



Appeal Decisions

Site visit made on 13 June 2019

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 11th July 2019

Appeal A - Appeal Ref: APP/V5570/W/18/3212359 21-22 Colebrooke Row, Islington, London N1 8AP

- 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 David Page against the decision of the Council of the London Borough of Islington.
 - The application Ref P2017/3977/FUL dated 9 October 2017, was refused by notice dated 11 June 2018.
 - The development proposed is conversion of offices into two self-contained units and associated alterations.
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Appeal B - Appeal Ref: APP/V5570/Y/18/3212361 21-22 Colebrooke Row, Islington, London N1 8AP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr David Page against the decision of the Council of the London Borough of Islington.
 - The application Ref P2017/4011/LBC dated 9 October 2017, was refused by notice dated 12 June 2018.
 - The works proposed are conversion of offices into two self-contained units and associated alterations.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed and listed building consent is granted for conversion of offices into two self-contained units and associated alterations at 21-22 Colebrooke Row, London N1 8AP in accordance with the terms of the application P2017/4011/LBC, and subject to the conditions set out in the schedule to this decision letter.

Preliminary Matters

3. In their statement of case, the Council confirm that, as the appeal scheme involves the conversion of an existing B1 use to residential use, and is not new build, it would not attract a carbon offsetting contribution. The carbon offsetting contribution of £1,000 referred to in the third reason for refusal is therefore not required. I have not considered this any matter any further in my reasoning.
4. In the interests of conciseness and clarity, I have dealt with both appeals together.

Main Issues

5. The main issues are:

- The effect of the proposal on the special interest of 21-22 Colebrooke Row, which is grade II listed;
- The effect of the proposal on the provision of employment space in the area;
- The effect of the proposal on identified housing need in the area, and;
- Whether the proposal would make adequate provision towards affordable housing in the area.

Reasons

Listed building

6. The appeal site is listed within a multiple entry comprising 'Numbers 20-23 (consecutive) and attached railings, Colebrooke Row'. Built as terraced houses, the buildings date from 1841. They rise to four storeys in height, with basements, and are generally arranged symmetrically, with Nos 21 and 22 projecting. The fronts are of yellow brick with a stucco finish on the basement and ground floor levels. The roof is obscured by a front parapet.
7. Internally, the first floor level, which is the subject of the appeal, has been altered in association with its change of use to offices. Nonetheless, much of the internal plan form remains apparent, thus contributing to the character of the building, and the ability to understand its historic layout. Nos 21 and 22 are attractive examples of handsome townhouses of their period. Despite some changes, they appear to be relatively unaltered since they were built. As a result, their original form, dimensions and appearance, including the interior first floor layout, remain generally apparent. These factors all contribute to the significance of the listed buildings.
8. The first floor plans mirror each other, with two large principle rooms at the front of the building, and two smaller rooms at the back. The stairs from ground to first floor are also located at the back, adjacent to the smaller rooms. The central wall has been knocked through, and a corridor has been formed between the two previously separate properties. It is proposed to remove the cross corridor and reinstate the party wall. The Council regard these changes to re-instate the plan form as two separate dwellings as a heritage benefit, and I share that view.
9. The rear rooms would be extended inwards to adjoin the back walls of the front rooms, thus removing the cross corridor completely. New doorways would be formed between the front and back rooms. Bathroom pods would be created in the corners of the front rooms, and would be accessed by doorways from the bedrooms. This configuration is in line with the recommendations of the Council's Design and Conservation Officer, and in my view, would have an acceptable impact on the layout and appearance of the interior.
10. However, the Council are concerned that the proposal does not return the site to its original plan form. They state that, in heritage terms, removing the existing set back entrances to the flats from the stairwell and reinstating the

original alignment would be more likely to be given a favourable recommendation.

11. However, the proposed plans show that the set back entrances to the flats would be removed. The side walls to the back rooms would be infilled, and new entrances would be formed to give access to the front rooms directly from the stair landings. I have not been provided with any drawing or plan of the original floor plan of the appeal site, and so I am unable compare the new proposal to the original layout. However, it seems to me that this proposal would improve the dimensions of the back rooms. In the absence of any substantive evidence that the removal of the existing entrances would harm the special interest of the listed building, I consider this element of the scheme to be acceptable. I note that the statutory duty is to preserve listed buildings. Whilst enhancements may be desirable, there is no statutory duty to secure them through the planning process.
12. Taking these factors in combination, I conclude that the works would preserve the character and appearance of the listed building at the very least, and would offer a benefit in terms of the reinstatement of the central partition, and the removal of the unsympathetic cross corridor. The proposal would thus comply with Policy DM2.3 of Islington's Local Plan: Development Management Policies (DMP), insofar as it seeks to conserve or enhance the significance of listed buildings, and DMP Policy DM2.1, which sets out general design requirements.
13. It would similarly accord with the National Planning Policy Framework, which seeks to protect heritage assets, and would satisfy Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires, when considering whether to grant listed building consent for any works to a listed building, that special regard be had to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.

Appeal A only - provision of employment space

14. The proposed development would result in the loss of class B1 office floorspace, which the Council consider to be well suited to occupation by small or medium enterprises. DMP Policy DM5.2 states that proposals that would result in a loss or reduction of business floorspace will be refused unless the applicant can demonstrate exceptional circumstances, including through the submission of clear and robust evidence which shows there is no demand for the floorspace. Evidence of at least two years of vacancy and continuous marketing must be demonstrated, although the policy allows for certain circumstances where a period of less than two years will be considered acceptable.
15. Policy CS 13 of Islington's Core Strategy (CS) seeks to safeguard existing business spaces throughout the borough by protecting against changes of use to non-business uses, but also allows for the loss of employment floorspace in exceptional circumstances. I note that the site lies outside but close to the boundary of the CAZ, the Angel Town Centre, and the Angel and Upper Street Core Strategy Key Area.
16. The appellant states that the appeal site has been vacant since 5 July 2017. They submitted to the Council a letter, dated 22 January 2018, containing seven months of marketing evidence, which the Council found unsatisfactory.

17. However, the property has remained on the market during the planning process, and the appellant has subsequently submitted an updated 'Marketing Report and Recommendations' document, dated 5 June 2019. As marketing commenced on 2 June 2017, this document covers the two years required by policy. During that time, approximately 16 enquiries for the property were received, resulting in six viewings. A number of concerns have been identified through the exercise, including a lack of DDA compliance and modern facilities, discomfort with issues relating to the residential occupancy in the building, and the more residential nature of the location in general.
18. The Council do not dispute the contents or conclusions of the marketing evidence. It meets the timescale, and appears to me to be detailed and comprehensive in its scope. I therefore have no basis to do other than accept the appellant's conclusion that there is little demand for the existing employment space in this case.
19. The Council argue that it is the appellant's responsibility to ensure that the interior is renovated to provide the modern facilities that would support the office use. However, there can be no certainty that such works would preserve the special interest of the listed building. In any case, it seems to me that there would be no straightforward way of addressing the other matters of concern to potential office users, for example, the shared access with the residential floors.
20. I have had regard to the 2014 appeal decision¹ allowing the change of use of the upper ground floor of 21-22 Colebrooke Row from B1 to residential use. In that decision, the heritage status of the appeal building was regarded as significant. Although that decision is now some five years old, to my mind, the same principle applies to the scheme before me. Whilst I accept that the restoration element of the works would be limited, the scheme would return the first floor to its original residential use and partially reinstate the original plan, which are to be regarded as heritage benefits. In the 2014 case, the Inspector considered the previous business use to be non-conforming within the prevailing residential character of both the building and the Duncan Terrace/Colebrooke Row Conservation Area where it is located, and I agree with that stance.
21. In conclusion, some tension would arise with the aims of DMP Policy DM5.2 and CS Policy 13 due to the loss of the existing offices. However, drawing the above factors together, the appellant has demonstrated a lack of demand for the offices, and I am satisfied that the proposed development would not have such an adverse effect on the provision of employment space in the area as to warrant the withholding of planning permission in this particular case.

Appeal A only - identified housing need

22. The appeal scheme would create two 1 bed units whose size would accord with the required minimum spaces standards. DMP Policy DM3.3 sets out to maintain a supply of larger homes, and relates to the conversion of residential units into a larger number of self-contained units. The accompanying narrative states the importance of ensuring that additional dwellings are not gained at the expense of family homes.

¹ APP/V5570/A/13/2207151

23. As the new units would be created from existing offices, there would be no loss of family residential accommodation in this case. Whilst I accept that the scheme would not address the overall need for larger homes, I find no policy conflict in this case, as there appears to be no specific restriction relating to the conversion of offices to smaller dwelling units.
24. The Council argues that proposed units of this size are not supported by DMP Policy DM3.4 or CS Policy CS 12. DMP Policy DM3.4 sets out the housing standards to be met by all new housing developments, including conversions and changes of use. Although the proposed scheme would fall short in terms of storage space and provision of play, amenity and garden space, the Council have not raised these specific matters in their reasons for refusal. Although the policy does not encourage smaller units, from my reading, it does not preclude them either.
25. CS Policy CS 12 sets out to meet the housing challenge in the area. Criterion E requires a range of unit sizes within each housing proposal to meet needs in the borough, including maximising the proportion of family accommodation in both affordable and market housing, and resisting the loss of existing units that are appropriate for the accommodation of families.
26. Whilst the overall mix of proposed units might be poor from the point of view that it would be limited to two small flats, it is difficult to see how this could be improved upon, given the constraints the site presents. Even if the first floor was kept as a single unit, with two bedrooms or more, the accommodation would not be particularly suitable for a family, due to the lack of private amenity space, amongst other factors. Again, although CS Policy CS 12 focuses on the need for family dwellings, as does the London Plan Housing Supplementary Planning Guidance (SPG), neither of these preclude the creation of smaller residences.
27. For those reasons, I therefore conclude that the proposal would not adversely affect identified housing need in the area, and so no conflict would arise with DMP Policy DM3.3, DMP Policy DM3.4, CS Policy CS 12, or the advice given in the SPG.

Appeal A only - affordable housing

28. CS Policy CS 12 sets out the Council's requirements in terms of provision for affordable housing. The Islington 'Affordable Housing Small Sites Contributions Supplementary Planning Document' (SPD) seeks a contribution of £50,000 per unit in small developments of the kind proposed, which would be a total contribution of £100,000. The appellant produced a viability report entitled 'Affordable Housing Financial Viability Analysis for Colebrooke Row', dated November 2017, arguing that such a contribution would not be viable. Having analysed the report, the Council's independent assessor, Adams Integra (AI) confirmed in an email dated 30 April 2018 that a lesser contribution of £60,000 would be viable, based on a 15% profit level.
29. The appellant argues that a profit margin of 20% should be considered appropriate, on the basis of the increased risk profile attached to the development of listed buildings. Indeed, the appellant makes reference to the 'extraordinary' costs involved. However, the main physical changes would involve the reconfiguring of partitions and accesses, and the outfitting of the kitchen and bathroom facilities. There is little evidence before me of any

significantly increased costs that would arise from works that would appear to be relatively straightforward. I have not been provided with any condition survey that would show up, for example, any defects with the building itself that might be costly to address.

30. I am therefore satisfied that a profit margin of 15% would be appropriate in relation to a small-scale scheme of the kind proposed within an existing building. The risk profile predicted would be low in a strong housing market such as Islington's, which would also point to a figure of 15%.
31. The appellant refers to the high court judgement of Parkhurst Road Ltd v SSCLG & LBI, dated 27 April 2018, where the Council accepted a profit margin of 18%. On the basis of 18%, the appellant's contribution in this case would be £35,530, which falls significantly short of the Council's expectations. However, a number of differences arise between the appeal scheme and the Parkhurst case. Firstly, that scheme was much larger, at 96 units. The profit level was a blended figure of 18% on the private units and 6% on the affordable housing element, giving a final figure of just over 16% on Gross Development Value. Taking these factors into account, it seems to me that that case does not directly mirror the appeal scheme before me, which limits the weight I can afford it.
32. Moreover, the appellant has indicated that he is willing to make a contribution of £60,000 towards affordable housing provision. In an email dated 22 May 2018, the Council revised the figure to £72,000. The Council have clarified that this new figure included an arrangement fee of £2513 and miscellaneous costs of £10,000.
33. However, in light of the passage of time, the Council asked AI to produce an updated Viability Appraisal, which is dated May 2019. The Council agree with the conclusion of this document that the appeal scheme would be able to provide a revised affordable housing contribution of £61,237. From the evidence I have seen, I have no grounds on which to take a different view.
34. The appellant has not agreed to the figure of £61,237, and in any case, no unilateral agreement is before me. As such a contribution cannot be secured by condition, I must conclude that the proposed development would fail to make adequate provision towards affordable housing in the area, contrary to CS Policy CS 12 and the requirements of the SPD.

Conditions – Appeal B

35. The Council have suggested a number of planning conditions which I have considered against the relevant advice in the Planning Practice Guidance. As a result, I have amended some of them for clarity.
36. For certainty, it is necessary that the development is carried out in accordance with the approved plans. Conditions requiring details of new joinery, studwork and the bathroom pods are necessary in the interests of the character and appearance of the listed building.
37. I have not imposed the condition seeking to restrict the removal of original door architraves and doors. Such works would require a separate listed building consent, and so the condition has not been shown to be necessary.

Conclusion

38. Whilst I have found that the proposed development would be acceptable in terms of its effects on employment space and identified housing need in the area, it would fail to make adequate provision towards affordable housing. It would thus conflict with the development plan as a whole, and so Appeal A is dismissed.
39. I have concluded that the proposed works would preserve the character and appearance of the listed building, according with the development plan as a whole, and so Appeal B is allowed.

Elaine Gray

INSPECTOR

SCHEDULE OF CONDITIONS – APPEAL B

- 1) The works authorised by this consent shall begin not later than three years from the date of this decision.
- 2) The works authorised by this consent shall be carried out in accordance with the following approved plans: Site location plan; 271-EX/PROP-01E; 271-EX/PROP-02B; 271-EX/PROP-03B.
- 3) Prior to their installation, details of all new joinery and studwork shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 4) Prior to their installation, sections and elevations of the new bathroom 'pods' shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.