The Planning Inspectorate

Appeal Decision

Site visit made on 10 July 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 20th July 2017

Appeal Ref: APP/X5210/W/17/3172857
Rear Workshop and Premises, 322 West End Lane, London NW6 1LN

- 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 Carmelli against the decision of the Council of the London Borough of Camden.
- The application Ref 2016/4971/P, dated 9 September 2016, was refused by notice dated 24 November 2016.
- The development proposed is 'redevelopment to provide a ground floor office suite with a 1-bedroom maisonette over'.

Decision

1. The appeal is dismissed.

Procedural Matters

2. In the interests of natural justice and fairness to all parties, I have dealt with the appeal on the basis of the proposal and scheme which was considered and determined by the Council and on which interested people's views were sought. If the appellant wishes to seek planning permission for a revised scheme, another application could be made to the Council.

3. Since the application was determined and the appeal lodged, the Council has adopted the Camden Local Plan (the LP) which has replaced the Camden Core Strategy and Camden Development Policies as the basis for planning decisions in the borough. Therefore, in determining the appeal, I have had regard to the LP policies identified in the Council's appeal statement, which supersede the policies of the Core Strategy and Development Policies set out in the decision notice.

Main Issues

4. The main issues are the effect of the appeal proposal upon:

   a) The character and appearance of the area;
   b) The living conditions of occupants of neighbouring residential properties with particular regard to light and outlook, and of future occupants of the proposed development with regard to layout, light and outlook;
   c) Structural, ground and water conditions;
   d) Sustainable transport, with particular regard to cycle storage; and
   e) Economic development.

Reasons

Character and appearance

5. The appeal site comprises a modest single storey garage/workshop building located to the rear of 322 West End Lane, a 3 storey end of terrace property on the corner of West End Lane and Crediton Hill. The ground floor units of the terrace, facing West End Lane, are in commercial use and there are some residential flats above. The front elevation of the terrace is faced in red brick and white render whilst the side and rear elevations are of a more subdued appearance, finished in pebble dash and buff brick respectively. The appeal property itself fronts onto the predominantly residential Crediton Hill, which comprises 2 and 3 storey dwellings including the adjacent substantial red brick and white render Edwardian villa at 76 Crediton Hill.

6. The 3 storey projections along the rear of the host terrace form a consistent building line which, due to its modest height, the existing appeal property does not visually breach. The proposed development would be 3 storeys high and, although partially set below ground level, would nevertheless represent a significant high level incursion beyond the established rear building line, eroding the space between the appeal property and No 76. Consequently, it would be a prominent addition to the street scene.

7. The squat, flat roofed form of the proposed building and the horizontal emphasis of the fenestration would not reflect the vertical proportions and pitched roof design of neighbouring development. The proposed use of red bricks and white render would echo materials used in the surrounding area. However, these materials would appear strident and starkly incongruous adjoining the muted side and rear elevations of the host building. Moreover, the addition of a projecting glazed balcony at a high level on the front elevation would create a conspicuous, discordant feature.

8. For the reasons set out above, I conclude that the design and materials of the proposed development would have a harmful effect upon the character and appearance of the area, contrary to the design aims of LP Policy D1, Camden Planning Guidance: Design (CPG1) and Policy 2 of the Fortune Green & West Hampstead Neighbourhood Plan (the NP).

Living conditions

9. The existing building on the appeal site is situated in close proximity to the rear facing windows of the adjoining flat at 324 West End Lane. Although the rear elevation of the proposed building would be set in from the boundary at first and second floor level, the overall height and bulk of the development would be significantly greater than the existing single storey building. I observed during my site visit that this would have an enclosing and overbearing effect upon outlook from the windows serving a number of rear facing habitable rooms within No 324. Due to its siting to the south west of No 324, the development is also likely to result in a loss of light to these rooms. There is no evidence before me to demonstrate that this would not be so.

10. There are a number of windows on the side elevation of No 76 to the south, which face onto the appeal site. The proposed development would introduce a flank elevation of significant height in very close proximity to these windows. Since it would be situated to the north of No 76, the development is not likely

to give rise to a loss of light to the rooms served by these windows. However, although some of the windows are obscure glazed and therefore likely to serve non-habitable rooms, many are clear glazed and I have no evidence to demonstrate that they do not serve habitable rooms. Due to its siting and scale, the appeal proposal is likely to have an enclosing effect and harm the outlook from these windows.

11. For the reasons set out above, I conclude that the appeal proposal would have a harmful effect upon the living conditions of occupants of neighbouring residential properties with particular regard to light and outlook. Therefore, it fails to accord with the amenity protection aims of LP Policy A1 and Camden Planning Guidance: Amenity (CPG6).

12. Although reason for refusal No 1 set out in the decision notice refers to NP Policies 1 and 2, I do not consider that these policies are directly relevant to amenity protection and therefore I have not had regard to them on this occasion.

13. Turning to the effect of the appeal proposal upon the living conditions of future occupants, the maisonette would conform to the nationally described space standards reflected in Policy 3.5 of the London Plan and, although laid out over 3 floors, would benefit from adequately sized, functional and fit for purpose rooms. Whilst the maisonette would be single aspect, the sizeable opening windows of both the combined living/kitchen/dining room and the bedroom would face south west over Crediton Hill and would therefore provide adequate light, ventilation and outlook.

14. For the above reasons, I conclude that the appeal proposal would not have a harmful effect on the living conditions of future occupants of the development with regard to layout, light and outlook. Therefore, in this regard, it accords with the housing quality and amenity protection aims of LP Policies A1 and D1, London Plan Policy 3.5, Camden Planning Guidance: Housing (CPG2), CPG6 and NP Policy 1.

Structural, ground and water conditions

15. Although not a full basement, the proposal would amount to underground development. LP Policy A5 and the Camden Planning Guidance: Basements and Lightwells (CPG4) seek to ensure that such development would not cause harm to, amongst other matters, neighbouring properties and the structural, ground or water conditions of the area. The policy states that, in determining proposals for basements and other underground development, the Council will require an assessment of the scheme's impact on drainage, flooding, groundwater conditions and structural stability in the form of a Basement Impact Assessment (BIA).

16. A BIA has not been submitted in relation to the proposed development. It is necessary to establish the extent to which structural stability and ground and water conditions may be affected by the proposal before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Consequently, in this case, it would not be appropriate to secure the submission of a BIA by condition.

17. For the reasons set out above, I conclude that it has not been adequately demonstrated that the proposed development would not have a harmful effect

upon structural, ground and water conditions. The appeal proposal therefore fails to comply with the environmental protection aims of LP Policy A5 and CPG4.

Sustainable transport

18. Access to the ground floor of the residential element of the development would be level, and it is proposed to provide a vertical cycle rack inside the building adjacent to the entrance door. Based on the submitted plans, I see no reason why a cycle could not be manoeuvred within the ground floor entrance hall. Details of the design and specification of the cycle storage could be secured by condition.

19. I therefore conclude that the appeal proposal would be capable of providing adequate cycle storage. As such, it accords with the sustainable transport aims of LP Policy T1 and Camden Planning Guidance: Transport (CPG7).

20. Although reason for refusal No 3 set out in the decision notice makes reference to NP Policies 5 and 7, I do not consider that these policies are directly relevant to cycle storage and so I have not had regard to them in this case.

Economic development

21. Based upon the evidence before me, and my observations on site, the existing premises comprise an uninsulated garage/workshop with a small ancillary office, amounting to an overall floor area of around 41sqm. The proposed development would provide approximately 33sqm of newly constructed office space, and would therefore result in a reduction in the overall size of the employment premises at the appeal site. However, the proposed office space could accommodate several employees and would therefore be suitable for a small business. Moreover, based on the submitted evidence, it would be constructed to a significantly higher standard than the existing building.

22. I therefore conclude that the appeal proposal would not have a harmful effect upon economic development, and would accord with LP Policies E1 and E2 which aim to maintain and secure a range of premises for businesses, and with NP Policy 12 which seeks to promote economic growth and employment and is supportive of developments that provide sites and premises for business, commercial and employment use.

Other matters

23. A completed legal agreement under section 106 of the Town and Country Planning Act 1990 has been submitted, which would secure car-free housing and highway works with the aim of reducing air pollution and congestion and improving the attractiveness of the area for local walking and cycling. This has been accepted by the Council as addressing reasons for refusal No 7 and 8 set out in the decision notice. Notwithstanding this, were I to allow the appeal, I would still need to consider the obligation against the relevant statutory tests. However, as I have found conflict with the development plan in relation to a number of the main issues set out above, I have not addressed this matter further.

Conclusion

24. I have found no harm in relation to sustainable transport, economic development and the living conditions of future occupants of the proposed development. However, in relation to the first and second main issue, I have identified harm in respect of the character and appearance of the area and the living conditions of occupants of neighbouring residential properties. Moreover, with regard to the third main issue, it has not been demonstrated that the proposal would not have a harmful effect upon structural, ground and water conditions. Therefore, in respect of these issues, the proposal would conflict with the development plan and consequently cannot benefit from the presumption in favour of sustainable development.

25. The proposed development would create an additional residential unit in an accessible location. Whilst this benefit is a material consideration which I afford moderate weight, it is not sufficient to outweigh my findings in respect of the first, second and third main issues and does not lead me to determine the appeal other than in accordance with the development plan.

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

CL Humphrey

INSPECTOR