



Appeal Decision

Site visit made on 22 September 2021

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2021

Appeal Ref: APP/V5570/W/21/3275392

Land at rear of 72 Biddestone Road (fronting Quemerford Road), London N7 9RA

- 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 Ranjan Bhattacharya against the decision of the Council of the London Borough of Islington.
 - The application Ref P2020/2375/FUL, dated 7 September 2020, was refused by notice dated 20 November 2020.
 - The development proposed is the erection of a single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address above is reflected in both the decision notice and the appeal form thus I have used it for consistency.
3. The revised National Planning Policy Framework (the Framework) was published in July 2021 and has replaced the 2019 iteration. The main parties were given the opportunity to comment upon the implications of the revised Framework.
4. The Council's decision refers to policies of the London Plan 2016 however, since the application was determined, The London Plan, The Spatial Development Strategy for Greater London (March 2021) (The London Plan 2021) was adopted. The Council acknowledged this in their Statement of Case, following which the appellant had an opportunity to respond to the modified policies at the final comments stage. I am therefore satisfied that no party has been prejudiced by my consideration of the appeal proposal against the policies of The London Plan 2021.

Main Issues

5. The main issues of the proposal are:
 - The effect on the character and appearance of the area;
 - Whether it would provide satisfactory living conditions for future occupiers in terms of light, outlook and private outdoor space;
 - The effect on the living conditions of occupiers at 72 Biddestone Road, with particular regard to outlook; and

- Whether sufficient information has been submitted to demonstrate the effect of the proposed basement development on nearby properties, infrastructure and the public.

Reasons

Character and Appearance

6. The appeal site is located to the rear of 72 Biddestone Road and 169-171 Widdenham Road, with a frontage onto Quemerford Road. Whilst the site is overgrown and appears to have been severed from No 72, from the public realm it continues to read as part of its rear garden. The site therefore largely reflects the pattern of development in the locality and the space provides relief and a clear separation between the two terraces.
7. The proposed dwelling would be positioned up to and along a considerable stretch of the highway boundary and would fill a substantial portion of the appeal site. Whilst it would not be appreciably higher than the existing boundary wall on Quemerford Road, the presence of the dwelling would nevertheless be readily discernible due to its large footprint and overall mass, and it would appear overly dominant to and cramped within its limited plot.
8. The gap between the two terraces is not particularly long therefore the proposed development, due to its substantial massing, would give the impression of a continuous stretch of built form. It would therefore erode the sense of openness and distinct separation between the terraces, contrary to the prevailing pattern of development in the locality, and as a result it would fail to assimilate well within its context.
9. The referenced example on Quemerford Road is not directly comparable as it has a different footprint, siting, scale and design to the appeal proposal. Furthermore, it has a different relationship with the adjacent buildings and the evidence before me suggests that it replaced previous built form. As such, this example does not serve to justify the appeal proposal.
10. Accordingly, the proposed development would conflict with Policies D3 and D4 of the London Plan 2021, Policies CS 8 and CS 12 of Islington's Core Strategy (February 2011) (the CS), Policies DM2.1 and DM6.3 of Islington's Local Plan: Development Management Policies (June 2013) (the DMP), the Urban Design Guide, Supplementary Planning Document (January 2017) and the Framework. Collectively, these policies and guidance seek to ensure that developments are of a high quality and positively respond to and enhance local character.
11. Policy CS 15 of the CS is referred to in the Council's decision notice however I consider it is not relevant to this main issue as it concerns open space and green infrastructure.

Living Conditions of Future Occupiers

12. The main living area of the proposed dwelling would be at basement level and would comprise an open-plan kitchen, dining and living room. This room would be served by a frosted skylight and two windows facing onto a small courtyard.
13. The appellant's Daylight and Sunlight Report¹ indicates that the living area would achieve an Average Daylight Factor (ADF) of 2.3%, annual probable

¹ Right of Light Consulting, Daylight and Sunlight Report (Within Development) (25 August 2020)

sunlight hours of 5% (total) and winter probable sunlight hours of 0%. The ADF would marginally exceed the 2% recommended in the BRE guidance². However, it would be concentrated around the two windows and below the skylight above the kitchen. Due to the layout of the room and its overall size, the distribution of daylight would be extremely poor, with a significant area receiving no direct light. This would create gloomy and unpleasant living conditions for future occupiers, which would be further exacerbated by the proposal falling extremely below the BRE recommended sunlight hours, and future occupiers would have to rely on supplementary artificial lighting.

14. Whilst the BRE guidance is not planning policy and may be applied flexibly, and the subterranean design and constraints of the proposal are acknowledged, these factors do not outweigh the importance of providing a high-quality living space that achieves appropriate levels of light.
15. The basement courtyard would be of a restricted depth and size and surrounded by high walls. Whilst it would provide a high level of privacy, the outlook from the main living space would be constrained and poor. This would create an overbearing sense of enclosure for future occupiers.
16. With regards to the provision of outdoor space, the proposed ground level garden would largely be dominated by the ramped access. The slope, despite its low gradient, and narrow pathway including the flat area above the skylight, would limit the functionality and use of this space. The close location of a public park is noted however this would not provide future residents with high quality private space.
17. Consequently, the proposal would not provide satisfactory living conditions for future occupiers and thus would fail to accord with Policies D3, D4 and D6 of the London Plan 2021, Policy CS 12 of the CS, Policies DM2.1, DM3.4 and DM3.5 of the DMP. Together these policies seek to ensure that developments provide a good quality of life through high quality design that delivers appropriate outlook, sufficient light and functional private outdoor space, amongst other things.

Living Conditions of Neighbouring Occupiers

18. The rear garden of No 72 is considerably constrained, following its subdivision from the appeal site. However, it is the outlook onto the proposed dwelling from No 72 which the Council has raised concerns with.
19. The proposed dwelling would be restricted in scale and would be set off the shared boundary. However, and certainly from the first floor of No 72, the full extent of the development would be apparent. The substantial amount of built form, with limited garden space and thus green relief, within very close proximity would impose an adverse sense of enclosure upon the residential occupiers of No 72 and create a poor outlook, which together would significantly harm their living conditions.
20. Accordingly, this proposal would conflict with Policies D3, D4 and D6 of the London Plan 2021 and Policy DM2.1 of the DMP which seek to ensure that developments are of a high-quality design that provide a good level of amenity and deliver appropriate outlook for existing occupiers.

² Site Layout Planning for Daylight and Sunlight: A guide to good practice, Building Research Establishment (2011)

Basement Construction

21. The appellant's Structural Method Statement³, whilst prepared by a suitably qualified person, fails to include details on flooding, ground conditions and drainage, as required by the Basement Development, Supplementary Planning Document (January 2016) (the Basement SPD). Although this is only recommended content, the submission of these details would assist in determining the effect of the proposed basement on the stability of nearby buildings and provide certainty in respect of drainage and ground conditions.
22. It is suggested that this matter could be appropriately covered by a condition. However, as this is an integral part of the proposal, such a condition may impose an unrealistic and therefore unreasonable requirement upon the development. As such, it would not be appropriate to leave the submission of such matters entirely to a condition.
23. I therefore conclude that insufficient information has been provided to demonstrate that the basement construction would not compromise the structural integrity of nearby properties and infrastructure, or the safety of the public. In the absence of this information, the proposed development fails to comply with Policies D3 and D4 of the London Plan 2021, Policies CS 9, CS 10 and CS 15 of the CS, Policies DM2.1 and DM7.1 of the DMP and the Basement SPD which together seek to ensure that developments are of a safe, high quality and durable construction that protects the built and natural environment.
24. Policy DM6.5 of the DMP is referred to in the Council's decision notice however I consider it is not relevant to this main issue as it concerns landscaping, trees and biodiversity.

Other Considerations

25. On 19 January 2021 the Government published the 2020 Housing Delivery Test (HDT) results, which show that the Council of the London Borough of Islington has delivered 90% of its housing requirement over the latest 3-year period. This figure indicates that the Council must submit an action plan which will identify the reasons for under-delivery, explore ways to reduce the risk of further under-delivery and set out measures the authority intends to take to improve levels of delivery. I am not aware of whether an action plan has been prepared to date. Nevertheless, this housing undersupply position weighs in favour of the proposed development.
26. The appellant has submitted a Planning Obligation, by way of a signed and dated Unilateral Undertaking, indicating a willingness to pay the requisite contributions to affordable housing and carbon offsetting, and to secure the development as car-free. The contribution towards carbon offsetting is mitigation, and in relation to the car-free restriction, this matter is not contested between the main parties and is not a reason for refusal. Therefore, I do not need to consider these matters further.
27. However, the contribution towards affordable housing is a significant benefit which weighs in favour of the appeal proposal.

³ Structural Statement and Methodology, AOWT, 10 August 2020

Other Matter

28. I acknowledge the appellant received conflicting advice from the Council at pre-application however this is not a matter for me within the context of this appeal and I have assessed the proposal solely on its merits.

Planning Balance and Conclusion

29. The Framework seeks to significantly boost the supply of homes and indicates that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. The proposed development would see the provision of one new dwelling which would make a small contribution to the Council's housing undersupply as acknowledged by the HDT. There would also be associated benefits during construction and occupation of the dwelling and through the contribution to affordable housing. However, given the small scale of the contributions to the supply of housing overall and to affordable housing I afford these benefits moderate weight in favour of the appeal proposal.
30. As noted above, the proposal would cause harm to the character and appearance of the area and the living conditions of neighbouring occupiers; it would not provide satisfactory living conditions for future occupiers and it does not provide certainty as to the effect of the basement construction. Individually I afford these harms full weight given the conflict with local and national planning policy. Accordingly, the associated benefits of the proposal are insufficient to outweigh this harm. Material considerations do not therefore indicate that a decision should be made other than in accordance with the development plan, thus the appeal should be dismissed.

H Ellison
INSPECTOR