



Appeal Decision

Site visit made on 18 February 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2020

Appeal Ref: APP/V5570/W/19/3240369

Land to the rear of 56-62 Elwood Street, Islington, London N5 1EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs Sanei and Hopkins against the Council of the London Borough of Islington.
 - The application Ref P2019/2519/FUL, is dated 19 August 2019.
 - The development proposed is described as: 'demolition of remnants of previous garage structures, change of use to residential and the erection of a single storey dwelling on previously developed land'.
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Decision

1. The appeal is dismissed and planning permission for the demolition of remnants of previous garage structures, change of use to residential and the erection of a single storey dwelling is refused.

Procedural Matters

2. Notwithstanding the description of the development used on the application form and set out in the banner heading above, the Council assessed the scheme on the basis that permission was sought for the 'demolition of remnants of previous garage structures; Change of use to C3 (residential) use class; Erection of a single storey 6 bedroom 8 person detached dwellinghouse with access from Elwood Street'. While I note that this alternative description was not accepted by the appellant, I have addressed the issue of the size of the dwelling in my decision. There is also a dispute between the parties as to whether the site should be considered previously developed land or private open space. However, for the sake of clarity and precision I have omitted the reference to 'previously developed land' in my formal decision.
3. The Council had not determined the planning application prior to the appeal. However, it indicated that the application would have been refused due to the effects of the development on the site and its surroundings, and the living conditions it would provide for future occupants.
4. It is also apparent from the Council's statement that the provision of affordable housing is a significant matter addressed in the development plan. The application was only validated by the Council once the appellants had indicated their willingness to contribute towards affordable housing. However, no such contribution was forthcoming at the appeal stage; on the contrary the appellants sought to contest this requirement. In these circumstances,

although the lack of a contribution was not one of the reasons for which the Council indicated it would have rejected the scheme, it is a matter which I will address in determining the appeal.

Main Issues

5. The main issues are therefore:

- Whether or not the development should contribute towards the provision of affordable housing;
- The effect of the proposed development on the character and appearance of the area, with particular regard to its effects on openness; and
- Whether or not the proposed dwelling would provide adequate living conditions for future occupiers.

Reasons

Affordable housing provision

6. The evidence before me indicates that there is a significant need for affordable housing within Islington. It is also clear that, as a densely built and populated part of inner London, the Council is dependent on small schemes of ten units or fewer both to deliver a significant part of its new housing supply, and to contribute financially to the provision of affordable housing within the borough.
7. To this end, Policy CS12 of the 2011 Islington Core Strategy (the ICS) requires small residential schemes delivering fewer than 10 units to make a financial contribution towards the provision of affordable housing elsewhere in the borough. The Council's 'Affordable Housing Small Sites Contributions' Supplementary Planning Document (the AHSPD), which was adopted in October 2012, sets the level for this contribution at £50,000 per unit for schemes in this part of Islington.
8. At planning application stage, the appellants indicated that they would make a financial contribution towards the provision of affordable housing, and that a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 would be submitted. No evidence was submitted to indicate that making the required contribution towards affordable housing provision would render the development unviable. However, the appellants subsequently disputed that an affordable housing contribution should be payable, on the basis that the 2019 National Planning Policy Framework (the Framework) indicates at Paragraph 63 that the provision of affordable housing should not be sought from residential developments of fewer than 10 dwellings.
9. The Framework is a recent expression of government policy and is a material consideration of significant weight. However, given the demonstrable need for affordable housing in Islington and the reliance on contributions from small sites to meet this need, although considerable weight should be given to the Framework I am not persuaded that it outweighs the requirements of the development plan in this case. My attention has also been drawn to recent appeal decisions¹ elsewhere in the borough where other Inspectors have supported the need for small sites to contribute towards affordable housing provision on the basis of the submitted evidence.

¹ References APP/V5570/W/18/3198332, APP/V5570/W/18/3203027, and APP/V5570/W/18/3218398

10. I therefore conclude that it is necessary for the development to contribute towards the provision of affordable housing. In the absence of a planning obligation to secure the appropriate contribution the proposal fails to comply with ICS Policy CS12 and with guidance in the AHSPD.

Character and appearance

11. The appeal site is a vacant plot of land, roughly rectangular in shape and bounded by the rear gardens of surrounding residential properties on Elwood Street, Avenell Road, Gillespie Road and Plimsoll Road. Access is from Elwood Street, by way of an alleyway within the site at its south east corner. While the site is now an unused open space it has previously accommodated glasshouses and subsequently garages, and the eastern part of the site still contains the garages' concrete base slab. Three protected trees sit on or adjacent to the western site boundary, with a further protected tree adjacent to the eastern boundary. The remainder of the site comprises rough vegetation, though at the time of my site visit this was in a sparse and seemingly unhealthy condition. The site is not within a conservation area and is not listed, nor is there any information before me to suggest that any of the immediately surrounding buildings are listed.
12. The site provides physical separation between the surrounding houses, especially between Avenell Road and Plimsoll Road. This gives the interior of the block a sense of spaciousness which provides some relief from the dense urban character of the surrounding streets. However, the scrub vegetation and disused concrete slab on the site itself are unattractive. Interested parties have also indicated that fly tipping and anti-social behaviour have taken place on the site, although I did not observe evidence of this at the time of my site visit. While backland plots can make a positive contribution to the character and appearance of an area, that is not the case for this site in its present use and condition.
13. The proposal is for a single storey six-bedroom contemporary style of dwelling based on a reversed 'F' shape footprint. Its spine would make use of the existing concrete slab base. Glazed inward-facing elevations would look out onto front and rear courtyard gardens. The house would be modern in appearance and visually distinctive from the surrounding traditional brick and pitched roof houses. However, given the previous uses of the site for glasshouses and garages it has a history of being different in appearance from its neighbours, so this is not in itself harmful. I also note that the Council did not object to the use of contemporary design and materials.
14. The proposed building would be low in profile and used as a single family dwelling. The site would therefore retain much of its openness when seen from the surrounding buildings. Views across the site, particularly from the upper floors of houses and flats on Avenell Road and Plimsoll Road, would largely be preserved. The two garden courtyards, the soft landscaping and green roof, and the retention of the four protected trees, would improve the appearance of the site and the contribution it makes to the character of the area. There would also be a benefit from bringing the site back into active use. Taken as a whole I consider that the proposal represents a positive design response to a constrained site.

15. In making my assessment, I have had regard to two earlier proposals for four and six two-storey dwellings on the site, which were dismissed on appeal². From the information before me, I understand that both of these proposals were for developments which were taller and would have represented a more intense development of the site than the scheme now before me, so they are not therefore directly comparable to it.
16. I therefore conclude that the proposed development would not be harmful to the character and appearance of the area, nor would it result in an unacceptable loss of openness. It would comply with ICS Policy CS8, and Policies DM2.1 and DM6.3 of the 2013 Islington Development Management Policies (the IDMP). Together these policies seek to ensure that development proposals demonstrate high-quality design which makes a positive contribution to the local character and distinctiveness of an area. The proposal also complies with advice in the Urban Design Guide Supplementary Planning Document that backland development should be subservient to the surrounding development.

Living conditions for future occupiers

17. The house would have windows on most of its elevations, and those facing inward to the front and rear courtyard gardens would predominantly be glazed. It would therefore provide dual aspect accommodation.
18. Windows in five of the bedrooms would look out towards the eastern site boundary fence and walls, which would be up to 2m tall and only around 1.5m from the house. These windows would therefore offer a limited outlook. However, the bedrooms would also have large glazed internal doors opening onto the almost fully-glazed circulation corridor, which would offer an acceptable outlook into the rear courtyard garden. There would be some loss of privacy due to the inter-visibility between the bedrooms, the corridor and the courtyard. I consider this acceptable in a single family dwelling, where there is likely to be a greater readiness to accept reduced privacy at least some of the time. It would not however be a suitable arrangement for shared or otherwise communal accommodation. If the proposal had been acceptable in all other respects this matter would therefore justify the imposition of a condition to prevent the house being occupied other than as a single family dwelling. Restricting the use of the dwelling in such a way would also address concerns raised by neighbours about noise and disturbance which could arise if it were to be used as some form of communal accommodation.
19. The windows on the eastern elevation would ensure that the five bedrooms in that part of the house would receive daylight and, for at least some of the year, direct morning sunlight. Glazed doors would allow daylight and sunlight into those rooms from the south and west should the occupiers so wish. The master bedroom, along with the kitchen, dining and living areas, would have large windows or glazed doors facing approximately south or west, and these would provide ample daylight and sunlight. I note also that the application documentation included a Daylight/Sunlight Assessment which indicated that the house would receive adequate daylight and sunlight, and also would not cause harmful overshadowing of neighbouring homes or gardens, in line with guidance in the 2011 BRE publication 'Site layout planning for daylight and sunlight: a guide to good practice'.

² References APP/V5570/A/04/1170319 and APP/V5570/A/08/2080874

20. I conclude that the proposal would provide adequate living conditions for its future occupiers, if occupied as a single family dwelling. It would therefore comply with Policy CS12 of the ICS, Policy DM3.4 of the IDMP, and Policy 3.5 of the 2016 London Plan. Together these policies seek to secure high quality residential accommodation, which is planned and developed with due consideration to restricted outlook and privacy, and which receives adequate daylight and sunlight.
21. Policy 3.6 of the London Plan refers to the provision of play and recreation space for children and young people, and so although referred to in the Council's statement it is not relevant to my assessment of this matter.

Other Matters

22. In coming to my decision, I have had regard to concerns raised by neighbours relating to overlooking, the protection of trees, biodiversity and flood risk. None were determining factors in this case, and could have been addressed by means of conditions if the development had otherwise been acceptable. There was no substantive evidence submitted which indicated the presence of protected species within the site, and measures to retain and improve biodiversity could have been secured by conditions. Similarly, no evidence of historic fluvial or surface water flooding was submitted, and further details of measures to mitigate the run-off of surface water could have been required by condition.

Planning Balance and Conclusion

23. The government is seeking to significantly boost the supply of housing. I have found the proposal would not harm the character and appearance of the area, and would provide adequate living conditions for future occupiers if used as a single family dwelling. These are factors in the scheme's favour.
24. However, it does not contribute towards the provision of affordable housing, for which there is a demonstrable need. It therefore fails to comply with the development plan as a whole, and for this reason the appeal is dismissed.

M Cryan

Inspector