
Appeal Decision

Site visit made on 1 August 2017

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

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

Decision date: 18 August 2017

Appeal Ref: APP/V5570/W/17/3173855

110 Tollington Way, Islington, London N7 6RY

- 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 Dealmore Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/3653/FUL, dated 26 August 2016, was refused by notice dated 21 December 2016.
 - The development proposed is 1 new maisonette in the form of an additional single storey mansard on an existing 3 storey residential building. The maisonette incorporates the existing second storey.
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Decision

1. The appeal is dismissed.

The Proposal

2. The property at 110 Tollington Way is a three storey building sited at the end of a terrace. The building is subdivided into two flats, one on the ground floor with a maisonette above. The site is not in a conservation area and the building is not listed or otherwise designated for its townscape contribution.
3. The proposed development is described on the decision notice as the erection of a mansard roof extension with rear terrace and conversion of the upper floors of the building from 1 x 3 bed residential unit to form 2 x 1 bed residential units. This is a better description than that stated on the planning application form, set out in the bullet point above. The proposed floor plan layouts indicate a studio flat on the first floor with a 1 bed flat occupying the second and proposed third floor. No changes are shown to the ground floor flat.

Main Issues

4. These centre on two main areas, firstly matters to do with the design of the new roof and flats and secondly the Council's housing policies. More specifically:
 - The effect of the proposal on the appearance of the principal building and the street scene;
 - The effect on the Borough's housing stock in respect of the provision of affordable homes and family sized accommodation;
 - The effect on the living conditions of nearby residents;

- Whether the living space of the first floor unit would be of an adequate standard.

Reasons

Appearance

5. The design and access statement (DAS) indicates that the justification for a mansard roof on number 110 is because all the other properties in the terrace along Tollington Way have similar additions. In contrast the Council emphasises the visual relationship of the building to the block at 273-281 Hornsey Road immediately to the east at the junction.
6. The front of number 110, although physically abutting number 108 Tollington Way, is set back from the building line of the terrace. The building is of a lower height and has a slightly narrower plot width than the terrace buildings. The treatment of the ground floor elevation, the upper floor fenestration, the gable above, the building height and the use of materials all visually relate the building to numbers 273-281 at the corner. The roof over the principal element of the building has a shallow pitch and a hip at the rear, very different to the rhythm of the mansard roofs along the terrace. The stepped access through to the rear is linked to the rear access of the Hornsey Road properties. All these factors indicate the appeal site is part of and relates primarily to the corner block rather than the properties forming the terrace along Tollington Way. Also of note, the adjacent building number 108 does not display uniformity in elevational appearance with the remainder of the terrace to the west.
7. Islington's Urban Design Guide is a Supplementary Planning Document adopted in January 2017 (the Design Guide). The document provides guidance on how urban design principles should be applied to ensure new development successfully contributes to making the Borough a better place. The document is based on the Borough's development plan policies and is a consideration of very significant weight.
8. The Design Guide accepts that there is greater scope for introducing well-designed roof extensions outside of conservation areas and confirms the importance of the roofline to the rhythm and unity of a residential terrace or street. Having established that the principal visual relationship of the host building is not to the Tollington Way terrace, the justification for the mansard, in terms of building form and streetscene, is weak.
9. In this instance the mansard would be a flat mansard incorporating a flat top and steep front and back slopes with dormers inserted. A condenser and a photovoltaic panel would be installed and the rear slope would be cut back to allow for the provision of a terrace.
10. The proportions of the mansard would be out of keeping with the host building and the addition would sit uncomfortably behind the front gable. The roof extension would not be consistent with the rhythm established by the mansard roof forms on the terrace buildings (in particular from 106 westwards), whilst the extended building would relate poorly to the Hornsey Road buildings. I disagree with the appellant that the provision of the mansard would unify the appearance with the adjacent terrace houses. Views of the appeal site are in places obscured by other buildings but even so the buildings at the eastern end of Tollington Way do feature in local views.

11. With all the above considerations in mind, the proposed roof addition would harm the appearance of the host building and the streetscene. I conclude that the design of the extension to the roof does not respond positively to the existing building and the streetscape. It is not of high quality and would not improve the quality of the area. The proposal fails to comply with Policy DM2.1 of the Development Management Policies (the DMP) and Core Strategy Policy CS 9. There is conflict with a core planning principle of the National Planning Policy Framework (the Framework), which is to always seek a high quality design.

Housing stock

Affordable housing

12. In Islington's Core Strategy Policy CS 12 - Meeting the housing challenge – states in part G that to provide affordable housing 50% of additional housing to be built in the Borough over the plan period should be affordable. All sites capable of delivering 10 or more units gross should provide affordable homes on site. Schemes below this threshold should provide a financial contribution towards affordable housing provision elsewhere in the Borough.
13. The Council's Affordable Housing Small Sites Contributions Supplementary Planning Document (the SPD) supports the implementation of the Core Strategy. The SPD confirms that all minor residential developments resulting in the creation of 1 or more additional residential units(s) are required to provide a commuted sum towards the cost of affordable housing on other sites in the Borough. The requirement applies not only to new build but also conversions of existing buildings resulting in the creation of new units and the subdivision of residential properties resulting in net additional units. Based on a study of the level of financial contribution that would be viable, the required contribution is £50,000 per unit for north and mid-borough locations, which includes the Tollington Way area. Provision is made to take account of site specific circumstances, if supported and justified by viability evidence.
14. The appellant has accepted that the proposal is subject to the Council's requirements on affordable housing requirements. Relying on national policy, the appellant chose not to submit a planning obligation to secure a small sites contribution and no viability evidence was produced to support this approach. Late on in the course of the appeal process a draft planning obligation was submitted but it has no weight because it is incomplete. The proposal is not compliant with Policy CS 12 and the SPD.
15. The Framework in paragraph 50 requires a local planning authority to set out policies for meeting identified affordable housing needs on site unless off-site provision or a financial contribution can be robustly justified. A Written Ministerial Statement (WMS) in November 2014 stated that affordable housing and tariff style contributions should not be sought for sites of ten units or less and which have a maximum combined gross floorspace of 1,000 m². The developer contribution was stated to place a disproportionate burden on small scale developers. The reform was introduced to lower the construction cost of small scale new build and in turn to increase housing supply, encourage development on smaller brownfield sites and to help diversify the house building sector.

16. On 13 May 2016 a judgement by the Court of Appeal confirmed that the policy in the WMS is a material consideration in development management and development plan procedures and decisions. Very shortly after the judgement the policy in the WMS was given legal effect and a revision to the Planning Practice Guidance confirmed the special circumstances where contributions for affordable housing should not be sought from small scale development.
17. The Core Strategy policy on affordable housing pre-dated the WMS. The determining matter on this issue is whether the WMS outweighs the development plan policy.
18. The local planning authority produced evidence to demonstrate that housing in Islington has been getting more expensive more quickly compared to the national picture and elsewhere within London. Consequently the ability to purchase a home at even the lower property prices has become increasingly difficult for many residents. Moreover, in the private rented sector rents are shown to be significantly higher in the Borough than across Greater London. Attention has also been drawn to the fact that Islington has the highest population density of any local authority area in the UK. Indices indicate the Borough suffers high levels of poverty, deprivation and overcrowding. These factors explain why maximising affordable housing provision is a key priority for the Borough.
19. The local planning authority also demonstrated the role of small sites to housing delivery in a Borough that is densely built-up and covers a relatively small area. This source approximately provided one third of the new housing units 2012/13 to 2014/15. According to the Council between 2012/13 and 2015/16, a total of 157 Council new build social rented dwellings have been completed and the small sites contribution has funded nearly a fifth of Council's social rented programme over the last four monitoring periods.
20. The appellant disputed a number of points raised in the Council's evidence, most significantly drawing attention to a lack of evidence on the delivery of 157 affordable homes, the inappropriateness of the comparisons made with other local authorities, a recent fall in house prices and the inflationary effect the tariff has on house prices.
21. Having considered all the evidence I conclude that there is a serious shortage of affordable homes in the Borough, an area where affordability is a more acute issue than in many other London boroughs and local authority areas because of its demographic and locational characteristics. Small sites make a very important contribution to the delivery of new homes in the Borough. There is no significant evidence to show that the affordable housing contribution has had an adverse effect on housing supply and the development of smaller brownfield sites. The SPD allows for flexibility subject to viability evidence. Money secured through planning obligations to meet Policy CS 12 requirements would have to be directed towards affordable housing provision.
22. The Council and the appellant have submitted appeal decisions to support their respective cases. The decisions submitted by the appellant all date back to the August/September 2016 period. The decisions for proposed development in Weybridge, Richmond upon Thames and S Bucks show that inspectors have followed the direction of the WMS and Planning Practice Guidance in preference to the policy in the development plan. However, they have very little weight in this instance because they involve different local authority areas where the

housing context is unlikely to be directly comparable. In the two decisions that relate to development proposed in Islington, the most recent statement of national policy was afforded greater weight by the decision maker. The decisions do not detail the evidence submitted by the Council and therefore it is not possible to know whether it was similar to the evidence submitted in this appeal. The decisions do not provide a direction that I have to follow.

23. All the decisions referred to by the Council, nine in total, were issued in 2017 and concern proposed developments in the Borough. In those appeals the Inspectors decided in light of the evidence and the circumstances of the cases to attach greater weight to the Council's policies. Clearly the Council's position has been found to be justified in a number of very recent appeals.
24. Drawing all these considerations together I conclude the policy in the WMS does not outweigh the requirements of Policy CS 12 part G. A planning obligation securing a financial contribution towards affordable housing is necessary to make the development acceptable in planning terms. No viability evidence has been submitted to demonstrate that a contribution of £50,000 would not be fairly and reasonably related in scale and kind to the development. The proposal fails to comply with Policy CS 12 part G, as supported by the SPD.

Family homes

25. The Council's Core Strategy explains that the stock of housing in the Borough is skewed towards smaller dwelling types and that in the recent past a large proportion of smaller flats were being built. Policy CS 12 part E aims to ensure a range of unit sizes is provided, alongside resisting the loss of existing units that are appropriate for family accommodation. The purpose of Policy DM3.3 of the DMP is to maintain a supply of larger homes to meet Islington's housing need and to deliver the objectives in Policy CS 12 part E. These policies are consistent with the Framework that supports the creation of sustainable, inclusive and mixed communities. The Framework expects local planning authorities to plan for a mix of housing based on the needs of different groups in the community and to identify the size, type tenure and range of housing that is required, reflecting local demand.
26. The proposal is described as an extension and alteration of the existing building, rather than a conversion. Nevertheless the proposal does involve the change, or conversion, of existing units into different sized units, even though the change is facilitated by an extension. Policies CS 12 and DM3.3 are relevant, taking into account their objectives.
27. The existing accommodation on the first and second floors of number 110 comprises a three bedroom maisonette with a floor space of some 81 m². Policy DM3.3 of the DMP normally only permits the conversion of residential units into a larger number of self-contained units where the total floor area is in excess of 125 m² (gross internal). Therefore the unit is below the size threshold to be acceptable. Furthermore the proposal would provide a dwelling mix that has two x one double bed units or on the appellant's evidence a studio and a 1 bed unit. This mix would add to the oversupply of small units and is contrary to criterion (i) of part A of the policy.
28. In the national Technical Housing Standards (THS) the minimum gross internal floor area for a 3 bed unit across a 3 storey dwelling is 90m² and 84 m² for a 2

storey dwelling, compared to the 81 m² of the maisonette. In this case access to the kitchen is down a few steps off the internal hallway/landing on the first floor. This arrangement does not result in the unit being across three storeys. Therefore the size is not as much below the national standard as the appellant suggests. The three bedrooms are said by the appellant to fall below national requirements, although the dimensions of two of the bedrooms are not stated.

29. Notwithstanding the shortfall against the THS, the THS document states that the requirements of the standard for bedrooms and internal areas are relevant only in determining compliance with the standard in new dwellings (which includes conversions). Accordingly they do not apply to an existing unit. By comparison, in the DMP (Table 3.2) the minimum space standard for a flat with one double and two single bedrooms is 74 m. In terms of amenity space the unit does not have access to a garden.
30. Overall, I consider that the quality of the existing unit is adequate, rather than poor, bearing in mind its location and the type of property involved. The standard of living accommodation does not justify the loss of the maisonette or overcome the conflict with Policy CS 12 and Policy DM3.3. The inappropriate dwelling mix supports that conclusion.

Living conditions

Neighbours

31. The proposed roof extension to create a third floor would result in a much bulkier and higher roof form than currently exists. The development has the potential to adversely affect the residents at 277-281 Hornsey Road and more particularly the occupiers of the flats on the second floor of nos. 279 and 281.
32. Plans of the layout of existing accommodation in the neighbouring block formed part of a planning application earlier this year for extensions and alterations to the properties. The plans show that the second floor flat at number 281 has a rear facing window serving a kitchen. The adjacent flat at number 279 has a rear facing window to a small room (function not described). Further back is a window to a small kitchen.
33. From the limited understanding I was able to gain on the site visit, the outlook from the flats would be dominated by external staircases. The alteration would not extend the building beyond the face of the existing rear elevation. Given the degree of enclosure from existing building elements and angles of view, any harm to the amenity of neighbouring residents is likely to be limited and would not cause significant harm to their living conditions. In this respect there is no conflict with Policy DM2.1 and Policy DM3.3 part B criterion (ii). Similarly with regard to neighbour amenity there is no significant conflict with a core planning principle in the Framework, to seek to secure a good standard of amenity for all existing and future occupants of buildings.

Proposed dwellings

34. The proposed unit on the first floor is described on the layout plan as a studio comprising 38 m² floorspace. The double bedroom would be in the area currently occupied by the kitchen at a slightly lower level than the rest of the unit and separate from the proposed kitchen and living room. That being so the quality of the unit should be assessed as a one bed two person property, given

the ability to be reasonably occupied by two people. There is no mechanism for restricting occupancy to one person.

35. The internal floorspace would be significantly less than the 50 m² in the DMP and the 50 m² in the THS. The THS specifically states that the internal space standard is suitable for application across all tenures. The purpose of the standards is to help ensure sufficient space and facilities to enable residents to live comfortably and conveniently. The proposed unit would fall short of this objective and as a result future residents would not enjoy a sufficiently good standard of living accommodation. In this respect the proposal is contrary to Policy DM3.4 of the DMP and the National Space Standards.
36. In the alternative, if the proposed unit is a 1 person studio then such a unit of accommodation is contrary to Policy DM3.3 criterion (i), which does not allow a dwelling mix that includes one person sized units.

Other matters

37. In line with the Core Strategy Policy DM8.5 of the DMP requires all additional homes will be car free, which means no on-site parking and no on-street parking through use of a resident's parking permit. This strict approach is justified by the need to tackle air quality and congestion.
38. An appropriate mechanism, such as a completed planning obligation, has not been put forward to ensure the proposed development is compliant with the aforementioned policy. Control would not be reasonably secured by way of a planning condition. The planning condition suggested by the Council would not be enforceable and the appellant has not proposed an alternative form of wording. There are not the exceptional circumstances to justify imposing a negatively worded condition requiring the submission of a planning obligation.

Conclusions

39. The proposed extension would harm the appearance of the host building and the streetscene. The proposal fails to meet the development plan policy requirements on affordable housing and retention of family sized accommodation and hence would have a detrimental effect on the Borough's housing stock and objectives. The proposed remodelled first floor flat would not have good internal space standards. Car free housing has not been secured. The proposal would be contrary to Core Strategy Policies CS 9 and CS 12 and DMP Policies DM2.1, DM3.3, DM3.4 and DM8.5. The proposal is not of the highest quality demanded by the London Plan. Core planning principles and design policies of the Framework are not satisfied.
40. Amenity of adjoining occupiers essentially would be maintained, avoiding conflict with the relevant criteria in Policy DM2.1 and DM3.3 but this is not a positive factor that weighs in favour of the development.
41. The proposal is not in accordance with the development plan when read as a whole. There are no considerations of sufficient weight to indicate the proposal should not be determined in accordance with the development plan.
42. For the reasons given above the appeal should be dismissed.

Diane Lewis Inspector