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## Appeal Decision

Site visit made on 26 November 2019

**by M Cryan BA(Hons) DipTP MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 January 2020**

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**Appeal Ref: APP/V5570/W/19/3237174**

**Land to the rear of 8 Calverley Grove and fronting Buxton Road, Islington, London N19 3LG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission.
  - The appeal is made by P Whelan against the decision of the Council of the London Borough of Islington.
  - The application Ref P2019/1103/FUL, dated 8 April 2019, was refused by notice dated 1 August 2019.
  - The development proposed is described as: "the demolition of an existing B1 workshop and construction of a new-build, 2-storey B1 workshop".
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description of the development used in the banner heading above is taken from the planning application form. The Council contends that rather than being in B1 use the existing building has a 'nil' use having been vacant for considerable periods of time in the last 30 years, a view also supported by the evidence of a number of third parties. A different description of development, referring to the existing building only as an outbuilding, was therefore used on the decision notice.
3. The appellant disputes this, and provided information including correspondence from the Council and the Valuation Office of the Inland Revenue intended to show that the existing building has been in B1 workshop use for his business. However, some of the evidence provided is more than 30 years old, and none establishes the present lawful use of the premises conclusively. At the time of my site visit the building was being used only for the storage of building materials and equipment.
4. Notwithstanding this dispute between the parties, I have determined the appeal on the basis that permission is sought for the demolition of the existing building and the erection of a new 2 storey B1 workshop.

### Main Issues

5. The main issues are:
  - Whether the proposal provides safe and suitable access;

- The effect of the proposed development on the Buxton Road street scene, including its effect on nearby trees;
- Whether the proposal would prejudice the future development of the adjacent land on Buxton Road; and
- The effect of the proposed development on living conditions for neighbouring residents, with particular regard to outlook, daylight and sunlight.

## **Reasons**

### *Access*

6. The appeal site is in a predominantly residential area, and the proposal is to erect a new workshop building to replace an existing building and yard. The existing building on the site was once an outbuilding related to the adjoining house at 8 Calverley Grove, and was accessed via that property's rear garden. However, at some point in the past the garden of No 8 was divided with a brick wall, and the appeal site can no longer be accessed from Calverley Grove.
7. The existing building has a doorway which opens onto the land at the edge of Buxton Road, which is owned by the Council and outside the 'red line' boundary of the appeal site. Photographs provided by the appellant show the area outside this door to be overgrown with vegetation, although this had been cut back at the time of my site visit. The appeal site is therefore accessed by crossing the Council's land, although there is no formal path or hard surface leading to the existing doorway.
8. The submitted plans show the double doors of the new workshop being served by what would appear to be intended as a footway allowing pedestrian access across the Council-owned land. Although the evidence before me is limited in this regard, a workshop is likely to require reasonably frequent vehicular access, including for deliveries and collections of materials and goods. Buxton Road outside the appeal site is narrow, and the side nearer to the appeal site has double yellow line parking restrictions. The operation of the workshop, and in particular any loading or unloading of vehicles, therefore has the potential to cause a traffic obstruction or nuisance. No information has been provided to explain how the development would be adequately serviced, and I note also that the highway authority does not appear to have been consulted. Regardless of the land ownership issues, there is no substantive evidence before me to demonstrate how the development would be provided with safe and suitable access for all users, including pedestrians, cyclists and any deliveries.
9. I therefore conclude that the proposal conflicts with Policies DM2.1, DM5.1 and DM8.6 of the 2013 Islington Development Management Policies Development Plan Document (the DMDPD), which together seek to ensure that development proposals have adequate and appropriate access and servicing arrangements.

### *Effect on trees and street scene*

10. There are number of shrubs and trees on the Council-owned land by Buxton Road. None of the trees is covered by a Tree Protection Order, nor do they lie within a Conservation Area. Though overgrown in parts and rather haphazard in appearance, the existing vegetation provides a softer edge to Buxton Road which contrasts pleasantly with the harder boundary created by the flats

opposite. The vegetation also helps to green the area and to screen the garden walls and outbuildings of the properties on Calverley Road.

11. The proposed development would result in the removal of a crab apple tree and an elder shrub between the appeal site and Buxton Road, and would require piling and other work to take place within the root protection area of a large mature willow. No definitive information is provided about the extent to which the willow may need to be pruned to allow the proposed development to take place. Furthermore, bearing in mind that the willow and much of its root protection area lie outside the appeal site, it would not be reasonable to seek to protect this tree through the use of conditions.
12. I note that the Council would have accepted the loss of the trees and vegetation if paid for by the appellant and mitigated through replacement planting. However, this could only have been secured through a planning obligation in the form of a completed Unilateral Undertaking from the appellant. In the absence of such an obligation, I am not satisfied that the trees and other vegetation which make a valuable contribution to the area would not be unacceptably harmed.
13. The surrounding area contains buildings of a variety of ages and types, with no single dominant style. To the north are three-storey Victorian terraces on Calverley Grove, to the south across Buxton Road is a four-storey post-war housing estate comprising flats and maisonettes, while to the west is a small 1990s development of two and three-storey timber framed and clad houses and flats.
14. The proposed replacement building would be two storeys high towards Buxton Road with a part-flat and part-pitched roof angling down towards the houses on Calverley Grove, where the rear elevation would be one storey in height. It would be built of materials which would be appropriate to the context. The rear pitched roof would be obscurely glazed, and its modern design would differ from those of the traditional Victorian houses on Calverley Grove to the rear. However, because of the modest scale of the proposed development, and the variety of roof types found in the wider surrounding area, the sloping roof design would not be incongruous or harmful to the appearance of the area.
15. The flank walls of the building would be plain brickwork. While I accept that these would offer greater visual interest if they were to incorporate articulation features, they would be small and would not therefore present large blank facades to public streets and spaces. The workshop would not be built to the same line as 40-42 Buxton Road, the neighbouring block to the west. However, because of the curve of Buxton Road in front of the appeal site, the workshop would be aligned with the street to the east, and would maintain the line of the existing building on the site. Its siting would therefore be acceptable. On the whole I consider that the design of the proposed building relates well to the street scene and its constrained site, and it would therefore not be a dominant or discordant feature.
16. The design of the proposed building itself would be acceptable, and indeed the replacement of the run-down and unattractive workshop currently on the site would be a benefit. However, the loss of trees and other vegetation would diminish the verdant character of this small stretch of Buxton Road. Because there is no planning obligation in place which would adequately secure the replacement of the street trees, I conclude that the proposal as a whole would

be detrimental to the Buxton Road street scene. It would therefore conflict with CS Policy CS9 and DMDPD Policies DM2.1 and DM6.5, which together seek to ensure that development responds positively to existing buildings, the streetscape, and retains and protects trees and shrubs. For the same reasons it conflicts with Policies 7.4 and 7.6 of the 2016 London Plan.

#### *Future development of adjacent land*

17. The wall of the proposed workshop facing towards Buxton Road would be built at the boundary of the appeal site. This would be its principal elevation, with four large windows serving a mezzanine at first floor level as well as the ground floor door. The appeal site opens onto the small area of Council-owned land between the proposed workshop building and Buxton Road. The adjacent land broadens out behind Nos 10 and 12 Calverley Grove, before becoming a narrow strip at the rear of the footway further along Buxton Road.
18. I am sympathetic to the Council's wish to see sites developed in a comprehensive manner. However, the narrowness and awkward shape of the adjacent land means that it is unlikely to be suitable for anything other than a small-scale redevelopment scheme. Furthermore, there is no information before me to suggest that any such scheme is considered likely to come forward. The appeal proposal therefore does not conflict with Policy CS12 of the 2011 Islington Core Strategy (the CS) or Policies DM2.1 and DM5.1 of the DMDPD, which together seek to ensure that development proposals do not compromise residential growth or unduly prejudice the satisfactory development or operation of adjoining land.

#### *Effect on living conditions*

19. The proposed building would be deeper and taller than the existing building on the site. The upper floor would be close to a projecting window on the upper floor of the neighbouring building at 42 Buxton Road. However, this window appears to serve a stairwell rather than a habitable room. On that basis I consider that, although the proposed development would restrict the outlook from that window and would lead to a small reduction in both daylight and sunlight reaching that window, this would not be harmful to the living conditions of the occupiers of that dwelling.
20. The redeveloped workshop would be built up to the boundary wall separating the appeal site from the garden of 8 Calverley Grove to the north. The sloping rear roof would ensure that there would be no harmful reduction in outlook from the rooms at the rear of No 8, nor in daylight and sunlight reaching those rooms. The use of obscure glazing would also ensure that there would be no overlooking of rooms or the garden at No 8 which would be harmful to privacy.
21. I conclude therefore that the proposed development would not be harmful to the living conditions of neighbouring residents. In this regard it would comply with Policy DM2.1 of the DMDPD and Policy 7.6 of the London Plan, which together seek to ensure that developments provide a good level of amenity for surrounding buildings and their occupiers.

#### **Other Matters**

22. The Council was satisfied that the use of the premises as a workshop within Class B1 would comply with the aims of Policy DM5.1 of the DMDPD. I have taken into account the concerns raised by local residents about the proposed

workshop use of the premises, but on the basis of the information before me I am satisfied that the use would be acceptable in principle.

### **Planning Balance and Conclusion**

23. The proposal would not be harmful to the living conditions of neighbours, nor would it prejudice the development of the adjacent land. The replacement of the existing rather run-down building on the site would represent a modest benefit.
24. However, I have found that the proposed development would not be provided with suitable access and servicing arrangements. I have also found that the loss of trees without adequately securing their replacement would be detrimental to the quality of the street scene. These are matters which carry considerable weight against the scheme.
25. Consequently, the harm I have identified would significantly outweigh the benefits. The proposal therefore conflicts with the development plan as a whole, and the appeal is dismissed.

*M Cryan*

Inspector