The Planning Inspectorate

Appeal Decision

Site visit made on 29 June 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 30 August 2017

Appeal Ref: APP/V5570/W/17/3170408
House of Detention, Clerkenwell Close, Islington, London EC1R 0AS

- 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 Charles James Gorst against the decision of the Council of the London Borough of Islington.
- The application Ref P2016/3108/FUL, dated 4 August 2016, was refused by notice dated 19 December 2016.
- The development proposed is change of use from existing sui generis use of live/work (30% work to 70% live ratio) to single occupation family home class C3 dwellinghouse.

Decision

1. The appeal is allowed and planning permission is granted for change of use from existing sui generis use of live/work (30% work to 70% live ratio) to single occupation family home class C3 dwellinghouse at House of Detention, Clerkenwell Close, Islington, London EC1R 0AS in accordance with the terms of the application Ref P2016/3108/FUL, dated 4 August 2016, subject to the conditions set out in the schedule to this decision letter.

Main Issue

2. The main issue is the effect of the proposal on the provision of affordable housing in the area.

Reasons

3. The House of Detention is a grade II listed building. The proposal would result in the change of use of the building from its existing sui generis live/work use (30% work to 70% live ratio) to a single dwellinghouse within use class C3. The Council considers the change of use to be acceptable in principle, and I agree with that position.

4. However, the Council considers that the proposal would trigger the requirement for a financial contribution in line with Policy CS12 of Islington's Core Strategy (CS, February 2011), which states that schemes that would deliver less than 10 residential units will be required to provide a financial contribution towards affordable housing elsewhere in the borough. The appellant disputes this requirement.

5. The Council's document entitled 'Islington Affordable Housing Small Sites Contributions Supplementary Planning Document' (SPD, October 2012) sets out further detail in relation to affordable housing contributions. It clarifies that the required contribution applies to new build units, conversions of

existing buildings resulting in the creation of new units, and subdivision of existing residential properties resulting in net additional units.

6. The appeal proposal would result in the retention of a residential unit, albeit with a small increase in residential floorspace due to the loss of the 'work' element of the existing use. The Council contends that a live/work unit is not a residential use per se. However, it is arguable in this particular case that a 70/30 split represents a primarily residential unit, to which the work space would be ancillary. That being the case, no additional dwelling or residential unit, to which CS Policy CS12 and the SPD refer, would in created in this instance.

7. I therefore conclude that it would be disproportionate in this case to apply the requirement for an affordable housing contribution, as set out in CS Policy CS12 and the SPD, and there would be no fundamental conflict with either.

8. In support of its case, the Council has drawn my attention to a number of appeal decisions in which the need for affordable housing contributions is considered. The majority of these appeals related to sites in the Islington area, but I have also been referred to decisions in other Council areas, including Richmond-upon-Thames, South Cambridgeshire and Elmbridge. In all but one of these decisions, it is clear that the proposals would create new residential units. Those examples therefore do not provide a direct parallel to the circumstances of the scheme before me, and so they have not led me to a different conclusion on the main issue.

9. In the Kember Street appeal decision[1], it appears that the proposal sought to amalgamate three studios into a single flat. However, the details of this case are not before me, and there is a suggestion within the appeal decision that the three studios were not authorised. It is therefore unclear whether or not that proposal would have created a new residential unit, and so I can give this case little weight in my consideration.

10. I note the main parties' arguments about the relative weight to be given to the development plan and Planning Practice Guidance and the Written Ministerial Statement, but this matter has not had a significant bearing on my conclusion in this case.

Other Matters

11. The appeal property is a Grade II listed building and is situated within the Clerkenwell Green Conservation Area. Accordingly, the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes on the decision-taker particular duties in that regard. However, the planning appeal under consideration concerns a change of use, involving internal alterations which the Council considers to be minor and not affecting the setting of the listed building or the character or appearance of the conservation area. I have been given no evidence to lead me to conclude otherwise or that the change of use, per se, would fail to preserve the listed building or the character or appearance of the conservation area. Nevertheless, this should not be construed as a determination regarding the necessity or acceptability of listed building consent for any works which might be involved, which would require a separate application to the local planning authority.

[1] APP/V5570/W/16/3160058

Conditions

12. The Council has suggested a number of planning conditions which I have considered against the relevant advice in the PPG. As a result, I have amended some of them for clarity and brevity. For certainty, it is necessary that the development is carried out in accordance with the approved plans. A condition relating to the provision of refuse/recycling enclosures is necessary to ensure a sustainable form of development. A condition requiring details of bicycle storage is necessary to ensure a sustainable form of development in accordance with national and development plan policy.

13. I have not imposed the suggested condition restricting additional windows, extensions or alterations to the dwelling, as these would require a separate application for listed building consent to the local planning authority, and would not pass the test of necessity. Finally, I have not imposed the suggested condition restricting future occupiers from applying for parking permits as this has not been shown to be necessary on the evidence before me on this particular case.

Conclusion

14. For the reasons above, I conclude that the appeal should be allowed.

Elaine Gray

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: HOD13_001 (Site location plan); HOD13_002; HOD13_050; HOD13_051; HOD13_052; HOD13_100; HOD13_101; HOD13_102 Rev A; HOD13_103 Rev B; HOD13_104.

3) The dedicated refuse/recycling enclosures shown on drawing no. HOD13_101 shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter.

4) Prior to the first occupation of the development hereby permitted, details of the provision for at least three secure bicycle storage spaces shall be submitted to and approved in writing by the local planning authority. These spaces shall be used solely for the benefit of the occupants of the development and their visitors and for no other purpose, and shall be permanently retained as such thereafter.