
Appeal Decision

Site visit made on 9 January 2018

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 19th January 2018

Appeal Ref: APP/V5570/W/17/3181523

53 Parkhurst Road, Islington, London N7 0LR

- 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 Lee Morrison against the decision of the Council of the London Borough of Islington.
 - The application Ref P2017/1147FUL, dated 16 March 2017, was refused by notice dated 25 May 2017.
 - The development proposed is described as: "Basement extension to create a two bedroom residential unit, including front, rear and flank lightwells. Reinstatement of historic portico".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council refers to its car free policy, which it states is relevant to the appeal and indicates that a planning obligation under Section 106 of the Town and Country Planning Act 1990 would be required. This issue did not form one of the original reasons for refusal. However, as I have dismissed the appeal for the reasons set out below, it has not been necessary for me to consider whether the obligation sought in respect of car free housing would meet the tests of the National Planning Policy Framework (the Framework) and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 namely: (i) it is necessary to make the development acceptable in planning terms; (ii) is directly related to the development and; (iii) fairly and reasonably related in scale and kind to the development.

Main Issues

3. Therefore, the main issues are:
 - (i) whether a financial contribution would be required in respect of affordable housing provision;
 - (ii) whether the development would achieve a satisfactory standard of residential amenity and;
 - (iii) the effect of the development on heritage assets, in particular the Hillmarton Conservation Area and the locally listed building.

Reasons

Financial contribution

4. The Council's Supplementary Planning Document (SPD) Affordable Housing Small Sites Contributions (October 2012), together with Policy CS12 Part G of the Core Strategy (February 2011), require development proposals below a threshold of 10 residential units to provide a financial contribution towards the provision of affordable housing elsewhere in the Borough. The Council has sought to justify this policy requirement, and evidence supporting the need for affordable housing contributions has been submitted. This includes information on local house prices and rents compared with average earnings. The Council also explains that a relatively large proportion of new housing delivery in the Borough is from sites of 10 units or fewer, and the development of these sites makes up a significant proportion of the local housing supply. If financial contributions are not achieved from small sites, the Council argues that its ability to deliver affordable housing would be compromised.
5. No financial contribution has been secured and, therefore, the proposal would be in conflict with development plan policy, and guidance contained in the SPD.
6. The Council refers to a Court of Appeal judgement,¹ the result of which is that the policies in the Secretary of State's Written Ministerial Statement of 28 November 2014 (WMS), and subsequent alterations to the Planning Practice Guidance (PPG), should once again be considered as national planning policy. This defines the specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development of 10-units or fewer, and which have a maximum combined gross floorspace of no more than 1000 square metres. The WMS seeks to relieve the disproportionate financial burden from small scale developers.
7. The statutory position is that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The WMS is a material consideration to which I attach significant weight as Government policy, to be read alongside the Framework.
8. The Council argues that the WMS does not outweigh the conflict with local policy on the basis that local circumstances justify a lower threshold. I am satisfied from the evidence submitted by the Council that there is a demonstrable affordability gap in both the home ownership and private rented sectors, and there is a significant need for affordable housing in Islington. The evidence also indicates that an absence of contributions from small sites would compromise the Borough's ability to deliver its objectively assessed need for affordable housing, and contribute towards the London Plan annual target for affordable homes. On this basis, I consider that the specific local circumstances are such that the WMS does not outweigh relevant local policy. This finding is consistent with other Inspectors who have considered this issue in relation to appeals on similar sites. Overall, the specific circumstances of this appeal amount to a compelling case that the WMS should not outweigh local policy.

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441

9. Consequently, I conclude that a contribution towards the provision of affordable housing elsewhere in the Borough has been justified, and the obligation sought in respect of affordable housing would meet the tests of the Framework and Regulation 122 of the CIL Regulations. No such provision has been secured and the development would not comply with Policy CS12 of the Core Strategy, and the guidance contained in the Council's SPD.

Residential amenity

10. The appeal property is a semi-detached former house that has been converted into three flats. The development would be a basement excavation to create a two-bedroomed flat. The Council accepts that the total floorspace proposed would exceed the London Plan minimum space standards for a two-bedroom unit, and notes that the appellant's Daylight Assessment² indicates that the bedrooms would pass the BRE guidelines,³ and relevant British Standards. Nonetheless, the Council has concerns about the outlook from the majority of rooms, access to natural light and the quality of the private amenity space.
11. The development would involve excavation of part of the rear garden to provide a private outdoor amenity area extending to 11.2 square metres. The open space would be entirely below ground level and it would be dominated by the retaining wall. Also, the area would be relatively small and, as such, it would be unlikely to meet the needs of the four person household. I appreciate that there would be additional communal open space at the rear of the building, and it is proposed to reinstate the front garden to make it more usable for residents. However, there are already three flats within the development. Adding a further flat to the development would increase the demand on the communal amenity space, which is modest in size. Overall I am not persuaded that the development would provide a suitable standard of amenity space to meet the likely needs of future occupants.
12. The plans show that the main living area would have fixed and bi-folding curtain glazing facing onto the amenity area and the access staircase. The outlook from the room would be towards a blank wall and a staircase, which would be relatively close to the glazing. This would present a poor outlook for future occupiers. Also, the bedrooms and study would not have any outlook or aspect. Consequently, I am not satisfied that the development would provide a satisfactory outlook for future occupiers, to the detriment of their enjoyment of their home.
13. The appellant's Daylight Assessment indicates that the habitable rooms in the proposed development would receive sufficient daylight. I appreciate that the benefits of the front and side light wells to the bedrooms would be limited. However, they would allow light into rooms at a level not inconsistent with their use as bedrooms. The larger light well to the rear would allow adequate levels of daylight into the kitchen and living space, and I am satisfied that there would also be adequate light to the study. However, this does not overcome my concerns about outlook, as set out above.
14. To conclude on this issue, I find that the development would not achieve a satisfactory standard of residential amenity, in terms of the quality of the outdoor amenity space, and outlook. Consequently, it would be contrary to

² T16 Design, Report Ref 2155, dated July 2016

³ Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice

Policy CS12 of the Core Strategy, Policies DM3.4 and DM3.5 of the Islington's Local Plan: Development Management Policies (June 2013) and the Mayor's Housing Supplementary Planning Guidance (March 2016) which, amongst other things, seek to secure high quality residential accommodation, with due consideration to aspect, outlook, light and functional and useable amenity space.

Character and Appearance

15. The appeal property is within the Hillmarton Conservation Area and is a locally listed building. The Council's Register of Locally Listed Buildings (April 2010), describes Nos 51/53 Parkhurst Road as two-storey and semi-basement pair of semi-detached, of simple derived Georgian design, dating from the 1840s. The principal qualities are stated as the good design and completeness of ornament. The appeal property is considered to be a non-designated heritage asset. Its significance is due to the contribution it makes to the quality of the built environment, and the Conservation Area.
16. The Conservation Area is described in the Council's Conservation Area Design Guidelines (January 2002) as spacious in scale, with wide streets and grand houses often with views between the villas into substantial rear gardens. The villas constructed in the mid-19th Century are typical features of the Conservation Area, contributing to its special character and significance.
17. The rear garden would be altered to create a basement level area of amenity space, in the form of a relatively large rear light well covered by a grille. The development would extend under the existing front light well and the external staircase, which would involve cutting under the front entrance steps. The base of the front light well would be replaced with glazing. The proposals also include a front portico, although the Council has confirmed that its objections relate primarily to the light wells. Consequently, I have confined my assessment to these elements of the proposal.
18. The garden at the rear of the property is relatively long and has been subdivided into separate areas for the use of the existing occupants. It serves to provide space between the buildings and is visible from its immediate surroundings, but there are limited views from public areas. The rear garden makes a positive contribution to the significance of the heritage assets, due its former role as a garden to the villa. The substantial rear gardens are also a positive feature of the Conservation Area, and form an evidential record of the historic pattern of development.
19. The rear light well and its metal grille would be set away from the original building. However, the open nature of the garden would remain, as the development would be below ground. Views of the light well from the immediate surroundings would be restricted by the existing fencing and boundary wall, and it would not be apparent in views from the wider Conservation Area. The Council considers that the light well would not reflect guidance contained in the its Basement Development Supplementary Planning Document (January 2016), which seeks to minimise the amount of cut and fill, and locate light wells close to the building. However, the light well would be sited close to the extended rear wall of the building. Moreover, the open rear garden would not be compromised. Its former role would still be evident and its contribution to the significance of the heritage assets would not be harmed by the development.

20. The alterations to the front light well would be minimal. Despite the need to cut under the front entrance steps, the architectural integrity of the front elevation would be retained. This part of the proposal would not result in visual clutter as it would be discreetly located.
21. To conclude on this issue, I find that the development would not have an adverse effect on the significance of the locally listed building, or the contribution it makes to the significance of the Conservation Area. The development would preserve the character or appearance of the Conservation Area. It would meet the aims of Policies 7.4 and 7.6 of the London Plan (2016), Policies CS8 and CS9 of the Core Strategy, Policies DM2.1, DM2.3 and DM6.3 of the Development Management Policies, and guidance contained in the Hillmarton Conservation Area Design Guidelines (2002) and the Islington Urban Design Guide (January 2017). These policies and guidance seek to conserve or enhance the significance of heritage assets, promote good design and ensure development respects its context, whilst protecting significant private open space and garden areas. The development would meet the aims of the Framework, insofar as it seeks to protect the historic environment.

Conclusion

22. I have considered the benefits of the development including the small contribution to the local housing supply, potential improvements to the front elevation and front garden, and improved access to rear. However, these benefits do not outweigh the harm described above, in respect of affordable housing provision and residential amenity.
23. For the reasons given above, the appeal is dismissed.

Debbie Moore

Inspector