



Appeal Decision

Site Visit made on 7 April 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2021

Appeal Ref: APP/V5570/W/20/3262336

5 Arundel Place, LONDON, N1 1LS

- 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 MirrorStoke Ltd against the decision of London Borough of Islington.
 - The application Ref P2020/0664/FUL, dated 30 March 2020, was refused by notice dated 31 July 2020.
 - The development proposed is the Creation of a new 1 bedroom two storey dwelling over ground and basement levels, within the garden of 5 Arundel Place adjacent to the rear of the existing 4 storey plus basement building. Associated alterations to Flat A, 5 Arundel Place at upper ground floor level to include the installation of a Juliet Balcony to the side elevation of the property and the repositioning of the casement window to the rear elevation. Installation of a new window to the side elevation of Flat D, 5 Arundel Place at lower ground floor level and creation of a new set of sliding doors to the rear elevation of Flat D in place of the existing 2 x casement windows.
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Decision

1. The appeal is allowed, and planning permission is granted for the creation of a new 1 bedroom two storey dwelling over ground and basement levels, within the garden of 5 Arundel Place adjacent to the rear of the existing 4 storey plus basement building. Associated alterations to Flat A, 5 Arundel Place at upper ground floor level to include the installation of a Juliet Balcony to the side elevation of the property and the repositioning of the casement window to the rear elevation. Installation of a new window to the side elevation of Flat D, 5 Arundel Place at lower ground floor level and creation of a new set of sliding doors to the rear elevation of Flat D in place of the existing 2 x casement windows at 5 Arundel Place, LONDON, N1 1LS in accordance with the terms of the application, Ref P2020/0664/FUL, dated 30 March 2020, subject to the conditions in the Schedule attached to this decision.

Preliminary Matters

2. The London Plan 2021 has been published by the Mayor, setting the spatial development strategy for London and is now part of the development plan. The decision notice for the appeal application referred to the London Plan 2016, but only in general terms which have not changed with the publication of the London Plan 2021. The Council Appeal Statement is clear that policies in Islington's Core Strategy, February 2011 (the Core Strategy) and Islington's Local Plan: Development Management Policies, June 2013 (the Local Plan) are the most relevant for this appeal. As such, I have not found it necessary to seek the views of the parties on the London Plan 2021.

Main Issues

3. The main issues are the effect of the proposal on:

- the character and appearance of the area
- living conditions of occupiers of Flat D with regard to the provision of functional, private, outdoor amenity space
- living conditions of occupiers of ground floor flats with regard to outlook, privacy and enclosure
- living conditions of future occupiers of the proposal with regard to outlook, enclosure, protection from noise and vibration and meeting accessibility standards
- the provision of affordable housing and carbon offsetting within the Borough.

Reasons

Character and appearance

4. The appeal site is a four-storey end-terrace block of flats in brick and render, adjacent to a railway line. It is a modern extension to an older traditional terrace. Surrounding terraces are a mixture of ages, styles and materials. The overall impression is of an attractive mixture of relatively tall, formal buildings fronting onto, and giving the setting to a park in the centre.
5. The proposal, to the rear of the host building, would, by virtue of its modern design, materials and form, clearly be different to both the host property, and its more traditional neighbours which front onto Arundel Place and Arundel Square. However, this difference would be seen in the context of a host building which is itself already different. In addition, it would be backdropped against the buildings on Epping Place and Granary Square, which, is itself distinct from, and different to those traditional buildings around the site.
6. Turning to its scale, I note the scale of the buildings around the site, the size of the site and the size of the boundary treatments which obscure much of the proposal. As a result, I am satisfied that the proposal is of a scale, massing and bulk which is appropriate to the character and appearance of that which surrounds it. In this context, I do not consider that the proposal would be unduly visible, or that its visibility would lead to wider harm to the character and appearance of the area.
7. The site itself does not lie within a Conservation Area (CA). However, the terrace it extends is within the Barnsbury CA, and the St Mary Magdalene CA abuts the edge of the adjacent railway line cutting. As such, the appeal site, along with the line of the railway and the modern building opposite are sandwiched between, but not themselves within CAs.
8. To my mind, this location, and the very specific way in which the adjoining CA boundaries have been drawn makes it very clear in policy terms that the site is apart from, and distinct from the CA. In physical, spatial terms, it is equally plain on the ground that the appeal site is distinct from the buildings around it which are in the CA. The current building on the appeal site, and indeed, its neighbours to the rear are plainly more modern than, and therefore, obviously

- distinct from its neighbours within the CA. The proposal would plainly be distinct from its neighbours, but not, in my view, any more so than the host building or the other elements explicitly excluded from the CA.
9. As a result of this clear spatial and policy distinction between the site and its surroundings, having regard to the great weight to be given to the conservation of the CAs as heritage assets, I consider that the proposal preserves, and does not cause any harm to the setting of either CA.
 10. I accept that the proposal will lead to a reduction in the private open space available to the rear of the site. However, this space is set behind and next to several tall buildings, enclosed by a high boundary wall and fence. As a result, I consider that the space does not have a particularly open character. As such, whilst the space would be reduced, I do not consider it would be unduly harmed by the proposal.
 11. In their report and statement, the Council have treated the proposal as an "end of terrace infill" development and assessed it as such against criteria in the Islington Urban Design Guide 2017 (UDG). The UDG does give advice which appears relevant to this proposal, in terms of gaps, corner returns and the backdrop to the street as well as overarching principles of high-quality design. However, I do not consider it appropriate to assess the proposal against the two approaches set out in the UDG for "side extensions and end of terrace infill", as neither directly relate to the proposal, as it is substantially to the rear of the terrace. In addition, the examples given in the UDG are not a closed list, so the relationship of the proposal to them is not in itself a reason to dismiss the proposal.
 12. I do not therefore consider that the design, siting, scale, footprint, bulk, massing, or form of the proposal would be dominant or discordant in light of its setting. I also do not consider that the proposal would be visually unacceptable or that it would cause harm to the setting of either CA. In respect of its character and appearance, I therefore consider that the proposal complies with Policies CS8 and CS9 of the Core Strategy, Policies DM2.1, DM2.3 and DM6.3E of the Local Plan. The proposal would also conform to guidance in the UDG and the Barnsbury Conservation Area Guidance. These policies and guidance all seek, amongst other things, to ensure that development features high-quality design, which reflects the character and appearance of the area, protects the built- and historic environment and private open spaces. I also consider that the proposal would comply with guidance in the National Planning Policy Framework (the Framework) on conserving and enhancing the historic environment.

Outdoor amenity space for the occupiers of Flat D

13. Flat D, in the lower-ground floor currently has access to the private outdoor space to the rear of the site. The proposal would reduce the size of this outdoor space and would increase the effective height of the boundaries enclosing it. Notwithstanding that however, Flat D would still be provided with private outdoor space which meets the requirements of Local Plan policy DM3.5 in terms of the size and quality. As a result, whilst the proposal would lead to a loss of space, I cannot agree that the resulting situation would be unacceptable or contrary to the requirements of the policy.

Outlook, privacy and enclosure for the occupiers of the ground floor flats

14. The proposal would lead to the rear-facing windows of the upper- and lower-ground floor flats being altered to avoid directly facing the proposal at close quarters. The lower-ground floor flat would change from two rear-facing windows and a door to a much larger rear-facing patio door and a small side-facing window. The upper-ground floor flat would lose one rear-facing window but gain a relatively large side-facing Juliet balcony.
15. I accept that the outlook to the rear from both of these flats would be reduced. However, I do not consider that the level of outlook or privacy for either flats would be reduced such that it would be considered unacceptable. Although the windows are changed at the rear of both flats, additional and alternative outlook is provided, making the most of the available outlook and limiting any sense of enclosure which may arise. I consider that the alterations proposed are a pragmatic and appropriate response, given the dense, urban nature of the site and its surroundings.
16. I therefore consider that the proposal would not cause undue harm to the living conditions of occupiers of the upper- and lower-ground floor flats with regard to outlook, privacy and enclosure. It would therefore comply with Policies DM3.3 and DM3.4 of the Local Plan, which seek, amongst other things to ensure that development proposals consider the amenity of future occupiers and meet appropriate standards.

Living conditions for future occupiers of the appeal proposal

17. The proposal offers open views across the railway cutting at its upper level, and more restricted, but still open, views across the private outdoor space at its lower level. Similarly, I do not consider that the outlook from the proposal would be unduly enclosed, given its spatial relationship to the buildings which surround it. Given the nature of the site, I consider that this is acceptable and meets the housing standards requirements of the policy.
18. The appellant has provided an Acoustic Design Statement which assesses noise, vibration and ground-borne noise at the proposal, principally in relation to the effects of the railway line immediately adjacent to the site. This statement was updated during the application, and there is correspondence which suggests that noise concerns had been addressed to the satisfaction of the Council. Despite the contents of the Acoustic Design Statement, which now includes a section specifically addressing ground borne noise, the Council maintains its objection.
19. Notwithstanding that, the evidence in, and conclusions of the Acoustic Design Statement, elaborated on at Final Comments stage are compelling and demonstrate that the proposal could, subject to appropriate design and build details set out in the report, achieve suitable living conditions with regards to noise, vibration and ground-borne noise arising from the adjacent railway.
20. I am therefore satisfied that the proposal would deliver suitable living conditions for future occupiers of the proposal with regard to outlook, enclosure, protection from noise and vibration, in line with the requirements of Policy DM3.7 of the Local Plan.

21. The proposal, with steps internally, does not meet the requirements of Policy DM3.4 of the Local Plan which seeks to ensure the delivery of housing meeting appropriate standards, or the guidance in the Inclusive Design in Islington SPD (the SPD), as it does not include step-free access or space for a lift, despite there apparently being space to do so.

Affordable housing and carbon offsetting

22. The Framework sets out that the provision of affordable housing should not be sought for residential developments of the scale set out in the appeal proposal. However, Policy CS12 of the Core Strategy sets out that one of the ways the Council seeks to meet its housing challenge is through the delivery of affordable housing. In order to do that, the Council requires schemes of less than 10 units to provide a financial contribution towards affordable housing provision elsewhere in the Borough. The Council has provided evidence on the need for such affordable housing within Islington, which sets out the high value, high demand nature of the housing markets, that housing costs are very high relative to income and how the number of small sites within the Borough requires such a policy to be in force.
23. Policy CS10 of the Core Strategy seeks to minimise Islington's contribution to climate change, and as part of that policy requires development to both minimise emissions and make a contribution towards offsetting any remaining emissions.
24. Having reviewed the evidence, I am satisfied that the contributions are required, meet the tests in the Planning Practice Guidance (the PPG) and the Framework, and that the evidence supporting the development plan policy is sufficient to outweigh the conflict with the Framework identified above.
25. The appellant has indicated that they are willing to make the contributions required by the Core Strategy policies. They have provided a Unilateral Undertaking (UU) under section 106 of the Act to secure these contributions. Having examined the UU, I am satisfied that it achieves what is required of it, has been properly executed and is capable of being properly enforced. In particular, I consider that the UU is appropriately linked to the granting of planning permission at appeal.
26. Therefore, on the basis of the evidence before me, and in line with my conclusions above, I am satisfied that the UU is necessary to make the development acceptable in planning terms, directly relates to the development and is fairly related in scale and kind to the development.
27. The proposal therefore complies with Policies CS10 and CS12 of the Core Strategy, which seek to ensure the delivery of affordable housing and the offsetting of carbon dioxide emissions associated with development in the Borough.

Planning balance

28. The proposal would introduce a change to the street-scene. However, I have found that this change would not be harmful to the character and appearance of the area or the setting of the CAs. The proposal would also result in a change to outlook and outdoor space for occupiers of the existing flats. However, that change would not result in unacceptable living conditions for those occupiers, and the proposal would deliver suitable living conditions for future occupiers of the proposal.
29. I accept that accessibility and inclusive design has a vital part to play in delivering development of overall high-quality, and that this is supported by national, regional and local policy. However, in this case, I must have regard to the particular characteristics of this site, which already has multiple, uneven levels and does not have step free access. The provision of an additional residential unit, alongside the substantial contributions towards affordable housing and carbon offsetting are substantial benefits which arise from the proposal. Balancing these, and having regard to the evidence of both parties, I consider that these benefits, coupled with the wider compliance of the proposal with the development plan, are material considerations which outweigh the limited conflict I have found with the development plan.

Conditions

30. The Council has suggested a number of conditions to be attached, should planning permission be granted, and the appellant has indicated their agreement to them. Having had regard to that, the requirements of the National Planning Policy Framework and the Planning Practice Guidance I have imposed a standard condition concerning commencement (1), compliance with the submitted plans and documents (2), schedule of materials (3), and submission and approval of bin and bike stores (4 and 5) in order to ensure the satisfactory appearance of the completed development. Condition 6, which seeks to ensure that the development is car-free is supported by policies in the development plan, and is a function of the balance between the levels of development required in the Borough, its population density, and the availability of on-street parking. I am satisfied that both the purpose and the wording of this condition are reasonable, necessary and meet the appropriate tests. Conditions 7 and 8 are necessary to ensure the development meets standards for accessibility and sustainability.
31. Condition 9, which deals with construction management is required due to the nature of the site and the access to it, and the need to ensure that the development can be carried out without unacceptable noise and disturbance, or harm to the amenity of occupiers of surrounding properties. This condition requires to be addressed prior to the commencement of the development owing to the nature of the development and the site, and as it concerns fundamental matters of implementation which could not reasonably be dealt with after the commencement of the development. The appellant accepts this reasoning.

32. Condition 10 is necessary to ensure that surface water arising from the proposal is properly dealt with. Conditions 11 and 12 are reasonable and necessary to ensure that the development provides and maintains suitable levels of amenity, both for occupiers of the proposal, and neighbouring properties. Conscious of the general presumption in the Framework against the restriction of permitted development rights, I am satisfied that in this case there is clear justification for the removal of permitted development rights, and that this condition passes the tests.
33. I am therefore satisfied that the conditions meet the tests in, and requirements of both the Framework and the Planning Practice Guidance.

Conclusion

34. Therefore, I consider that the proposal substantively accords with the development plan, and that where it does not, the limited harm is outweighed by the substantial benefits I have found. I have found that there are no other material considerations which indicate a decision be taken other than in accordance with it. For the reasons given above I therefore conclude that the appeal should be allowed, and planning permission granted.

S Dean
INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. That the development hereby permitted shall be carried out in accordance with the following approved plans: PL102; PL111; PL112; PL114; PL100; PL115; PL110; PL113; PL101; Planning Statement 5 Arundel Place produced by RPS; Acoustic Design Statement-5 Arundel Place REV 2 produced by RPS; 5 Arundel Place Design and Access Statement produced by Architecture for London.
3. The development shall be constructed in accordance with the schedule of materials noted on the plans and in the Design and Access Statement. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.
4. Details of refuse/recycling store(s) shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved. The refuse/recycling store (s) shall be provided strictly in accordance with the details so approved, provided/erected prior to the first occupation of the development, and maintained as such thereafter.
5. Details of the layout, design and appearance (shown in context) of the bicycle storage area(s) shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development onsite. The storage shall be covered, secure and provide for no less than 1 cycle spaces. The bicycle storage area(s) shall be provided strictly in accordance with the details so approved, provided/erected prior to the first occupation of the development, and maintained as such thereafter.
6. All future occupiers of the 1 bed flat hereby approved shall not be eligible to obtain an on street residents parking permit except: i) In the case of disabled persons; ii) In the case of units designated in this planning permission as non-car free; or iii) In the case of the resident who is an existing holder of a residents' parking permit issued by the London Borough of Islington and has held the permit for a period of at least one year.
7. Prior to the occupation of the hereby approved development, details shall be submitted and approved in writing, demonstrating compliance with the water efficiency requirements of Part G of Policy DM7.4 of Development Management Policies (2013) and Environmental Design SPD. The approved measures shall be implemented in full and retained thereafter.
8. The approved development shall be constructed to Category 2 of the National Standard for Housing Design as set out in the Approved Document M 2015 'Accessible and adaptable dwellings' M4 (2) in accordance with the approved plans. The development shall be constructed and comply strictly in accordance with the details so approved.
9. No development works shall take place on site unless and until a Construction Method Plan has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period. The CMP should include details on the access, parking, and traffic management and delivery arrangement throughout the construction phase of the development.

This should include: a) identification of construction vehicle routes b) how construction related traffic would turn into and exit the site (including appropriate traffic management) c) the method of demolition and removal of material from the site d) the parking of vehicles of site operatives and visitors e) loading and unloading of plant and materials f) storage of plant and materials used in constructing the development g) the erection and maintenance of security hoarding h) wheel washing facilities where applicable i) measures to control the emission of dust and dirt during construction a scheme for recycling/disposing of waste resulting from demolition and j) construction works. The development shall be carried out strictly in accordance with the details so approved and no change from shall take place without the prior written consent of the Local Planning Authority.

10. Details of measures to reduce surface water run-off from the site shall be submitted to and approved in writing by the Local Planning Authority prior to superstructure works. The drainage system shall be installed/operational prior to the first occupation of the development. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.
11. Notwithstanding the provisions of the Town and Country Planning (Use Class) Order 2015 (As Amended) permitted rights to alter or extend the property are hereby removed. No such change shall occur without express planning permission.
12. The flat roofs of the property hereby approved shall not be used as an amenity or sitting out space of any kind whatsoever and shall not be used other than for essential maintenance or repair, or escape in case of emergency.

End of Schedule of Conditions