The Planning Inspectorate

Appeal Decision

Site visit made on 6 June 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 30 June 2017

Appeal Ref: APP/V5570/W/17/3168707
440A Hornsey Road, Islington, London N19 4EB

- 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 Fitzpatrick Team Developments Ltd against the decision of the Council of the London Borough of Islington.
- The application Ref P2016/3218/FUL, dated 12 August 2016, was refused by notice dated 21 December 2016.
- The development proposed is the demolition of the existing warehouse buildings at 440A Hornsey Road and erection of a mixed use development comprising 456m^2 of commercial space (Use Class B1) and 4 no two storey residential properties plus basement level.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Amended plans have been submitted since the determination of the application in support of the appeal which shows minor amendments to the basement level of Unit H4 in order to meet with BRE requirements. As the proposed variations are minor, I am satisfied that accepting the plans would not prejudice the interests of any party and I have determined the appeal on this basis.

Main Issue

3. The main issue in this case is the effect of the proposal on the living conditions of future occupiers with specific reference to outlook.

Reasons

4. The site is situated on the eastern side of Hornsey Road and is surrounded on all sides by a mix of residential and commercial units. It is proposed to demolish the existing warehouse buildings and erect a mixed use development comprising 456m^2 of commercial space (Use Class B1) and 3 x 2 bedroom and 1 x 1 bedroom residential dwelling houses over basement, ground and first floor levels. The units would be accessed via an access road from Hornsey Road and a glazed walkway adjacent to the boundary wall to the rear of the properties at 438-426 Hornsey Road.

5. The units would accommodate bedrooms at basement level, looking into a basement level light well, kitchen dining space at ground floor looking onto private outdoor amenity space to the rear of each unit and living room at first floor level each with access onto a private terrace.

6. Following the amendments to the plans, an update to the daylight/sunlight assessment has been carried out which states that the average daylight factor (ADF) would remain above BRE recommended values in all rooms.

7. The proposed basements would accommodate bedrooms served by front light wells. The basement bedroom of Unit 1 would look out onto a 25m^2 courtyard which is 3.4m deep and 6m wide. Unit 4 contains 2 bedrooms that look out onto a 12m^2 courtyard which is 2-3m deep and 5m wide. The size of the courtyards of Units 2 and 3 fall somewhere in between these measurements.

8. The appellant points to the fact that these dimensions meet the requirements set out in criterion F of Policy DM3.5 which states that any basement and/or ground floor units should have a defensible space of not less than 1.5m in depth in front of any window to a bedroom or habitable room. However, I agree with the Council that outlook is a different concept to that of defensible space. The bedroom windows would be in close proximity to an approximately 6.7m high boundary wall, to the front of the units which would significantly restrict occupier's outlook, particularly in relation to Unit 4. The sense of enclosure would be compounded by the presence of the walkway over each of the light wells which would further reduce outlook.

9. Attention is drawn to computer generated 3 dimensional images showing the outlook from some of the units. I note that these have been updated to reflect the design amendments to the scheme and that they have been produced on the basis of detailed drawings and thus I have no reason to doubt their accuracy. In terms of the basements, the CGI views show the approach to the houses from the mews where the basements can be seen. Views out from a basement bedroom within Unit 2 are also shown. However, Unit 4 is not shown which has the smallest courtyard and which is closest to the boundary wall. Furthermore, I agree with the Council that the view from the basement bedroom is taken from the opposite end of the room and, therefore, does not accurately indicate the build-up of the boundary wall from basement level. Furthermore, the image of the approach to the houses serves to demonstrate the oppressive effect of the proposed walkway on the bedrooms and the courtyard areas below.

10. I have considered the revised plans for Unit H4; however, the reduction in the light well would compound the sense of enclosure to the bedrooms and courtyard of Unit H4. I, therefore, consider that all bedrooms would have a poor outlook and a sense of enclosure. Bedrooms are habitable rooms which can be expected to have a reasonable outlook.

11. All of the properties at ground floor level would have an outlook onto a high wall to the front which would result in poor outlook and a sense of enclosure. In particular, due to the narrow walkway and proximity to the high boundary wall the outlook to Unit 4 would be significantly compromised and enclosed. I acknowledge that Units H2, H3 and H4 would look out onto a rear amenity space which would compensate for the lack of outlook to the front and provide some relief from the sense of enclosure. However, I note that the courtyard of Unit H1 is significantly smaller than the other units and is enclosed by high walls. At first floor level, the lounge area of Unit 1 would face out onto a small terrace in close proximity to the flank wall of the adjoining unit. Indeed, the living areas of Units H2-H4 would also look out onto flank walls of adjoining units, albeit they would have a larger terrace.

12. Attention is drawn to the dual aspect nature of the ground and first floor of Unit 1; however, both aspects would have an outlook onto a small courtyard/terrace, enclosed by high walls. Whilst Unit 1 would have a large courtyard to the basement, the walkway above would result in a compromised outlook and sense of enclosure. Although the heights of the existing walls are to be reduced they would, nevertheless, be of a significant height. I have had regard to the CGI images; however, they only serve to demonstrate the sense of enclosure which would be experienced.

13. I acknowledge that an element of judgement may be required in assessing the outlook which would be experienced by a development proposal. Nonetheless, taking the above factors in combination, I consider that overall the proposal would provide a poor standard of accommodation. In particular Units H1 and H4 would experience unacceptable levels of outlook and enclosure.

14. Attention is drawn to revised plans which were submitted to the Council and subsequently withdrawn for a three dwelling scheme on the appeal site. I note that the bedrooms would face onto a small courtyard enclosed by a high wall with a walkway above and as such would still experience a sense of enclosure, although the courtyard for H4 would be slightly larger. However, the unit which is most constrained in the current appeal proposal (H1) is replaced with a commercial unit. Overall, the withdrawn scheme would be less harmful than the appeal proposal and does not, therefore, justify the harm which I have identified.

15. I have had regard to the fact that the proposal meets internal space standards and outdoor amenity space standards and other policy requirements. The appellant also points to the generous internal dimensions of the units, the presence of nearby parks and the viability assessment which considers that the units would sell at market value. Although the proposal meets the density standards set out at table 3.2 of the London Plan, the supporting text to Policy 3.4 is clear that it is not appropriate to apply Table 3.2 mechanistically and that other factors such as, amongst other things, local context and design need to be taken into account. In this case, I consider that the proximity to surrounding development is such a factor. Consequently, none of these factors would justify the harm which I have identified with regards to outlook.

16. Attention has also been drawn to other mews style developments in the area. In the case of Derry Mews, I note that the front of the dwellings are relatively close to the boundary wall, however, I note that these properties do not have basement level accommodation with light wells and walkways above. The case at Lotus Mews also does not have accommodation at basement level with walkways above. In both these cases, the sense of enclosure is not as significant as would be experienced by the appeal proposal. Neither of these examples are, therefore, directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision.

17. The proposal would make a contribution, albeit limited, to housing land supply, including a contribution to off-site affordable housing. There would be some economic benefits in the short term during the construction phase and in the longer term as future residents would support local businesses and services. It would also result in the redevelopment of a previously developed site in an accessible location. However, none of these benefits either individually or cumulatively would outweigh the significant harm which I have identified.

18. For the reasons stated, I conclude that the proposal would harm the living conditions of future occupiers with specific reference to outlook. The proposal would, therefore, be contrary to Policies 3.4 and 3.5 of the London Plan 2016, Policies CS8 and CS9 of the Islington Core Strategy 2011 and Policies DM2.1 and DM3.4 of the Islington Development Management Policies (2013) which collectively seek to secure a high quality of development which provides a good level of amenity.

Other matters

19. Criterion G of Policy CS12 of Islington's Core Strategy requires that 50% of additional housing to be built in the Borough over the Plan period should be affordable. In addition, all sites capable of delivering 10 or more units gross should 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.

20. The Islington Affordable Housing Small Sites Contributions Supplementary Planning Document (SPD) 2012 requires all minor residential developments resulting in the creation of one or more additional residential unit(s) to provide a commuted sum of £50,000 per unit towards the costs of providing affordable housing units on other sites within the Borough.

21. The Council consider that in the event that the appeal were to be allowed, the proposal should make a contribution to off-site affordable housing by way of a section 106 agreement. Following the undertaking of a viability assessment and negotiations with the Council a contribution of £76,199 has been agreed and a signed section 106 unilateral undertaking has been provided. The proposal also makes a 'carbon off-set contribution' of £6000 to be spent by the Council on the reduction of carbon dioxide emissions from the existing building stock in the Borough. As I am dismissing the appeal on other grounds it has not been necessary to consider this matter in any further detail.

22. The proposal would be situated behind Number 440 Hornsey Road; a grade II listed building, which is currently in use as a mosque. The architectural merit of the listed building is primarily confined to the front and side elevations. Taking into account the state of disrepair of the existing building on the appeal site, I consider that the proposal would result in a visual improvement to the appeal site. Also details of the bin store could be required by condition to ensure that this does not have an adverse effect on the setting of the listed building. Consequently, I consider that the proposal would preserve the setting of the listed building in accordance with the expectations of the Act[1].

Conclusion

23. For the reason stated, and taking all other considerations into account the appeal should be dismissed.

Caroline Mulloy

Inspector

[1] Planning (Listed Building and Conservation Areas) Act 1990