



Appeal Decision

Site visit made on 6 October 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2020

Appeal Ref: APP/V5570/W/20/3244371

Pride Court 80-82 White Lion Street, Islington, London N1 9PF

- 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 Weldonbrook Limited against the decision of the Council of the London Borough of Islington.
 - The application Ref P2019/2650/FUL, dated 23 August 2019, was refused by notice dated 13 November 2019.
 - The development proposed is change of use and enlargement of the ground floor to provide a 165.4 sqm restaurant (use class A3), refurbishment and reconfiguration of the upper floors and a fourth-floor extension to provide 1346.9 sqm office floorspace (use class B1) and a total of six residential units (use class C3) at third and fourth floor comprising 2 x 1-bedroom, 3 x 2-bedroom and 1 x 3-bedroom residential units with associated alterations to the White Lion Street façade.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Weldonbrook Limited against the Council of the London Borough of Islington. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the heading above is taken from the planning application form. At Part E of the appeal form, it is stated that the description of development has not changed, but a different wording has nevertheless been entered. This reflects the wording used on the Council's decision notice, however, neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

4. The main issues are:
 - i) whether or not living conditions for future occupiers of the proposed development would be acceptable with particular regard to outlook;
 - ii) the effect of the proposal on the character and appearance of the area;
 - iii) whether or not the proposal would make appropriate provision for affordable housing; and
 - iv) the effect of the proposal on delivery of the Crossrail 2 scheme.

Reasons

Living Conditions

5. The proposal includes 2 flats at third floor level within the front part of the building. Although outlook to the rear of these flats would be constrained, I note that there is permission for development on the site under application reference P/2018/3351/FUL ('the extant permission') which would result in similar outlook. Given also the limited outlook and lack of amenity space for the 2 existing flats within the building which would be replaced, I agree with the Council that in itself, the resulting living conditions for occupiers of Flats 1 and 2 on the third floor would not justify withholding permission.
6. However, the appeal also proposes 4 additional flats within a new fourth floor. While they would technically be dual aspect, windows to the open plan kitchen, dining and main living spaces of Flats 3 and 4 would be set behind the parapet wall of the building's White Lion Street elevation. The parapet would project nearly to the top of the facing windows, and its significant height combined with the very limited separation would result in a highly dominant and oppressive feature which would substantially obscure outlook for occupiers. Although there would be additional glazing to the side of these rooms, the limited width of the amenity spaces that it would face onto would offer little alternative open aspect or outlook to compensate for the inadequate provision for the remainder of these rooms.
7. To prevent overlooking, most of the windows to the open plan kitchen, dining and main living spaces of Flats 5 and 6 as well as their amenity spaces would be set behind metal fin privacy screens. These screens would essentially preclude open views outwards, and result in an overpowering degree of enclosure. There would be additional glazing onto the amenity spaces, but this would face the enclosing walls or privacy screens at fairly close proximity. The amenity spaces would be open above, but views of the sky would only be available from a fairly small part of the adjacent rooms given their width and area, and would not in any case afford any meaningful outlook.
8. The appellant has provided an assessment which demonstrates that all of the dwellings would receive suitable levels of daylight and sunlight. However, while there can be a relationship with factors which also affect light levels, outlook is a distinct concept. Irrespective of the location of the site in an urban town centre, I find in this case that outlook from the main living spaces of flats 3, 4, 5 and 6 would fall far short of what could reasonably be expected by future occupiers. The resulting detriment to their quality of life would not be mitigated by the exceedance of standards for the quantity of internal or external space.
9. For these reasons, I conclude on this main issue that the lack of suitable outlook would result in significant harm to living conditions for future occupiers of the proposed development. Accordingly, the proposal would conflict with Policy CS12 of Islington's Core Strategy 2011 (CS) and Policy DM3.4 of Islington's Local Plan: Development Management Policies 2013 (DMP) which require, amongst other things, high quality homes and a good quality of life for residents, including with regard to outlook. For similar reasons, there would be conflict with the Mayor of London's Housing Supplementary Planning Guidance (SPG) 2016 which includes objectives seeking high quality housing.

Character and Appearance

10. White Lion Street is predominantly characterised by terraced buildings of mixed architectural styles and forms which line the edge of the footway, resulting in a tight-knit but fairly diverse street scene. There is little consistency in the heights or proportions of neighbouring buildings, and while most do not exceed four-storeys, some are higher. The resulting varied roofline is evident in views along the street adding to the diversity and visual interest of the area.
11. The four-storey building on the appeal site marks the end of a terrace of three, four and five-storey buildings which run along White Lion Street from its junction with Baron Street. To the other side, the neighbouring building has a lower roof and contains a supermarket which fronts Chapel Market. The rear elevation of this adjacent building is set back from White Lion Street behind a single-storey substation and servicing yard, and as a consequence, the side of the front part of the appeal building is readily apparent in the street scene.
12. The proposal would see significant alterations to the White Lion Street façade of the building but the proposed materials would be sympathetic to those of the adjacent buildings, and the detailing to the frontage and the straight form of the replacement parapet would respect typical features nearby. The alignment of the ground floor entrances with the edge of the footway would also improve the relationship of the building with the street. The resulting façade would sit comfortably as part of its surroundings, and I agree with the Council that it would enhance the character and appearance of the site frontage. Be that as it may, while not of particular merit, I find that the existing building is fairly unobtrusive and does not detract from the area overall, nor the setting of the nearby Chapel Market/Penton Street and Angel Conservation Areas (CAs) which include sections of White Lion Street to the east and west of the site. In this context, I consider that the benefit to the surroundings would be fairly limited.
13. The extension to the roof of the building to provide a fourth-floor would be higher than the immediately adjacent buildings and would be one of the highest along this part of the street. However, its height would not be dissimilar to 74-77 White Lion Street which is within the same terrace of buildings, and with regard to the varied street scene and irregular roofscape, the additional height of the building would not be uncharacteristic or intrusive.
14. The upper floors of some nearby buildings are recessed or accommodated within mansards, but this is not universal, and there is little consistency in the roof designs, the degree of set-back, or indeed whether there is any set-back at all. The flat roof to the extension would be in keeping with the design of both the host and neighbouring buildings, and it would be set back from the parapet to the new front facade. Although the separation would be small, it would provide for appreciable distinction from the host building. The extension would also be positioned within parapet walls along the sides of the building, and while there would be no gap, it would therefore step in slightly from the edges of the building below. These factors would help to break up the overall mass and visual impact of the built form on the site.
15. In addition, the extension would be formed of a front and rear part that would be connected by a walkway link. This link would be positioned towards the centre of the building, and as a result there would be a distinct separation of the two sections which would be evident, including in views across the adjacent supermarket site. As well as providing for visual relief, this central break in the

extension would significantly reduce its bulk and mass and its overall scale in comparison to the building below so that it would not be excessive or disproportionate.

16. I noted a wide variety of external finishes nearby with a mix of traditional and more contemporary materials, including assorted cladding types. In this context, and subject to an appropriate standard and quality of the materials which could be secured by a condition, I see no reason that the external finish to the roof or the suggested standing seam cladding would be unsympathetic or incongruous so as to detract from the character or appearance of the area.
17. The contrasting materials of the extension in combination with its lesser overall scale and step in from the building below would also distinguish it as a subordinate addition, while adding visual interest to the existing featureless side of the building in views across the neighbouring supermarket site.
18. Screening of the extension by the parapet to the front of the building would help to reduce its visual impact, but would not be complete. The proposal would increase the scale and prominence of the building and would be visible from the surrounding area with short and long distance views along White Lion Street and from within the Angel CA to the east, as well as more limited views from within the Chapel Market/Penton Street CA to the west. Even so, the above factors taken together mean that I consider that the development would assimilate appropriately with the host building and would sit comfortably within the street scene and rhythm of its surroundings. As a result, I am satisfied that its effect overall on the character and appearance of the host building, area and setting of the nearby CAs would be neutral, thus preserving the significance of these heritage assets.
19. For these reasons, I conclude on this main issue that the proposal would accord with Policies 7.4, 7.6 and 7.8 of the London Plan - The Spatial Development Strategy for London Consolidated with Alterations Since 2011 (LP), Policy CS9 of the CS and Policies DM2.1 and DM2.3 of the DMP. Together, these policies broadly seek high quality architecture and design which contribute positively to local character and which conserves and enhances heritage assets. I also find no conflict with guidance within the Urban Design Guide Supplementary Planning Document 2017 which seeks similar outcomes, nor with the National Planning Policy Framework (the Framework) which requires, amongst other things, that development is sympathetic to local character and that heritage assets are conserved and enhanced.

Affordable Housing

20. Policy CS12 of the CS includes a requirement for developments of fewer than 10 residential units to make a financial contribution towards affordable housing provision. The Council's Affordable Housing Small Sites Contributions Supplementary Planning Document (SPD) 2012 offers further detail on the application of this policy, and indicates that the proposal should make a contribution of £200,000.
21. The CS and the SPD pre-date the Framework which outlines that affordable housing should not be sought unless a development provides 10 or more homes. However, the Council advises that around one third of new housing in the borough results from sites delivering 10 or fewer units, a consequence of the densely built-up nature of the area. In this context, application of the

- 10-dwelling threshold within the Framework before provision for affordable housing is required would have a significant adverse effect on the Council's ability to deliver affordable housing, for which the evidence before me shows a significant unmet need. I therefore consider that local circumstances justify the continued application of the policy requirements of CS Policy CS12 supported by the SPD, notwithstanding the more recent provisions of the Framework.
22. However, the SPD recognises that there will be circumstances where viability considerations justify a reduced contribution. The appellant submitted a viability assessment as part of the application which concluded that no contribution towards affordable housing would be viable. The Council's evidence at appeal stage includes a review of this assessment, and asserts that a contribution of £92,000 would be viable.
23. Both main parties approach viability on the basis of a comparison of the residual land value (RLV) of the development against a benchmark land value (BLV). The appellant's BLV was based on existing use value (EUV) plus a landowner premium. The Council has instead adopted an alternative use value (AUV) according to the extant permission on the site, suggesting that this gives a premium of 25.77% over its assessment of EUV.
24. In determining EUV, the Council has used the current commercial rental income of the site, commenting that this is reasonable in light of knowledge of second-hand office space in the locality. However, the appellant highlights that the average rate of £31 per sqft reflects passing rents which may have been agreed historically, and I note that it is very low against the commercial comparables cited by both parties. These include examples in close proximity to the appeal site, and I am not therefore persuaded that the existing rental values represent a fair assessment of the existing value of this space.
25. To the rental values, the Council has also applied a higher yield than the appellant. I note its comments highlighting leases on the floorspace which have ended or include break clauses in 2020 as leading to uncertainty and interrupted income streams for the freeholder, and a greater risk in combination with the existing condition of the property. However, it is reasonable to assume that the lease arrangements are, at least in part, reflective of the extant permission and appeal proposal for the site. Moreover, it did not appear at my visit that there was a high level of vacancy, and the building and units that I saw were not in notably poor condition.
26. With regard to the existing flats, the Council's valuation is also substantially below the comparables put forward such that I consider it to be an underestimate, even accounting for their provenance as former commercial space, layout and the lack of a separate residential core which I agree would reduce their desirability. In addition, while I note the existing rents achieved, there is little justification in the information before me to support capitalisation of these values on the same yield basis as office rents to arrive at an EUV, particularly given my concerns above over the yield employed by the Council.
27. For these reasons, I consider that the EUV is likely to be closer to the appellant's figure of £9.125m rather than the £7.472m figure of the Council.
28. Above this, the appellant initially adopted a landowner premium of 20%. No specific justification for this level was advanced though, and at appeal stage the appellant has put forward a reduced premium of 10% which is at the

lowest end of the range suggested by the Mayor of London's Affordable Housing and Viability SPG 2017. Even applying this 10% premium to an EUV approximately two thirds of the way between the Council's and appellant's figures¹ which I consider a reasonable assumption in view of my findings above, the resulting BLV would be around £9.431m which is higher than the Council's suggested AUV. The appellant has not provided an assessment of AUV, but notwithstanding the existing permission on the site it seems that there would be little incentive for a landowner to sell if AUV were below EUV plus a reasonable premium. As a result, I see no reason that it would be inappropriate to use EUV plus a landowner premium to determine BLV here.

29. Even if I were to accept all of the Council's assumptions around the gross development value and appraisal inputs in preference to the appellant's, its RLV including the suggested affordable housing contribution of £92,000 is less than this BLV. However, the Council's developer profit is in my view low with regard to the nature of the proposal incorporating conversion, renovation and new build within a constrained urban environment. Adjusting just this assumption alone would further reduce the RLV of the development such that it could not sustain the suggested contribution, even without exploring further the other assumptions.
30. Overall, I find the appellant's position that the proposal could not viably support a contribution to affordable housing to be more persuasive. I therefore conclude on this main issue that the development would make appropriate provision for affordable housing and the absence of an agreement to provide a financial contribution would not in this case conflict with CS Policy CS12, or with the Affordable Housing Small Sites Contributions SPD.

Crossrail 2

31. The Crossrail 2 project is intended to provide enhanced transport capacity and connectivity, and is identified as one of the schemes where Policy 6.2 of the LP outlines that proposals which do not ensure adequate safeguarding should be refused. The appeal site is within an area subject to a Safeguarding Direction for Crossrail 2, and Transport for London (TfL) advise that the site is part of a worksite for the construction of a station shaft. However, the evidence before me offers little certainty around the future delivery of Crossrail 2, or the timescales over which any worksite here may be required should the project go ahead. Nor is the nature of the worksite, likely requirements within it and how these relate to the appeal site clear from the submitted information.
32. Furthermore, TfL did not object to the application for the extant permission on the site. I recognise that the appeal proposal differs from the earlier scheme, including through the 4 additional dwellings within the roof level extension and it would not lend itself to a temporary permission. Nevertheless, neither TfL nor the Council have offered any compelling evidence to demonstrate or explain why the appeal proposal would now conflict with the future ability to deliver Crossrail 2 in comparison to the extant permission scheme.
33. Against the uncertainty over the role of the appeal site in the future ability to deliver Crossrail 2 and the extant permission on the site, I am not persuaded from the evidence before me that the proposal would prejudice the delivery or operation of the Crossrail 2 scheme. Accordingly, I find no conflict with

¹ £8.574m

Policy 6.2 of the LP or DMP Policy DM8.3 which support new and extended railway networks and seek, amongst other things, to ensure that development safeguards land for transport.

Other Matters

34. During the course of the appeal, the appellant has submitted a Planning Obligation by way of a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 (UU). This secures a carbon-offsetting payment and sets out a commitment to car-free development. However, as I am dismissing the appeal for other reasons and the UU would only provide for mitigation, it is not necessary for me to consider further the need for or the form of these obligations as it would not alter the overall outcome of the appeal.

Planning Balance

35. I have found that the proposal would not harm the character or appearance of the area or the delivery of Crossrail 2, and that provision for affordable housing would be appropriate. However, I have found that there would be significant harm to living conditions for future occupiers of the development.
36. The proposal would enhance the appearance of the White Lion Street façade of the building, but the overall effect on the character and appearance of the building and area would be broadly neutral. Moreover, the alterations to this façade; benefit to the vitality and viability of the area through the new ground floor use; improvements to the efficiency, accessibility and standard of office space; potential new jobs; reduced carbon dioxide emissions; as well as the replacement of the existing dwellings all form part of the extant permission. There is no compelling evidence before me that these benefits could not therefore be delivered equally in accordance with the extant permission.
37. The appeal proposal would make efficient use of the site and deliver 4 additional dwellings in an accessible location which would add to the supply of housing and contribute to meeting needs locally. However, the benefit arising from 4 dwellings would be fairly modest, and the Council advises that it can demonstrate a 5 year supply of housing to meet relevant targets. Moreover, neither the support for new housing within the development plan or Framework is at the expense of ensuring that the homes provided offer an appropriate quality of life for future occupiers.
38. In this context, I find that the benefits of the proposal are insufficient to outweigh the clear harm in respect of the living conditions of future occupiers and the resulting conflict with the development plan when it is read as a whole. Material considerations do not therefore indicate that the proposal should be determined other than in accordance with the development plan.

Conclusion

39. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR