



Appeal Decision

Site Visit made on 9 November 2021

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2022

Appeal Ref: APP/V5570/W/21/3280692

244 York Way, London N7 9AG

- 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 Mustapha Nalbant against the decision of London Borough of Islington.
 - The application Ref P2020/1631/FUL, dated 19 June 2020, was refused by notice dated 4 March 2021.
 - The development proposed is described as "extension to the East end of the building, with three floors containing 3 No, 1 bedroom studio flats."
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - I. effect of the proposal on the primary economic function of the Vale Royal/Brewery Road Locally Significant Industrial Site (LSIS)
 - II. the character and appearance of the appeal property
 - III. the housing mix of the area
 - IV. the living conditions of existing and future occupiers of the appeal property with particular regards to outlook, outdoor space and noise from adjacent businesses.
 - V. Whether or not the appeal scheme makes appropriate provision for affordable housing

Reasons

Locally Significant Industrial Site

3. The appellant details that the property consists of "a restaurant, and the three floors above contain a single flat on each floor with a separate access from York Way". The site is located on land designated as Vale Royal/Brewery Road Locally Significant Industrial Site Locally Significant Industrial Site (LSIS).
4. Policy DM5.3 of Islington's Local Plan: Development Management Policies (2013) (the DMP) seeks the "retention and intensification of uses appropriate to the role of the Locally Significant Industrial Site" and part D resists the introduction of non-business uses. I note that paragraph 5.22 of the DMP

specifically cautions against the “introduction of uses which would compromise its economic function and future economic growth (especially residential...)”.

5. However, I note that the appeal property already accommodates residential dwellings in addition to the restaurant use. While the appeal proposals represent an intensification of the residential use on the site it does not introduce a new nonconforming use to the area and I have no substantive evidence before me to suggest that the appeal scheme would result in the loss of any business use or inhibit future occupiers of the LSIS.
6. As such, I find that the appeal scheme would not harm the primary economic function of the LSIS and as such is not contrary to Policy E6 of the London Plan and Policies CS6 and CS13 of Islington's Core Strategy (CS), Policy DM5.3 of the DMP that seeks, amongst other matters, to retain land for employment use.

Character and appearance

7. The appeal property, a substantial Victorian building, which the appellant details was originally a public house ‘The New Copenhagen’, occupies a prominent position on the corner of York Way and Brandon Road. The appeal scheme proposes an extension to the eastern side of the building above part of the existing restaurant and outside service space, almost entirely developing the site.
8. Policies CS9 and CS8 of the CS and Policy DM2.1 of the DMP seek, amongst other matters, development that is of a high-quality design and that contributes positively to the area.
9. The Officer’s report refers to paragraph 5.144 of The Urban Design Guide and the guidance in respect of terraces streets. However, I saw at the site visit that the appeal property does not form part of a contiguous terrace, indeed the neighbouring properties are distinctly different in form, size and scale and therefore such guidance is of limited relevance to the appeal scheme.
10. The submitted plans show the extension as being set back from the front elevation of the existing property and of a narrow width, but notable depth in proportion to the existing building. The plans also show that the top of the proposed mansard roof is approximately level with that of the existing building and I note that the detailing of the appeal scheme, in particular the brick detailing and windows of the proposed extension are shown as matching that of the appeal property.
11. The area around the appeal property consists of a mix of uses and building of significantly different styles, ages and form, in particular with varying distances of set back from the road, height and materials.
12. Based on the evidence before me and my observations at the site visit, it is my planning judgement that within the context of the surrounding area and the existing appeal property, the appeal scheme would not appear as being of excessive scale, nor would it appear as a dominant and discordant feature.
13. I therefore find that the appeal scheme would not harm the character and appearance of the appeal property and is not contrary to Policies CS8 and CS9 of the CS and Policy DM2.1 of the DMP.

Housing Mix

14. The appeal scheme proposes three additional one person flats. Policy DM3.1 of the DMP details that all sites should provide a good mix of housing sizes. Table 3.1 included in the supporting text to the policy requires 75% of units to be 2 bed, 15% 3 bed and 10% one bed.
15. It is the Council's case that the proposal would result in a significant over provision of studio flats, failing to meet Islington's housing objectives and to help foster stable and balanced communities.
16. The appellant argues that no details have been provided regarding the "different types of accommodation" and, while I note the limited number of units proposed within the appeal scheme, nonetheless the policy is clear in the requirement for a mix of unit types and no substantive justification has been provided as to why a mix of housing sizes cannot and has not been proposed as part of the appeal scheme.
17. Therefore, I find that the appeal scheme would fail to provide an appropriate housing mix. The proposals are therefore contrary to Policy DM3.1 of the DMP.

Living conditions

18. Policies DM3.4 and DM3.5 of the DMP require new developments to provide good quality accommodation which, amongst other matters, should be of good design and provide outside space.
19. The submitted plans show that the three studio flats that would be created as a result of the appeal scheme would benefit from windows to the front and the back and are annotations on the plans detail that the proposed flats are 40sqm and I have no substantive evidence to the contrary. Thus, based on the evidence before me I am satisfied that the proposed flats are in excess of the minimum floor space requirements detailed in the relevant planning policies.
20. However, I note that the appeal scheme does not include any outdoor space and, as a result of the appeal scheme the floor space of the existing second floor and third floor 3 bedroom units would be reduced further below the minimum floor space standards. The Officer's report details that the units as existing are 61 sqm, already below the required 74sqm and as a result of the appeal scheme would be reduced to 57sqm. While I note that the dwellings are existing and that the reduction in floor space is small, that the appeal scheme would result in a loss of floor space to the existing units is a material consideration in the determination of the appeal.
21. Furthermore, I note that the proposed units would be located directly above the existing restaurant use, the service areas and commercial kitchen extract systems, likely sources of noise and odour that may impact upon the living conditions of occupiers of the proposed dwellings. I have not been provided with any substantive evidence to persuade me that the existing restaurant would not adversely impact the living conditions of future occupiers of the appeal scheme.
22. For the reasons detailed above, I find that it has not been demonstrated that the appeal scheme would provide adequate living conditions for existing and future occupiers contrary to Policies DM3.4 and DM3.5 of the DMP.

Affordable housing

23. The appellants have submitted a planning obligation to make a contribution of £150,000 for the provision of off-site affordable housing in accordance with Policy CS12, G of the Core Strategy, which amongst other matters requires that proposals of nine units or fewer will make a financial contribution in lieu of on-site provision of affordable housing.
24. However, the Council have raised a number of concerns regarding the planning obligation including but not limited to what is described as an incorrect Land Registry Title Number, errors in the description of development, signatures, and dates.
25. On the basis of the evidence before me it is my planning judgement that it has not been demonstrated that the appeal scheme would make appropriate provision for affordable housing. As such the appeal scheme is contrary to Policy CS12 of the CS.

Other Matters

26. The appeal scheme would result in the creation of 3 additional residential units on an existing site in an area that is well served by public transport and existing services. These are material considerations that weighs in favour of the appeal scheme, but do not outweigh the harm I have previously identified.

Conclusion

27. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR