
Appeal Decision

Site visit made on 15 March 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2021

Appeal Ref: APP/V5570/W/20/3258684

138 Tufnell Park Road, Islington, London N7 0DZ

- 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 Sunshine Homes Ltd. against the decision of the Council of the London Borough of Islington.
 - The application Ref P2020/0318/FUL, dated 1 February 2020, was refused by notice dated 13 July 2020.
 - The development proposed is the demolition of existing detached store to the rear of no. 138 and erection of a single storey infill studio dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal has been altered from the application form to the decision notice. However, the original description adequately describes the proposal and I have determined the appeal on this basis.
3. The London Plan (2021) was adopted during the course of the appeal. Both parties were afforded the opportunity to comment on its implications for this proposal.
4. The issue of whether or not the proposal would provide an appropriate provision for affordable housing has not been directly referenced as a reason for refusal. However, the concerns of the Council in relation to this matter are not new to the appeal having been clearly referenced within the officer report at paragraph 41. The matter was also clearly known to the appellant who within their appeal statement identify Policy CS 12 of The Islington Core Strategy (CS) (2011). Amongst other things, this requires schemes delivering less than 10 units to provide financial contribution towards affordable housing provision elsewhere within the borough. I have therefore addressed this matter as a main issue.

Main Issues

5. The main issues therefore are:
 - i. whether the development is liable to the making of financial contributions towards affordable housing;
 - ii. the effect of the proposal on the character and appearance of the area; and

- iii. the effect of the proposal on the living conditions of future occupiers with particular regard to floor space provision, outlook, daylight and sunlight and the effect of the proposal on the living conditions of existing occupiers at 138 Tufnell Park Road with particular regard to outdoor amenity space.

Reasons

Affordable housing

6. The CS sets out that in relation to its housing needs, affordability is, and will continue to be, a major issue in the borough¹. SPD² guidance indicates that the need for affordable housing remains very high. It states that the council wants to make a place where middle income people can afford to live, including families with dependent children, and older people. It references the target for 50% of all housing provision to be affordable.
7. Additionally, the SPD detailed above states that financial contributions from minor residential developments will make a significant contribution towards achieving the strategic policies and targets. I have no reason to disagree with this assertion.
8. Policy CS 12 of the CS seeks to ensure the provision of affordable housing to address housing need and requires that sites providing fewer than 10 units provide financial contribution towards affordable housing provision elsewhere in the borough. The SPD provides greater detail regarding the financial contribution required by Part G of Policy CS12. Section 4 of the SPD sets out that all minor residential developments resulting in the creation of one or more additional residential unit(s) are required to provide a commuted sum of £50,000 per unit towards the costs of providing affordable housing units on other sites within the borough.
9. In contrast to the CS, the National Planning Policy Framework (the Framework) details that provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas.
10. Nonetheless, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
11. From the information before me there appears to be strong and compelling evidence that in order to respond to significant, evidenced affordable housing need in the borough, development of this sort and scale should help address that need notwithstanding the contents of the Framework.
12. Therefore, although the Framework is a weighty material consideration, it would not outweigh the development plan in this instance. The appeal should be determined in accordance with the development plan, namely Policy CS 12 of the CS.
13. Consequently, given the lack of any planning obligation to secure the required sum, the proposal would fail to provide an appropriate contribution towards off

¹ Islington Core Strategy p.65

² Islington Affordable Housing Small Sites Contributions Supplementary Planning Document October 2012

site affordable housing provision. This would conflict with Policy CS 12 of the CS.

Character and appearance

14. The area has a largely residential character. No. 138 Tufnell Park Road (No. 138) is an imposing four storey property accommodating 4no. flats.
15. The rear of the property is largely covered in hard-standing and does not form an especially attractive or functional garden space in respect of its contribution to the street scene.
16. The detached store, which is placed tightly against the north and west boundaries of the site appears to be a long-standing feature at the site sits prominently in views from Dalmeny Road. This is as a result of the low boundary treatment and as a result of its position well forward of the front building line on the terrace to the north. The existing store would be removed as part of the proposals.
17. While the studio dwelling would be wider than the existing store, it would also be slightly lower. On balance therefore, it would have a neutral impact on views west towards the adjacent gardens. It would remain entirely subordinate to the main building on the site and would not contribute towards a terracing effect. The building would not be of an excess height above the existing side wall. It would be built using London stock facing brickwork and subject to the careful choice of materials, could achieve the broad design requirements for end of terrace infill detailed within paragraph 5.144 of the SPD³.
18. Within the context of this particular site, the proposal would not harm the character and appearance of the area. It would consequently accord with Policy CS8 of the CS and Policy 2.1 of Islington Development Management Policies (DMP) which amongst other things require high quality design that is appropriate to the character of the area. I have not identified conflict with SPD guidance. Policy DM 3.6 of the DMP appears to have little relevance as this relates to play space primarily with large developments.

Living conditions

19. In terms of floor space, the evidence indicates that the proposal would meet the minimum required at 37sqm. Whilst the outlook for the future occupiers would not be exceptionally wide ranging, it would be available in varying amounts from both the window on the eastern elevation and the window serving the courtyard on the northern elevation albeit this window would largely have an outlook onto the gable end of the dwelling to the north.
20. Overall, the outlook provided would not be unacceptable for a small, infill dwelling. As well as the daylight and sunlight that would be achieved through the windows, it would also be able to penetrate the dwelling through the rooflights which would serve the kitchen/dining area, hall and shower room. I cannot therefore conclude that the unit would provide substandard living conditions for future occupiers with particular regard to floor space provision, outlook, daylight and sunlight.

³ Islington Urban Design Guide Supplementary Planning Document January 2017.

21. The existing yard area is fairly exposed to the street and there are questions over the value of this area to the residents of No. 138 in its existing form. The appellant suggests that the residents of No. 138 do not have any amenity space to the rear as the yard is part of the garage which is used for a mini-coach business.
22. Nonetheless, the plans indicate that 32sqm would be retained for use as amenity space in association with No.138, which would comprise of a patio and grassed lawn. Within this context, I cannot conclude that there would be any significant harm to the living conditions of existing occupiers of No.138 with particular regard to outdoor amenity space.
23. With regard to these particular matters the proposal would not therefore conflict with Policy CS 12 of the CS which amongst other things requires the provision of high-quality homes. The proposal would also not conflict with Policies 2.1, 2.2, 3.4, 3.5 or 6.3 of the DMP which amongst other things require proposals of high quality, well sized housing of inclusive design that provides adequate private outdoor space and does not result in a significant loss of existing outdoor space. I have not identified conflict with SPG⁴ guidance.

Other Matters

24. On the matter of offsetting CO2 emissions, it is unclear from the Council's evidence where the requirement for a contribution of £1500 is derived from and the precise purpose that such a contribution would be put to. In the absence of robust evidence, I find that it has not been demonstrated that a planning obligation relating to this matter is necessary or that it would be directly related to the development.
25. Accordingly, such an Obligation in this case would fail to meet the tests set out in regulation 122(2) of The Community Infrastructure Levy Regulations 2010.

Planning Balance

26. The Government's objective is to significantly boost the supply of housing and the proposal would make a positive contribution to housing supply. However, given the small scale of the proposal, the provision of an additional house would only attract modest weight.
27. Conversely, the proposal would not make the required contribution towards much needed affordable housing within the borough, a matter which I have afforded significant weight. The proposal would therefore conflict with the development plan taken as a whole and there are no other material considerations, including the Framework, that outweigh this conflict.

Conclusion

28. For the reasons outlined above, I conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR

⁴ Mayor of London - Housing Supplementary Planning Guidance March 2016.