



Appeal Decision

Site visit made on 23 September 2020

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Appeal Ref: APP/V5570/W/20/3254575

Garages rear of 4 - 28 Cardozo Road, Islington, London N7 9RL

- 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 Capital Homes (Cardozo Road) Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref P2019/3129/FUL, dated 17 October 2019, was refused by notice dated 19 December 2019.
 - The development proposed is demolition of the 45 existing garages on site and construction of nine self-contained mews houses including provision of on site cycle parking, refuse storage and private amenity space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the mix of housing stock in the area; and
 - whether or not the proposal would provide satisfactory living conditions for potential future occupiers with particular regard to amenity space; and
 - the effect of the proposal on the character and appearance of the area, including the effect of the proposal on nearby trees and, linked to that, whether or not the proposal would preserve or enhance the character or appearance of the Hillmarton Conservation Area.

Reasons

3. The appeal site comprises a broadly triangular plot of land to the rear of Nos 2 – 28 Cardozo Road and is bordered on the other two sides by properties on Caledonian Road and Hillmarton Road. Access to the site is via a fairly narrow lane off of Cardozo Road, near the junction with Caledonian Road. The site currently hosts a large area of hardstanding and a number of single storey garages. The appeal site is situated within the Hillmarton Conservation Area (CA).
4. The proposal is for the demolition of all but two of the garages on site and the construction of nine dwellings with associated amenity space, cycle parking and refuse storage.

Housing Mix

5. Policy DM3.1 of Islington's Local Plan: Development Management Policies, June 2013 (DMP) states that all sites should provide a good mix of housing sizes based on Islington's Local Housing Needs Assessment (LHNA). Table 3.1 sets out the housing size mix for each housing tenure based on the LHNA; for market housing 10% should be 1-bed, 75% should be 2-bed and 15% should be 3-bed.
6. The proposed development would provide five 2-bedroomed dwellings and four 3-bedroomed dwellings; a mix of approximately 44% 3-bedroomed and 56% 2-bedroomed. No 1-bed units would be provided. As such, the proposal would fail to accord with Policy DM3.1 of the DMP.
7. I acknowledge that the supporting text to the policy states that the existing housing stock is heavily skewed towards smaller dwelling types and recognises the need for accommodation suitable for families. However, the policy is, nevertheless, clear that development should provide a mix of housing sizes based on identified need and expressly sets out the required mix. I note that the principal of the housing mix is to ensure the majority of units provided are 2-bed with fewer 1- and 3-bed units. However, I do not concur with the appellant's view that the proposal is broadly in the spirit of the policy as, whilst it would indeed have fewer (i.e none) 1-bed units, the balance would provide a far greater % of 3-bed units than is sought.
8. The appellant makes reference to the existence of a number of other properties which have a mix of units which could be considered similar. However, Policy DM3.1 also states that the mix of dwelling sizes appropriate to specific developments will also be considered in relation to the character of the development, the site and the area and developers should demonstrate how the mix of dwelling sizes meets the housing size mix requirements and is appropriate to the site's location. As such, it follows that the application of Policy DM3.1 in relation to other applications may be treated differently based on the specific circumstances of the application.
9. In this instance, though the appellant has set out that the proposal would meet a gap in terms of unit types by providing family homes, I am not satisfied on the basis of the limited evidence before me that the specifics relating to this development are such so as to justify such a marked departure from the figures set out in the development plan.
10. I therefore consider that the proposal would harm the mix of housing stock in the area and fail to provide an appropriate mix of housing sizes, contrary to Policy DM3.1 of the DMP.

Living conditions

11. There is no dispute between the parties that the proposed dwellings would meet the requirements set out within the Nationally Described Space Standards and would provide a generally good standard of internal accommodation. However, there would appear to be some disagreement as to whether or not the amenity space which would be provided to serve three of the units would meet the requirements set out in Policy DM3.5 of the DMP.
12. Policy DM3.5 sets out that the minimum requirement for private outdoor space is 5m² on upper floors and 15m² on ground floors for 1-2 person dwellings and

for each additional occupant, an extra 1m² is required on upper floors and an extra 5m² on ground floors up to a minimum of 30m² for family housing (three bedroom residential units and above). By my reading units 5, 6 and 7 (which are 3 bedroom, 6 person units) would each require 35m² of amenity space.

13. The appellant states that unit 5 would provide 26m² of 'garden' amenity space with an additional 10m² of 'terrace' space, similarly units 6 and 7 would each provide 25m² of 'garden' space and 11m² of 'terrace' space. The appellant argues that the total amenity space provided would, therefore, exceed the requirements of Policy DM3.5. The Council, however, seem to exclude the additional 'terrace' space within their calculations and deem the amenity provision would fall below the standards. My interpretation of Policy DM3.5 suggests that, as set out in part A, private outdoor space can be in the form of gardens, balconies, roof terraces and/or glazed ventilated winter gardens. Consequently, I am of the view that the proposal would indeed comply with the space standards set out in Policy DM3.5.
14. However, it is not only the quantity of amenity space which falls to be considered, it is also the quality. The rear garden areas of a number of the units would be significantly, and in some cases almost entirely, beneath the canopies of nearby mature trees. The proposed garden areas are fairly small and the nearby trees would form dominant features in the outlook from the garden areas and would considerably overshadow the amenity spaces.
15. I note that Conservation Area Consent has been granted to reduce the canopies of trees and groups G1 Limes, T1 Horse Chestnut and T7 Lime and for the removal of an additional branch on the T1 Horse Chestnut, and for the removal of a group of sycamore trees. However, I consider that the size of the aforementioned trees and the comparably small size of the proposed gardens, is such that even following the reductions outlined above the trees would remain dominant features in the outlook from the rear garden areas of a number of units. Furthermore, some units, particularly 5, 6 and 7 would be in deep shadow with very little light for much of the day. In my view, the proposed garden areas would be dark and overly enclosed spaces which would not provide sufficient quality amenity space.
16. I acknowledge the appellant's statement that the Mayor of London's Housing Supplementary Planning Guidance states that in exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings, a proportion of dwellings may instead be provided with additional internal living space. I recognise that a number of the proposed units provide more internal living space than is required. However, I do not consider that the site constraints in this instance make it impossible to provide private open gardens for the dwellings; thus the exceptional circumstances which would warrant the off-set of external space with additional internal space referred to are not present in this instance.
17. I acknowledge that units 5, 6 and 7 would be provided with an alternative private amenity space at the front of each property, by way of the second floor terrace measuring 10m² – 11m². These terraces are oriented to the communal courtyard and would not be subject to the same potential for overshadowing or sense of enclosure to this amenity space. However, the terraces would be accessed through a bedroom and in the absence of other acceptable garden space would not provide sufficient usable private amenity space for a family

- dwelling. The terraces would not be sufficient to mitigate the poor quality garden areas. I also note that communal, landscaped amenity space is proposed within the site's central courtyard. However, this space would not be private and would not be sufficient to compensate for the lack of good quality private amenity space required by Policy DM3.5.
18. Furthermore, though not determinative, I am aware that the principal outlook from the main open plan ground floor living space of a number of the properties would be over the proposed garden areas and directly towards the large trees. Due to the limited depth of the proposed garden spaces the trees would be in close proximity to the rear of the properties. As such, the outlook would be dominated by the sizeable trees and their canopies. Whilst I note that these rooms would also have some outlook towards the front entrance of the dwellings this would not be sufficient to overcome my concerns in this regard.
19. A Daylight and Sunlight Report by CHP Surveyors Ltd dated 8th October 2019 was submitted in support of the application. Whilst this report does not explore the provision of light which would reach the external amenity areas, it states that the internal elements of the proposal would meet BRE guidance and would provide accommodation with good access to daylight. I have been provided with limited evidence to the contrary and have no reason to dispute the findings of the report in this regard. As such, I consider that the proposal would provide satisfactory living conditions with regards to light levels internally.
20. Notwithstanding my findings regarding the amount of amenity space which would be provided, I consider that the proposed development would fail to provide satisfactory living conditions for potential future occupiers with particular regard to the quality of the proposed amenity space. Consequently, the proposal would fail to accord with Policy DM3.5 of the DMP which states that all new residential development will be required to provide good quality private outdoor space.

Character and appearance

21. The Hillmarton CA appears to draw its significance from its architectural and historic interest as a series of planned suburban developments. The CA is characterised by fairly uniform residential development in terraces or semi-detached pairs. The surrounding properties range in height from two to four storeys and generally benefit from reasonably large plots and gardens which create a sense of spaciousness. Mature trees are a prominent feature and lead to a verdant, green character and appearance.
22. I note that the appeal site is currently fairly dilapidated. However, though the garages have a somewhat negative impact on the CA, the design is unobtrusive and inoffensive and their single storey nature is such that the open and spacious nature of the CA is preserved.
23. I am required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
24. The proposed dwellings would form an L-shape around a communal courtyard. One of the proposed dwellings would be single storey, five of the units would be two storey in nature and three units (5, 6 and 7) would have three storeys.

25. The proposed three storey dwellings would form part of a run of buildings and, would be a prominent feature within the scheme. However, the majority of the units on site would be two storey in nature and the variety of building heights would ensure that the overall bulk and massing of the scheme would not appear unduly large. Indeed, the heights would reflect others in the vicinity whilst, due to ground levels on site and the lower ridgelines, retaining a subservient character and appearance. In my view, the proposed dwellings would not visually compete with nearby buildings and would integrate well into the surrounding area in this regard.
26. However, the proposed built form would extend up to the boundaries of the site in a number of locations and would cover a significant proportion of the site. Consequently, the proposed dwellings would be set within constrained plots with minimal gardens and would be sited close to the boundaries with neighbouring properties. Though the proposed plot widths have been designed to align with the rear gardens of nearby dwellings the depth of the proposed plots, particularly in respect of garden space to the rear, is considerably less. Consequently, the dwellings would appear as a cramped form of development which would fail to complement the scale and character of the area. Though I accept that views into the site from the public realm would be limited, the development would be readily visible from the surrounding private realm.
27. I note the appellant's statement that the proposal represents a 13% reduction in the overall developed footprint on site and a considerable increase in landscaped green space. Whilst the developed footprint may be reduced the markedly different form of development, design and layout of the scheme is such that it would nevertheless appear to decrease the sense of spaciousness of the site.
28. I acknowledge that the proposed development has been carefully designed so as to integrate within its surroundings and find that the proposed palette of materials would complement those used in the wider area. This, however, is not sufficient to mitigate the harm I have identified.
29. As set out above, a number of the proposed dwellings would be in close proximity to nearby mature trees of considerable amenity value. I acknowledge that the trees are within private gardens and, as such, views towards them are limited. However, due to the size and maturity of the trees I consider that they notably contribute to the verdant character of the area and are a positive feature with respect to their contribution to the character and appearance of the CA.
30. An Arboricultural Report and Tree Condition Survey prepared by Ruskings Tree Consultancy in October 2019 (Tree Survey) has been submitted in support of the appeal. The Tree Survey concludes that the protection of retained trees on this site during the proposed development works can be achieved by following the guidance outlined and by continuing to follow the recommendations in BS5837:2012. The Tree Survey goes on to suggest that the site works will be closely supervised and the successful protection of the trees can be secured by use of a planning condition. Furthermore, the Tree Survey considers that the proposed landscaping scheme will serve to improve the age and species diversity of the tree resource.
31. Whilst I accept the findings of the Tree Survey in respect of the protection of the trees during construction, I am not satisfied, based on the evidence before

me, that the proposal would not have an adverse impact on the long term protection of the trees. In my exploration of whether or not the proposal would provide satisfactory living conditions for future residents I found that the proposed rear garden areas of a number of the properties would be significantly adversely affected by the proximity of the mature trees. As such, I consider that the proposal is likely to lead to future pressure to remove the trees as a result of the proximity of the trees to the proposed dwellings and the resultant overshadowing, debris, nuisance and perceived fear of tree/branch failure. The removal of the mature trees would have a serious detrimental impact on the character and appearance of the area.

32. Accordingly, I consider that the proposal would cause unacceptable harm to the character and appearance of the area and would fail to preserve or enhance the character or appearance of the Hillmarton Conservation Area. The proposal would therefore conflict with Policies CS8 and CS9 of Islington's Core Strategy, February 2011 (CS) and Policies DM2.1 and DM2.3 Of the DMP. Amongst other things these policies seek to ensure that all forms of development are high quality and make a positive contribution to the local character and distinctiveness of an area and strive to protect Islington's Conservation Areas.
33. The proposal would also be at odds with Policy DM6.5 of the DMP which states that any loss of or damage to trees, or adverse effects on their growing conditions will only be permitted where there are over-riding planning benefits.
34. The development would also fall short of the expectations of The National Planning Policy Framework (the Framework) which promotes high standards of design and states that developments should be visually attractive and sympathetic to the character of the area.
35. In addition to the requirement under section 72 of The Act, the CA is also a designated heritage asset as defined by the Framework, which seeks to ensure that heritage assets are conserved in a manner appropriate to their significance.
36. In this case due to the small scale of the proposal, the proposed development would cause less than substantial harm to the significance of the designated heritage asset. Paragraph 196 of the Framework indicates that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I will turn to this balance in the following paragraphs.

Other Matters and Planning Balance

37. I acknowledge that the redevelopment of the site would represent a marked improvement in public safety and crime prevention and note that the underutilised nature of the garages has resulted in fly tipping and anti-social behaviour on site previously. The redevelopment of the site would also remove the dilapidated existing garages.
38. The development proposal would also provide a number of financial contributions including towards off-site affordable housing and towards the reduction of carbon dioxide emissions from the existing building stock in the Borough and Community Infrastructure Levy Contributions.

39. I acknowledge that the appeal site is in a sustainable location and has excellent accessibility to public transport, services and facilities. I also note that in many respects the proposal would provide a suitable standard of accommodation for future occupiers and would be a 'car free' development. Furthermore, the proposal would make a positive contribution towards boosting the supply of housing in the area. I also recognise that the proposal would provide some other benefits; for example the economic benefits of engaging local professionals, trades and suppliers and the ongoing benefit of the occupiers of the proposed dwellings utilising local facilities. These benefits are, however, limited by the small scale of the proposal and must be considered in that context.
40. I have found that the proposal would harm the mix of housing stock in the area, fail to provide an appropriate mix of housing sizes, not provide satisfactory living conditions for future occupiers in respect of amenity space, and would fail to preserve or enhance the character or appearance of the CA. The Framework requires great weight to be given to the conservation of heritage assets. As such, the harm I have identified in this instance carries substantial weight.
41. I have given careful regard to all of the above considerations. However, in my view, none of the identified public benefits, alone or cumulatively, are sufficient to outweigh the harm I have set out above.
42. I have noted a number of other issues raised; including the effect on the living conditions of neighbouring residents and the effect on highway safety. However, as this proposal is going to be dismissed for other reasons it is not necessary for these to be explored further as part of this appeal.

Conclusion

43. The proposed development would fail to accord with the development plan taken as a whole. Therefore, for the reasons given above, I conclude that the appeal should fail.

L J O'Brien
INSPECTOR