11. The appeal site comprises a piece of land located to the rear of traditional 19th century dwellings fronting Victoria Road, Stapleton Hall Road and Mount Pleasant Crescent, a number of which are locally listed, with vehicular access off Victoria Road. The site contains a number of existing buildings, one two-storey with the remainder being single storey. Some of the buildings are visible from the entrance on Victoria Road and the site and buildings are visible from a large number of surrounding dwellings and from the car park at the rear. They are currently vacant but I understand that they were previously used for commercial purposes.
12. Although physically connected, the variation of design, height, detailing and materials means that the existing buildings appear as separate elements and this serves to break up and reduce the mass of built development. I note the historical connection of the appeal site and a nearby listed building at Stapleton Hall and I also note the concerns raised by interested parties about the loss of the existing buildings. However it appears that the existing buildings on site are, at least in the main, modern utilitarian buildings of limited/no architectural or historical significance. Consequently I agree with the main parties that their loss would not be harmful to the CA.
13. The proposed building would mainly be two storeys with some single storey elements and with a basement. It would have an L shaped footprint and would have a similar footprint and position to the existing buildings, albeit it would be set further away from the site boundary in places. The height of the two storey part of the building would be lower than the eaves and ridge height of the existing two storey building but would be higher than the existing single storey buildings. Unlike the existing buildings which are traditional and separate in appearance, the proposed building would be contemporary and its mass would be largely unbroken. It would have flat roofs and whilst it would partly incorporate London stock bricks it would also incorporate horizontal timber cladding, un-subdivided and in some cases large full height metal framed windows and frameless glazed balconies, materials and architectural details not widely evident in the CA. The proposed building would consequently be out of character and at odds with the prevailing character and appearance of the surrounding buildings and the wider CA.
14. I note that the design of the proposed building was amended following discussions with Council officers and that the Council has no objection to the principle of a modern building. I also note the appellant's view that the proposed building takes the form of a small "London Mews" style complex which reinforces a distinctive quality of the CA. However I agree with the Council that the proposal appears to bear little resemblance to a traditional London Mews not least because it does not in the main contain large openings

at ground floor with smaller openings above and it does not respect the plot widths of surrounding dwellings. In any event London Mews do not appear to form part of the character of the CA. Additionally though the height of the building would be below the ridge heights of nearby buildings, having regard to its overall scale, mass and form, I consider that it would not appear as an ancillary building complimentary to surrounding buildings. Whilst discussions took place during the hearing regarding the potential use of conditions to control the materials to be used on the building, I consider that my concerns regarding the design and appearance of the building could not adequately be overcome by the use of conditions.

15. In reaching my decision I have had regard to the advice contained within paragraph 60 of the National Planning Policy Framework (the Framework) that planning decisions should not attempt to impose architectural styles or particular tastes or stifle innovation. However paragraph 60 also states that it is proper to seek to promote or reinforce local distinctiveness and I consider that the proposal fails in this regard as it does not adequately reflect and respond to the character and appearance of the CA. Whilst I accept that to some extent the same could be said of the existing buildings I consider that the proposed building would be more harmful.
16. I acknowledge that the appeal site is not prominent, being largely located to the rear of two storey terraced properties. Nevertheless part of the proposed building would be visible from the site entrance off Victoria Road and it would also be visible from a large number of surrounding dwellings and from the car park to the rear. For the reasons stated the proposed building would be out of character with the CA and it would also adversely affect its appearance.
17. Consequently the proposal would fail to preserve the character and appearance of the CA. I consider that the harm to the significance of the CA that would result from the proposal would be less than substantial. As such having regard to paragraph 134 of the Framework, this harm needs to be weighed against the public benefits of the proposal. I note that the public benefits of the scheme would include the efficient use of a previously developed vacant site in an accessible location for the provision of 9 residential units of varying size which meet minimum internal space standards and have access to external amenity space. The proposal would also result in the removal of the existing utilitarian buildings from the site. However I do not consider that these equate to public benefits which would outweigh the harm identified.
18. Taking the above matters into consideration, I conclude that the proposal would fail to preserve the character and appearance of the CA and would not meet the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. For the same reasons it would not accord with paragraph 132 of the Framework, with policies SP11 and SP12 of Haringey's Local Plan (HLP), Policy UD3 of the Haringey Unitary Development Plan (UDP) and policies 3.5, 7.4, 7.6 and 7.8 of the London Plan (LP). These policies seek, amongst other things, housing developments to be of the highest standard of design and to enhance the quality of local places, to have regard to the form, scale and mass of surrounding buildings, comprise details and materials that complement the local architectural character and to conserve the significance of heritage assets. It is also contrary to policies DM1, DM7, DM9 and DM12 of the emerging DMDPD insofar as they relate to character and appearance and heritage assets. Though the Council referred to UDP Policy CSV7 in its second

reason for refusal, this relates to demolition in Conservation Areas and as I have concluded that the demolition of the existing buildings would not be harmful to the CA, the proposal is not contrary to this policy.

Living conditions (existing)

19. As stated the appeal site is surrounded by dwellings, the rear elevations of which face towards it and contain habitable room windows. The rear gardens of a large number of dwellings also adjoin the appeal site boundary with a wide variety of rear garden boundary treatments including walls, fences and some soft landscaping. The rear gardens of dwellings on Mount Pleasant Crescent are relatively small.

Outlook

20. At the hearing the Council stated that its concerns regarding outlook relate to Nos 30, 32, 34 and 36 Mount Pleasant Crescent and Nos 27, 29 and 31 Stapleton Hall Road. However concerns regarding the impact of the proposal on outlook have also been raised by the occupiers of other nearby properties.
21. Existing buildings on site are positioned immediately to the rear of Nos 32 to 36 Mount Pleasant Crescent and Nos 23 to 31 Stapleton Hall Road with the only dwellings positioned close to the existing two storey building being Nos 23 and 25 Stapleton Hall Road. Though the proposed building would be positioned further away from the site boundary to the rear of Stapleton Hall Road and adjacent to the car park, it would remain adjacent to the site boundary to the rear of Mount Pleasant Crescent and would move nearer to the rear boundary of properties on Victoria Road. In addition though lower than the existing two storey building, the two storey parts of the proposed building would be higher than all of the existing single storey buildings. The height increase would be significant to the rear of Nos 25 to 31 Stapleton Hall Road and to the rear of Nos 34 and 36 Mount Pleasant Crescent.
22. Notwithstanding that the overall mass of buildings on site would decrease slightly, the height of the two storey part of the proposed building together with its position relative to the rear gardens and rear elevations of properties at Nos 32 to 36 Mount Pleasant Crescent and Nos 27 to 31 Stapleton Hall Road would result in a significant adverse impact on the outlook from these neighbouring properties. The inclusion of projecting balconies on the elevation to the rear of properties on Stapleton Hall Road and very close to the site boundary would exacerbate the impact on the outlook from these properties. Whilst some windows in the rear elevation of nearby properties are obscurely glazed and serve bathrooms, other windows serve habitable rooms such as bedrooms and dining rooms.
23. I have had regard to the concerns raised by the occupiers of other nearby dwellings in relation to outlook including those at 30 Mount Pleasant Crescent and 25 Stapleton Hall Road, however having regard to the relative scale and position of the existing and proposed buildings I am satisfied that any impact on the outlook from these other properties would not be significant.

Privacy

24. At the hearing the Council stated that its concerns regarding privacy relate to 30 Mount Pleasant Crescent and the main parties agreed that the Council does not have any adopted privacy distance standards. During the hearing the

Council also stated that in its view the use of the phrase “safeguard” in part B(d) of DMDPD Policy DM7 does not mean that existing privacy needs to be safeguarded rather that development proposal should ensure adequate privacy. Concerns regarding the impact of the proposal on privacy have also been raised by the occupiers of other nearby properties.

25. The existing two storey building, which I understand was previously in use as an office, contains a number of first floor windows. At my site visit I observed the view from these windows and noted that they provide views into the rear gardens of some neighbouring properties on Stapleton Hall Road and Mount Pleasant Crescent with very limited views of the rear elevations of nearby dwellings.
26. A large glazed opening serving the living room of unit 9 would be positioned at first floor on the south west elevation of the proposed building, directly facing towards the car park. Though the rear elevation of No 30 contains a number of habitable room windows, I consider that the relative position of these windows and the first floor living room window in unit 9 and in particular the oblique angle between them, means that any overlooking from the proposed first floor window would be limited and would not result in a significant loss of privacy to No 30. In addition there would not be any significant loss of privacy to the garden of No 30 and any overlooking of No 30 from the ground floor windows of the proposed building would be prevented by the existing rear boundary wall.
27. All first floor windows and balconies on the elevation to the rear of Stapleton Hall Road would either be obscurely glazed or etched obscure glass with timber cladding to prevent any overlooking. Though I note that it appears that the sides of some of the balconies would be clear glazed, given the angle of view that would be available to users of the balconies I do not consider that this would result in any significant overlooking of or loss of privacy to the gardens of properties on Stapleton Hall Road. Having regard to the relative position of other balconies and windows in the proposed building and surrounding dwellings I do not consider that the privacy of any other properties would be significantly affected.
28. Taking the above matters into consideration, whilst the proposal would not result in a significant loss of privacy to neighbouring properties, it would have a significant adverse effect on the living conditions of the occupiers of neighbouring properties having regard to outlook. It is therefore contrary to Policy 7.6 of the LP, Policy SP11 of the HLP and Policy UD3 of the UDP. These policies seek to ensure that, amongst other things, development proposals are of the highest standard of design that respects its local context and that there is no significant adverse impact on residential amenity in terms of loss of aspect. It is also contrary to policies DM1, DM7 and DM12 of the emerging DMDPD insofar as they relate to the residential amenity of existing residents.

Living conditions (future)

29. As stated, the Council has amended its first reason for refusal relating to the living conditions of future occupiers of the proposal and has stated that its concerns relate solely to the amount of daylight that would be received by the living/kitchen/dining room of unit 4. The main parties agree that unit 4 and the remainder of the residential units in the proposal meet all other residential standards.

30. There is also agreement that the living/kitchen/dining room of unit 4 achieves an average daylight factor (ADF) of 1.65% and that the relevant guide for living rooms as set out within the BRE Trusts' document Site Layout Planning for Daylight and Sunlight - A guide to good practice (BRE Guide) is 1.5% and is 2% for kitchens. The summary within the BRE Guide states that the guide is purely advisory and that the numerical targets within it may be varied to meet the needs of the development and its location. My attention has also been drawn to advice regarding daylight and sunlight contained within the Mayor of London's Housing Supplementary Planning Guidance (SPG) and I have had regard to this in reaching my decision.
31. Paragraphs 2.3.45 to 2.3.47 of the SPG are of particular relevance with paragraph 2.3.47 stating that BRE guidelines on assessing daylight and sunlight should be applied sensitively to higher density development in London, particularly in central and urban settings and that quantitative standards on daylight and sunlight should not be applied rigidly without carefully considering the location and context and standards experienced in broadly comparable housing typologies in London.
32. The living/kitchen/dining room of unit 4 would be an open plan room with two large full height glazed openings serving the living/dining part of the room and a smaller window positioned within the kitchen part of the room. Though I note that the ADF for the kitchen part of the room fails to meet the BRE Guide guidelines, the living/dining part of the room exceeds the minimum guideline for living rooms. Having regard to the open plan nature of the room, the site's urban location and the fact that BRE guidelines are purely advisory I consider that future occupiers of unit 4 and users of the living/kitchen/dining room would have satisfactory access to daylight. Though amended plans have been provided by the appellant that improve daylight levels in the living/kitchen/dining room of unit 4, as I have found that daylight levels are acceptable, there is no need for me to consider these amended plans further.
33. Whilst the Council's concerns regarding future occupiers are restricted to daylight levels within unit 4, other concerns have been raised by interested parties regarding the outlook from and privacy to the proposed units. As I have found that there would be no significant loss of privacy to neighbouring properties I also consider that adequate levels of privacy would be provided to future occupiers of the proposal. Whilst I note that the outlook from a number of rooms within the proposed building would be restricted by walls, fences and by balconies, I have seen no substantive evidence to suggest that the outlook would be so restricted so as to be significantly harmful to the living conditions of future occupiers.
34. Taking the above matters into consideration, I conclude that future occupiers of the proposed residential units would have adequate living conditions having particular regard to the amount of daylight that would be received by the living/kitchen/dining room of unit 4. The proposal therefore complies with policies 3.5 and 7.6 of the LP, Policy UD3 of the UDP, and Policy SP11 of the HLP insofar as they relate to the living conditions of future occupiers of residential accommodation. These policies seek, amongst other things, to ensure that development is well designed to meet the needs of occupiers. It also complies with policies DM1 and DM12 of the emerging DMDPD insofar as they relate to the residential amenity of future occupiers.

Other Matters

35. A Planning Obligation was submitted during the appeal and was amended after the hearing to reflect discussions which took place during the hearing and to relate solely to car club membership. However as the appeal is being dismissed due to my findings on other substantive issues, it is not necessary for me to consider the Planning Obligation in detail.
36. The site lies within an area of archaeological importance and in the absence of any archaeological information an objection was raised to the application by Historic England. An Archaeological Assessment was submitted during the appeal and the Greater London Archaeology Advisory Service (GLAAS) was consulted on it. At the hearing I was provided with a copy of the response from GLAAS who raise no objection to the proposal subject to the imposition of a suitably worded condition. In light of this I am satisfied that the proposal would not be harmful to the area of archaeological importance.
37. Notwithstanding my finding of harm to the character and appearance of the CA, I am satisfied that the proposal would not harm the setting of any nearby listed buildings. This is having regard to the relative position of and distance between the proposal and these buildings.
38. In reaching my decision I have had regard to the fact that Policy 3.4 of the LP seeks to optimise housing output for different types of location within the relevant density range shown in Table 3.2 of the LP. However Policy 3.4 also requires account to be taken of local context and character and of the design principles of Chapter 7 of the LP and for the reasons stated, the proposal is not considered to have due regard to these.
39. The proposal would provide revenue for the Council through the New Homes Bonus (NHB) and through CIL contributions. However there is no evidence regarding whether the Council would use the NHB revenue in a way which is material to the development being proposed and whilst the proposal would generate CIL contributions, this is not a benefit that either in itself or in combination with other benefits of the proposal would outweigh the harm that I have identified.

Conclusion

40. I am satisfied that future occupiers of the proposed residential units would have adequate living conditions and that the proposal would not result in a significant and harmful loss of privacy to neighbouring properties. However it would fail to preserve the character and appearance of the Stroud Green Conservation Area and it would have a significant adverse effect on the living conditions of the occupiers of neighbouring properties having regard to outlook. The proposal is therefore contrary to the development plan when taken as a whole.
41. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Guy Williams	Of Counsel, instructed by Indigo Scott
Neil Jones	Rapleys
Jon Davis	Indigo Scott
Christine Hereward	Pemberton Greenish
Jason Kennedy	Townscape
Derek Weakford	Architect

FOR THE LOCAL PLANNING AUTHORITY:

Edward Grant	Of Counsel, instructed by the London Borough of Haringey
Wendy Robinson	London Borough of Haringey
Charles Rose	The Heritage Practice

INTERESTED PERSONS:

Hannah Gibbs	Of Counsel, instructed by The Stroud Green Residents Group
Richard Horton	Local resident
Celia Locks	Local resident
Roy Kim Burgess	Local resident
Jane Austin	Local resident
Joe Crowley	Local resident
Suzanne Odd	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Overlooking distances from 86 Victoria Road, London N4.
2. Drawing number A14/SA257/2/12B.
3. Decision notice for application reference HGY/2017/0770.
4. Decision notice for application reference HGY/2017/0771.
5. Photographs of the appeal site.

6. Extract from Haringey's Local Plan Strategic Policies 2013 – 2026 March 2013.
7. Mayor of London Housing Supplementary Planning Guidance.
8. Extract from London Borough of Haringey's Register of Local Listed Buildings of Merit.
9. Plans submitted with applications HGY/2017/0770 and HGY/2017/0771.
10. Extract from the London Plan.
11. Plan submitted with 2008 application.
12. Drawing number A14/SA257/2/08K Proposed Elevations Sheet 2 of 2.
13. Updated BRE calculations dated 22 March 2017.
14. Extract of list entry and description for Stapleton Hall.
15. Email from GLAAS dated 28 March 2017.