
Appeal Decision

Site visit made on 5 October 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2020

Appeal Ref: APP/V5570/W/20/3245547

16 Dartmouth Park Hill, Islington, London NW5 1HL

- 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 Richard McWalter against the decision of the Council of the London Borough of Islington.
 - The application Ref P2019/2176/FUL, dated 9 July 2019, was refused by notice dated 28 October 2019.
 - The development proposed is erection of a three storey building to create 4no. self-contained residential units (4no. 2 bedrooms) at first and second floors and the creation of 165 sq m of B1 use floorspace at ground floor (following the demolition of the existing outbuildings to the rear) and the installation of access gates, along with other associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 1 September 2020, which has had the effect of amending the Town and Country Planning (Use Classes) Order 1987 (the UCO). The main parties to this appeal have had the opportunity to make any observations as regards the implications of this for the outcome of this appeal, and I have taken into account the representations received.

Main Issues

3. The main issues are:
 - The effect upon the character and appearance of the area;
 - The effect upon the future development potential of the neighbouring Benson Court site, giving particular consideration to the effect of overlooking;
 - The effect upon the living conditions of future residential occupiers of the development, having particular regard to outlook; and
 - Whether or not an appropriate standard of office accommodation would be created, having particular regard to outlook, light and ventilation.

Reasons

Character and appearance

4. The appeal site contains a terraced property that incorporates residential accommodation to its upper floors. The property forms part of a three-storey row (the terrace) that fronts Dartmouth Park Hill (the road). To the rear of the terrace, the site also contains a small yard that is set alongside a varied assortment of outbuildings (the outbuildings) that are used in a light industrial/workshop capacity.
5. The site's surroundings contain a variety of different commercial and residential uses and the buildings that are in place take a range of different forms and ages. Whilst, in broad terms, a mixed character and appearance is in place, the terrace is one of several formally laid out linear rows of multiple storey development that exists locally. The outbuildings, alongside other built additions positioned to the rear of the terrace, are read and experienced as secondary/subservient features.
6. The proposal is centred upon an intended redevelopment of the site's rear portion. The outbuildings would be replaced by a three-storey block of new development. I acknowledge that its ground floor level would be dug down and that a flat roof is intended that would be set slightly beneath the terrace's eaves height. Nevertheless, a building of notable height and significant bulk and mass is still proposed. I do not in principle take issue with the modern design approach that has been followed. However, the new building, particularly when considering its height, would not appear as genuinely subservient. It would instead compete with the terrace and appear as a discordant and unduly bulky addition to the townscape.
7. I acknowledge that publicly available views of the proposed building from the road and other public vantage points would be limited. However, the proposal would still influence how the appeal site and its surroundings would be viewed and experienced, most particularly by various neighbouring residents. I do not accept that the new building would offer an improvement in visual terms when compared to the outbuildings currently in place. Indeed, although of typically utilitarian design and outwardly displaying some maintenance requirements, the outbuildings are of discreet form and low-level height when compared to the proposed building.
8. For the above reasons, the proposal would cause harm to the character and appearance of the area. The proposal conflicts with Policy CS8 of Islington's Core Strategy (February 2011) (the Core Strategy), Policy DM2.1 of Islington's Local Plan: Development Management Policies (June 2013) (the DMP) and the Urban Design Guide Supplementary Planning Document (January 2017) (the UDG) in so far as these policies and guidance require that the scale of development will reflect the character of the area and sets out that the predominant development pattern in the Borough concentrates massing along primary street frontages.

Development potential of Benson Court

9. Policy DM2.1 of the DMP sets out that proposals should not prejudice the satisfactory development or operation of adjoining land. Benson Court consists of a complex of three and four storey residential blocks that are served by a

single storey row of garages that runs the western edge of the complex, which is adjacent to the appeal site's rear boundary.

10. A range of rear-facing window openings as well as small-sized external terrace/balcony areas at first and second floor level are proposed that would sit in proximity to, and provide views across and above of, the neighbouring row of garages. The west-facing gable end of the nearest Benson Court block is blank, and its surrounding external spaces are used communally rather than on a private/individual basis. Thus, based upon current site circumstances, the proposal would not provide unduly sensitive or harmful overlooking opportunities to the detriment of neighbouring occupiers' privacy.
11. This is a relevant finding, particularly as I have not been made aware of any current plans to redevelop Benson Court and am also unaware of any designation or allocation to strongly indicate that a future redevelopment is inevitable during any specific timeframe. Thus, based upon a lack of clarity and certainty as regards potential redevelopment plans/opportunities, I find that, giving particular regard to the effect of overlooking, the proposal would have an acceptable effect upon the future development potential of the Benson Court site. Indeed, a redevelopment of Benson Court would still be possible should this appeal be successful, and the permission be implemented. The proposal accords with Policy DM2.1 of the DMP and with the UDG in so far as this policy and guidance requires proposals to not unduly prejudice the satisfactory development or operation of adjoining land.

Living conditions of future occupiers

12. It is the case that the front-positioned second bedroom within each of the four flats that are proposed would be afforded outlook from a 'privacy window'. These features would be of boxed design with top and side positioned clear-glazed elements to offer future occupiers skyward and oblique views. I note that the front-facing top element would be openable to offer ventilation opportunities. Only the front lower portion of the privacy windows would be obscure glazed to guard against direct views being offered of opposing rear-facing openings.
13. To my mind, the approach taken in this regard represents an innovative solution within a tightly defined urban environment. Importantly, good standards of unrestricted outlook would be provided to the rear of the site and only one habitable room (a bedroom rather than a main living space) within each of the flats would be served by a window designed to limit/control outlook for future occupiers. Even when noting these frontward restrictions, dual aspect accommodation would be provided.
14. For the above reasons, the proposal would not cause harm to the living conditions of future residential occupiers of the development, having particular regard to outlook. The proposal accords with Policy CS12 of the Core Strategy, Policy DM3.4 of the DMP and the Housing Supplementary Planning Guidance (March 2016) in so far as these policies and guidance require the provision of accommodation of adequate size, with acceptable shape and layout of rooms (with due consideration given to aspect, outlook from habitable rooms, noise, ventilation, privacy and light).

Standard of office accommodation

15. Policy DM5.1 of the DMP sets out that new business floorspace must be designed to allow for future flexibility for a range of uses (including future subdivision) and to provide full separation of business and residential floorspace where mixed use development is proposed. The intended ground floor layout, which incorporates two separate access points, would offer flexibility and a potential sub-division opportunity. Whilst the proposed office space and residential flats would be accessed via the same courtyard, different entrance points, and thus separation, would be offered.
16. Outlook, light and ventilation would be provided from/to the office space solely via its west-facing front elevation. Nevertheless, as illustrated upon the submitted plans, an array of floor-to-ceiling glazed panels/openings are intended. Notwithstanding the presence of various neighbouring buildings to the courtyard's perimeter and the bespoke shape of the ground floor unit proposed, I am content that appropriate levels of natural light and suitable opportunities for outlook and ventilation would be provided. This is particularly so when considered in the context of the present on-site situation where opportunities for outlook from the outbuildings is heavily restricted and where natural lighting to internal areas is limited.
17. The ground floor unit would ultimately be fitted out to suit the requirements of its occupiers and it could well be the case that its most peripheral internal spaces would be used for storage purposes (or similar) rather than active workspace on a day-to-day basis. The ground floor office use that is intended, when considered in overall terms, would not be of unacceptable quality.
18. For the above reasons, having particular regard to outlook, light and ventilation, an appropriate standard of office accommodation would be created such that the proposal would not cause harm in this context. The proposal accords with Policy DM5.1 of the DMP in so far as this policy requires that new business floorspace must be designed to allow for future flexibility for a range of uses and provide full separation of business and residential floorspace.

Planning Obligations

19. Policy CS12 of the Core Strategy sets out that, with respect to schemes delivering less than 10 residential units, a financial contribution towards affordable housing provision elsewhere in the Borough will be required. The Affordable Housing Small Sites Contributions Supplementary Planning Document (October 2012) sets out that a commuted sum of £50,000 per unit is required.
20. Whilst the National Planning Policy Framework (February 2019) (the Framework) states that provision of affordable housing should not be sought for residential developments that are not major developments, it is clear from the evidence before me that there is high affordable housing need locally and that sales values are high. Given the densely developed nature of the Borough, it is the case that a high proportion of new residential development would necessarily come forward on small sites. Such sites thus make an important contribution to the provision of affordable housing. I am thus satisfied that a £50,000 contribution per unit is appropriate and justified.

21. Policy DM7.2 of the DMP sets out that emissions from minor new-build residential and non-residential developments of one unit or more, where not dealt with by on-site measures, will be offset. Payments towards CO2 offsetting, the policy states, will be addressed through a legal agreement. The Council's Environmental Design Planning Guidance dictates that an offset contribution of £1,000 per flat is required.
22. The contributions, as set out above, are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind. I note that a willingness to pay an off-site affordable housing contribution has been stated by the appellant at appeal stage, and that a similar written commitment towards emissions offsetting is stated within the Design and Access Statement. However, a completed legal agreement is not before me. An appropriate mechanism to secure these contributions has not therefore been demonstrated, and the failure to do so weighs heavily against the proposal. The proposal conflicts with the requirements of Policy CS12 of the Core Strategy and Policy DM7.2 of the DMP.

Other Matter

23. I acknowledge that the proposal now at appeal evolved during the planning process and that actions were taken in response to pre-application advice that was given by the Council. Nevertheless, for the avoidance of doubt, I have considered the proposal that is before me upon its own individual merits.

Planning Balance

24. In terms of the scheme's benefits, four additional residential units would be created, and the Framework reaffirms the Government's objectives of significantly boosting the supply of homes and making an effective use of land. However, four additional units of housing would not make a clear or noticeable difference to the Borough-wide housing supply situation and is thus a benefit that attracts moderate weight. The scheme would also create jobs during the construction phase and would provide support to the local economy once occupied. However, these benefits attract limited weight due to the relatively small scale of development under consideration.
25. The newly intended business floor space would replace and upgrade the business floor space that is currently provided by the site's outbuildings, which are aged and currently in need of some maintenance. Nevertheless, no additional business floor space would be provided by the proposal and, as such, I afford only limited weight to any benefits of the scheme in this context.
26. Any CIL charge generated by the scheme would help deliver the infrastructure needed to support development in the Borough. It is a standard charge that is applied where applicable, which would weigh neutrally in the planning balance.
27. The scheme's benefits would be modest and would not outweigh the harms and associated policy conflicts that I have identified in the contexts of the scheme's effect upon the character and appearance of the area and the failure to secure contributions necessary to make the development acceptable in planning terms. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

28. Whilst I have found that the proposal would not cause harm in the contexts of the future development potential of Benson Court, the living conditions of future residential occupiers and the standard of the intended office space, I have identified that it would cause significant harm to the character and appearance of the area. That harm is the overriding consideration in this case, which is further exacerbated by the scheme's failure to make adequate contributions to off-site affordable housing provision and carbon emissions offsetting.
29. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR