
Appeal Decision

Site visit made on 6 August 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2019

Appeal Ref: APP/V5570/W/19/3223528

52 Dame Street, Islington, London N1 7FR

- 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 Robert Gutstein of Avon Group against the decision of the Council of the London Borough of Islington.
 - The application Ref P2018/1480/FUL, dated 27 April 2018, was refused by notice dated 28 September 2018.
 - The development proposed is demolition of existing three/four-storey building and construction of a five/six-storey building to provide five residential units.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As part of the appeal, the appellant has submitted daylight and sunlight reports. The Council has commented on these. However, I cannot be satisfied that interested parties who commented on the planning application have had sufficient and fair opportunity to comment on the additional details. I have therefore considered the appeal on the basis of those details on which the Council based its decision, in order to avoid prejudice to the interested parties.
3. Policy DM8.4 of Islington's Local Plan: Development Management Policies (Local Plan) and Policy 3.5 of the London Plan 2016 were not included in the reasons for refusal but were referred to in the Council's submissions. The appellant has referred to them in their appeal statement. Therefore, there would be no injustice in me taking them into account and I have done so.
4. The National Planning Policy Framework (Framework) states that the weight given to relevant policies in emerging plans should be according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the plan with the Framework. The stage at which the Draft London Plan is at means that it carries limited weight.

Main Issues

5. The main issues of the appeal are;
 - The effect of the proposal on the character and appearance of the area and the setting of the Duncan Terrace/Colebrooke Row Conservation Area (DTCRCA) and the Regent's Canal Conservation Area (RCCA);

- Whether the proposal would provide appropriate living conditions for future occupiers, with particular regard to internal space, daylight and sunlight, outlook and outdoor amenity space;
- The effect of the proposal on the living conditions of the occupiers of nearby properties, with particular regard to overlooking, daylight and sunlight; and
- Whether the development would make suitable provision for accessibility and inclusivity.

Reasons

Character and Appearance

6. The appeal site is located outside, but close to, the DTCRCA and the RCCA. As such I have had regard to the duty to pay special attention to the desirability of preserving or enhancing their character or appearance.
7. From my observations on site and the details before me, the significance of the DTCRCA, lies, in part, in its development as a predominantly residential area of late Georgian and early Victorian terraces, many of which retain a consistent form. There is also a focus of development around Regent's Canal and City Road Basin. The significance of the RCCA lies, in part, in its growth linked with the important transportation routes and connection to the industrial past of the area as a result of Regent's Canal.
8. The site is located at the end of a row of buildings along the canal and is only marginally taller than the adjacent building. There is a varied townscape and the existing building is seen with taller buildings nearby. This and the understated nature of its design and materials result in the existing building being unassuming in views from the surrounding area. This includes from the conservation areas. The appeal site currently makes a neutral contribution to the setting of the DTCRCA and the RCCA.
9. There are buildings of a comparable height to the proposed building in the area including on both sides of the canal. Nevertheless, it would be considerably taller than the adjacent building and would have a strong vertical emphasis. This would be at odds with the generally horizontal emphasis of nearby blocks of development including along Baldwin Terrace.
10. The appeal scheme would not have a recessed upper floor. This is typical of buildings of a similar height to the appeal scheme away from the canal side. Nevertheless, it would be discordant with the taller buildings along the canal where their scale and mass are broken up by setting back and/or distinguishing the upper floors with different materials. While there would be a metal cladding strip on the building, this would only serve to accentuate its vertical scale.
11. While the lack of openings on the elevation facing Baldwin Terrace would not restrict future development, it would be discordant with the existing buildings of a similar height in the area. These have some openings on their side elevations, which assists in breaking up their overall scale and mass and preventing a bland appearance.
12. The size, distribution and design of the windows does not replicate the other buildings in the row. Nonetheless, there is already some variety to these features and a mix of external materials in the area including within the row of

buildings where the appeal site is located. Moreover, while not identical to the more historic buildings nearby, elements of the design and materials would draw on a Victorian warehouse theme. Notwithstanding this, the stepped brickwork and sunken windows on the canal side elevation would make the appeal building appear disjointed when seen with the adjacent one.

13. The balconies are not incorporated into the building. However, there is variation in the outdoor space provision nearby, including where they extend out from the building as the appeal scheme would.
14. Nonetheless, while the building would have a limited footprint, it would be a large and bulky block of development. The detailing, banding and recessed brick work would fail to break up the scale of the building. The scheme would considerably increase the prominence of all façades of the building in public views. The canal side location and presence of lower development adjacent would result in the incongruity of the building being obvious in views in the surrounding area. This would detract from the views towards and from the conservation areas.
15. Both the SMMCA and BCA are urbanised areas and already have modern buildings within them and forming part of their setting. The site would not be visible from large parts of the conservation areas. Nevertheless, its position and scale would result in it being visible in short and long-distance views. As such, the proposed development would adversely impact on the setting of both.
16. There has been previous permission for a replacement building, taller than the existing one. However, I have not been provided with full details of the considerations that led to that scheme being considered acceptable. Moreover, from the information before me the current scheme proposes a taller building of a different design. It is therefore not directly comparable to this scheme.
17. Within the overall context, it is considered that the proposal would lead to less than substantial harm to the setting and significance of the conservation areas. Whether or not the proposal affects the setting of a non-designated heritage asset, I have found harm to the significance of the higher-level designated asset. The Framework indicates that such harm is to be weighed against the public benefits of a proposal, including securing the optimum viable use of the building. However, great weight should be given to an asset's conservation and any harm requires clear and convincing justification.
18. The proposal would include a contribution towards affordable housing and this attracts moderate weight. The proposal would contribute to the mix and supply of housing in the area and future occupiers would have access to, and support, various modes of transport, services and facilities. However, as with the benefits towards energy efficiency, the contribution would be modest given the scale of the proposal. While I note comments in relation to the viability of a rebuild scheme without additional storeys, I have not been provided with any compelling evidence in this regard. Therefore, in this instance, the public benefits, even when taken collectively, do not outweigh the identified material harm to the designated heritage assets.
19. Consequently, the proposal would have an unacceptably adverse effect on the character and appearance of the area and the setting of the DTCRCA and the RCCA. It would be contrary to Policies CS8 and CS9 of Islington's Core

Strategy, Policies DM2.1 and DM2.3 of Local Plan, Policies 7.4, 7.6, 7.8, 7.28 and 7.30 of the London Plan 2016, and the Urban Design Guide Supplementary Planning Document. These, in part, seek to ensure development is of a scale and design that reflects the character and distinctiveness of the area, protect the Blue Ribbon Network and that heritage assets are conserved and enhanced.

Living Conditions of Future Occupiers

20. Three of the proposed apartments would have external amenity space in the form of balconies. Nonetheless, the lower ground floor and ground floor units would have no such space. While there appear to be existing properties nearby without an outdoor area and I acknowledge the constraints of the site, Policy DM3.5 of the Local Plan states that all new residential development is required to provide good quality private outdoor space.
21. New residential units are also required to provide dual aspect accommodation, unless exceptional circumstances can be demonstrated. Where this is impossible or unfavourable the design must demonstrate how a good level of natural ventilation and daylight will be provided for each habitable room (Policy DM3.4 of the Local Plan).
22. The lower ground floor and ground floor units would only have a single aspect. They would have south facing windows with waterside views. However, those serving the lower ground floor would be set below the adjacent ground level. Moreover, the outlook would be on to the towpath. At the time of my site visit, which I appreciate is only a snapshot in time, the path was busy. Passing cyclists and pedestrians would have views into the living accommodation and the outlook would be towards houseboats within the canal.
23. Both the lower units have a small eastern facing elevation in line with windows for the flats above. However, no windows are shown for these units on that elevation. The ground floor unit would have a more open outlook, typical of other nearby properties. Nevertheless, it has not been demonstrated that these rooms or those at the lower ground floor would receive sufficient daylight and sunlight. There can be flexibility of the Building Research Establishment guidance dependant on the location of the site. However, in the absence of detailed assessments, I am not able to make a reasoned finding as to whether there is a shortfall, to what degree, and whether any shortfall is appropriate in this instance.
24. The Council do not dispute the gross internal floor areas given by the appellant for the proposed units. The built-in storage space has not been shown on the submitted plans. While Policy DM 3.4 of the Local Plan requires plans to demonstrate how dwellings will accommodate standard-sized furniture, it does not refer to the storage space. The units would have an open plan and relatively regular shaped lounge, dining and kitchen area. Given the shape and layout of the units, I see no reason why the storage space could not be accommodated within the flats and addressed via a planning condition were the appeal to be allowed. There is no compelling evidence to the contrary.
25. While not necessarily spacious, the proposed units would be functional and meet the underlying aims of the development plan policies in regard to the size of internal space.

26. I note that there are existing units at the site that do not have a dual aspect or external amenity space and that this was accepted as part of a previous permission. However, the previous scheme is materially different to the one before me. There is no compelling evidence that the permission to increase the height of the building would be implemented were this scheme to be dismissed.
27. The appellant considers the scheme would provide improved communal facilities and a more accessible layout on the upper ground floor and secure bike store. I comment on the accessibility and inclusivity of the scheme below.
28. In any event, in my view these are not good reasons to allow new units that would fail to provide future occupiers with appropriate living conditions in regard to outlook and outdoor space. Furthermore, it has not been demonstrated that the proposed units would have sufficient levels of daylight and sunlight. The development would fail to accord with Policies DM2.1, DM2.2, DM3.4 and DM3.5 of the Local Plan and the Mayor of London Housing Supplementary Planning Guidance (HSPD). These, in part, seek to ensure developments provide a good level of amenity, with appropriate aspect, outdoor space and light.

Living Conditions of Nearby Occupiers

29. The proposed building line would follow that of the adjacent properties and that of the existing building. There would be no windows on the western elevation overlooking the adjacent roof area. Nonetheless, it would be taller than the existing property and there are neighbouring windows close to the boundary with the site and roof terraces. Without detailed daylight and sunlight assessments there is insufficient information for me to find that living conditions would be maintained to an appropriate level at the adjacent properties.
30. The appeal site exceeds the minimum separation distances set out in Policy DM2.1 of the Local Plan with regard to overlooking for the properties on the other side of the canal. Furthermore, the arrangement of windows facing each other in this way is typical of the area. The site is also located to the north of these properties. As such, the scheme would not result in unacceptable impacts in relation to daylight, sunlight and privacy for these properties.
31. There is a play area to north of the site, where much of the usable space is outdoor. There are already a number of windows that face onto this area and provide natural surveillance of it. The proposed building would be taller than the existing one. Nonetheless, there has been no convincing case that the increased height of the building would result in a degree of additional shadowing or overlooking that would cause harmful impacts on users of it or restrict its use.
32. The proposal would increase the number of units and occupants at the site. Nonetheless, there are a considerable number of residential properties in the area and a busy canal path adjacent to the site. As such, I am not persuaded that increased activities at the site would result in unacceptable noise or disturbance at nearby properties or the play area. Impacts from noise during construction could be mitigated for by the imposition of conditions, were the appeal to be allowed.

33. Nonetheless, there is insufficient information for me to be able to conclude that the proposal would appropriately protect the living conditions of the occupiers of nearby properties with regard to daylight and sunlight. The proposal would be contrary to Policy DM2.1 of the Local Plan where it seeks, in part, to ensure developments provide a good level of amenity.

Accessibility and Inclusivity

34. Policies DM2.1, DM2.2, DM3.4, DM3.5 and DM8.4 of the Local Plan make reference to accessibility and inclusive design. These are supported by The Accessible Housing in Islington SPD (ASPD), the Inclusive Design in Islington SPD (ISPD) and HSPD.
35. The ASPD provides guidance on matters such as circulation space, bicycle storage and lift or step free access. The ISPD refers to the provision of adequate circulation space for wheelchairs, home lifts and provision for stair lifts for units of more than one storey, and provision of adequate parking suitable for accessible bicycles and tricycles. The HSPD states that dwellings must evidence that bathrooms are capable of meeting the 'wheelchair accessible layout' even if they are being built as wheelchair adaptable dwellings as required by Part M.
36. The proposal would provide a ground floor cycle storage area. Nonetheless, the details before me do not show provision of any spaces for accessible cycles. I note that conditions can be imposed to require details of cycle storage areas to be submitted and agreed. Nevertheless, given the limited area shown for the cycle store, I am not confident that sufficient space could be provided.
37. Turning space has been shown for wheelchairs in many rooms. However, this has not been the case for the bathrooms. I note reference to Building Regulations in regard to this and examples of bathrooms from Part M. However, it has not been demonstrated that the proposed bathrooms would be sufficient to meet these standards or those outlined in the above development plan policies and SPD's.
38. The proposed building would provide a lift, and therefore there would be step free access to all units. However, the upper floor of the building would not be accessible from the lift. The details before me do not conclusively show that the scheme would meet the required standard, including in relation to the landing space for a stairlift. While concern has been raised in relation to the direction which doors open, this matter could be addressed via a planning condition were the appeal allowed.
39. Consequently, the proposal would be contrary to Policies DM2.1, DM2.2, DM3.4, DM3.5 and DM8.4 of the Local plan as well as the ISPD, ASPD and HSPD where these seek to ensure developments make suitable provision for accessibility and inclusivity.

Other Matters

40. The Framework indicates that the presumption in favour of sustainable development does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Designated heritage assets are an example of such assets and the proposal is contrary to the relevant policies of the Framework in regard to these.

41. I have considered the appeal in the context that the government seeks to significantly boost the supply of housing, seeks the efficient use of land and recognises the role that smaller sites can provide in this. The proposal would also make a contribution towards affordable housing. However, while the scheme may align with certain aspects of local and national policy, I have concluded that the adverse impacts of the development would outweigh the benefits when assessed against these as a whole.
42. The appellant has provided a signed unilateral undertaking to make provision for an affordable housing contribution. The appeal is to be dismissed on another substantive issue and whilst an obligation has been submitted, it is not necessary for me to look at it in detail, given that the proposal is unacceptable for other reasons.
43. The Council have not included refusal reasons relating to matters such as the proximity of the site to services, facilities and public transport. I note comments regarding car free development. However, as the appeal is being dismissed for other reasons there is no need for me to consider these matters further. Nevertheless, the lack of harm is a neutral factor and does not weighing favour of the scheme.
44. I note comments in relation to the extent of the proposed building and the application site. However, this has not been determinative in my findings and not affected the outcome of the appeal.

Conclusion

45. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR