

Appeal Decisions

Site visit made on 18 April 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 31 July 2017

Appeal A Ref: APP/V5570/W/17/3167531

114 Grosvenor Avenue, Islington, London, N5 2NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr T Tasou against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/3761 is dated 26 September 2016.
 - The development proposed is a change of use of a former residential home (Use Class C2) to 2 houses (Use Class C3); rear extension and reconfiguration of rear elevation; excavation at front and at rear to form/reinstate light-wells; landscaping; and provision of refuse and cycle storage.
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Appeal B Ref: APP/V5570/W/17/3167530

114 Grosvenor Avenue, Islington, London, N5 2NY

- 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 T Tasou (Grosvenor Highbury Ltd) against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/4519, dated 17 November 2016, was refused by notice dated 12 January 2017.
 - The development proposed is a change of use of a former residential home (Use Class C2) to four self-contained flats and one house (Use Class C3), rear extension and reconfiguration of rear elevation, excavation at front and rear to form/extend light-wells together with landscaping and provision of refuse and cycle storage.
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Decisions

Appeal A Ref: APP/V5570/W/17/3167531

1. The appeal is dismissed and planning permission is refused.

Appeal B Ref: APP/V5570/W/17/3167530

2. The appeal is dismissed.

Application for costs

3. An application for costs was made by Mr T Tasou (Grosvenor Highbury Ltd) against the Council of the London Borough of Islington. This application is the subject of a separate Decision.

Main issue

4. The main issue is whether appropriate provision would be made for affordable housing.
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Reasons

5. Policy CS12 of Islington's Core Strategy 2011 (CS) seeks to provide more high quality, inclusive and affordable homes by requiring that 50% of additional housing to be built in the borough over the plan period is affordable. Schemes of fewer than 10 units are required to provide a financial contribution towards affordable housing provision off site.
6. The Council's Affordable Housing Small Sites Contributions Supplementary Planning Document 2012 (SPD) explains that, as demonstrated by Islington's Housing Needs Study (May 2008) and a Strategic Housing Market Assessment (2011), the need for affordable housing, and for social rented housing in particular, remains very high. Following analysis of viability evidence, the SPD has set the level of contribution in the area of the appeal site at £50,000 per additional dwelling unit. The Council argues that a contribution is reasonable and necessary in these cases, but none has been offered by the appellant by means of a planning obligation.
7. The appellant has not challenged the viability assumptions underpinning the SPD or offered any site-specific viability evidence that would suggest that a contribution of this scale would compromise deliverability of the appeal proposals. Therefore, I have no reason to conclude that the scheme could not viably support the contribution sought by the development plan.
8. The appellant relies on Government policy, in the form of the Written Ministerial Statement (WMS) of 28 November 2014, which states that tariff-style contributions such as that set by the SPD should not be sought from developments of 10 dwellings or less [sic]. The Planning Practice Guidance (PPG) was updated to reflect the WMS approach¹ following the judgment by the Court of Appeal on 11 May 2016² that the policy stance adopted by the WMS is lawful.
9. The appellant argues that the more recent publication of the WMS should effectively supersede CS Policy CS12 and the SPD. However, the publication of government policy, such as the WMS or the National Planning Policy Framework, has not altered the requirement of Section 38(6) of the Planning and Compulsory Purchase Act 2004. This is that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. That said, while the WMS and the amended PPG have not superseded the development plan, their policy stance nevertheless remains a very important consideration in any small scale housing proposal, including the current appeals, and one to which very substantial weight must be attached.
10. The appellant has questioned the Council's data on deprivation in the area, as it is some five years old. However, there is nothing before me to lead me to believe that the social profile of the borough has materially changed over the last few years. Therefore, I accept the Council's evidence that the area suffers from severe deprivation.
11. I note the appellant's comments that homelessness rates in Islington and temporary accommodation placement numbers are below those in most other

¹ Paragraph ID 23b-031-20161116

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

central London boroughs. I also note his comments that Islington had the 5th highest level of affordable housing completions in 2011/12 to 2013/14. Nonetheless, the CS policy and the SPD clearly derive from severe affordability issues in the borough. The Council's appeal statement outlines detailed evidence of continuing worsening trends in this regard, with an extremely adverse relationship between house prices and rents on the one hand and typical incomes on the other.

12. The Council claims that over one third of new provision of housing comes from sites of 10 units or fewer and that the Small Sites Contribution has funded nearly a fifth of the Council's social rented new build programme over the past four monitoring periods. That said, the appellant strongly disputes the value of small sites to the supply of affordable homes (AH) and suggests that the small sites financial contribution has resulted in the delivery of about 3% of the annual provision of AH. However, regardless of the historic contribution of small sites to AH numbers, the Council's evidence of the extreme disparity between housing costs and affordability is compelling. In my assessment, there is an acute need for the provision of affordable homes in the area and this need is a result of specific local circumstances.
13. The WMS seeks to reduce a disproportionate burden of developer contributions on small-scale developments. In the absence of a viability assessment, there is no evidence in these cases that the contributions would be disproportionate. Therefore, notwithstanding the obviously desirable objective of the WMS policy, in this instance I consider that greater weight must be given to the specific local circumstances that underpin the development plan and SPD requirement.
14. Both parties have referred to numerous conflicting appeal decisions in respect of the WMS. I do not know what information was before the Inspectors in each of those appeals and I have based my decisions upon the specific evidence that has been put before me. I note the appellant's comments that other London boroughs do not require affordable housing for small-scale developments but it is up to each Council to set its own policies and their lack of requirement does not mean that Islington should follow suit.
15. I conclude that the proposal should make a financial contribution to affordable housing provision in accordance with the SPD, the requirements of which are reasonable and necessary in these cases. A planning obligation to that effect would meet the tests set out by the Framework³.
16. In the absence of a formal commitment, the proposal would not make appropriate provision for affordable housing and the resultant conflict with Policy CS12 would not be outweighed by other material considerations.

Other Matters

17. I understand that planning permission was granted on the site in November 2016 for the change of use to four flats and a house but this does not negate the need for the financial contributions towards affordable housing in these particular cases.
18. The site is located in the Highbury New Park Conservation Area which is characterised by grand and elaborately decorated Victorian detached and semi-detached houses. I consider that the alterations would respect the

³ NPPF paragraph 204

architectural design of the building and therefore, that of the wider conservation area. As such I consider that the proposal would preserve the character and appearance of the conservation area.

Conclusion

19. For the reasons set out above, and having taken account of all representations made, I conclude that the appeals should be dismissed.

Siobhan Watson

INSPECTOR