



Appeal Decision

Site visit made on 26 July 2022

by Ann Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2022

Appeal Ref: APP/V5570/W/22/3293476

Land between 69-71 Sotheby Road, London N5 2UT

- 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 N Quinn against the decision of the Council of the London Borough of Islington.
 - The application Ref P2021/0152/FUL, dated 18 January 2021, was refused by notice dated 30 September 2021.
 - The development proposed is demolition of existing buildings and redevelopment of the site to provide a single storey plus basement family dwelling with associated landscaping and rebuilt front boundary wall.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and redevelopment of the site to provide a single storey plus basement family dwelling with associated landscaping and rebuilt front boundary wall at land between 69-71 Sotheby Road, London, N5 2UT in accordance with the terms of the application, Ref P2021/0152/FUL, dated 18 January 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the planning application form. I note that a different wording has been entered on the decision notice and appeal form. Neither of the main parties have provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the description given on the planning application form.

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character or appearance of the Sotheby Road Conservation Area.

Reasons

4. The appeal site currently comprises a gap between terraced houses. It fronts Sotheby Road behind a high brick wall incorporating solid gates and contains a vacant single storey building, portacabin and hardstanding. The gap forms an important function within the Sotheby Road Conservation Area (CA) in that it preserves a historical link to former parkland beyond. Although this link has been somewhat lost by subsequent residential development to the rear of the site, it is evident that space and vegetation remains. The importance of the gap

is amplified by its location at the end of Aberdeen Road forming a terminating view.

5. The significance of the CA is, amongst other aspects, derived from tree-lined rows of highly detailed and ornate brick two or three storey period terraced houses, many of which retain their original roof, windows and front garden paths, walls and railings. Not all houses on each street include the same detailing, but the consistency of house-type and building period provide, in so far as it relates to this scheme, a recognisable consistency that adds to the area's character and appearance. The appeal site is not typical of the area, being low-level, non-residential and fronting the street behind a relatively high brick wall. Although the frontage wall and gap between the houses is a positive feature contributing the character of the area, the tall mesh and barbed wire fencing above the boundary walls detract from the appearance of the locality and CA.
6. The proposed dwelling would be discretely sited behind the frontage wall and its overall height would be slightly less than the existing building on the site, thereby retaining the gap and important view through the site and preserving the character and appearance of the CA in this regard. Whilst the top of the building would be visible, it would not be seen as a solid mass and also not be 'appreciably higher than the existing wall' in accordance with the Islington Urban Design Guide (2017) (DG). Furthermore, the proposed green roof would contribute to the verdant appearance of the site and reflect the importance of vegetation in the surrounding area.
7. The positioning of the proposed dwelling further away from 71 Sotheby Road (No.71) than the existing building on the site, and removal of mesh fencing, would allow the decorative bay on the gable of No. 71 to be more visibly appreciated. This would positively contribute to the character and appearance of the CA.
8. The proposed dwelling would lie along the boundary with 69 Sotheby Road (No.69) and flush with the front elevation. It would be clearly more visible to its occupants. In addition, the proposed courtyard would result in part of the above-ground building being pushed towards the rear of the site, beyond the rear building line of the adjacent terraced housing. However, I note the existing portacabin and single storey building is positioned to the rear of the site, close to the boundary with No. 69 and is taller than that proposed. Whilst the proposed building would cover much of the site, and this would be visible in some public and private views, the appeal site does not display the same characteristics as its surroundings and the spatial setting of No.69 would not be significantly compromised.
9. The Framework¹ confirms that great importance should be attached to the design of the built environment and gives great weight to the conservation of designated heritage assets. As part of this, development should be sympathetic to local distinctiveness, while not preventing or discouraging appropriate innovation or change. The scale, design and materials of the proposal serves to underline the distinction between old and new without being starkly at odds with the prevailing character of the area. Accordingly, and for the reasons above, I find no harm to the character and appearance of the CA in respect of the proposed above-ground development.

¹ National Planning Policy Framework 2021

10. In terms of the proposed basement, a key principle of the council's Basement SPD² is that all basement development should be 'appropriate and proportionate to its site and context'. There is disagreement between the main parties as to whether or not the strict percentages advocated within the Basement SPD are applicable on this site. Regardless, the proposed basement is significant, extending to the front boundary wall and across much of the site, which is not typical of residential plots in the CA. As such, the proposal would not accord with the Basement SPD.
11. However, I consider the effect of the basement element to be limited by virtue of its, mainly, underground nature, irrespective of whether or not it would be publicly visible. The appearance of the existing site, as set out above, is not typical of the surrounding area. Its essential character is that it is a gap within a period terraced row incorporating a feature brick wall fronting Sotheby Road. I therefore find that the formation of a basement on land behind the wall, previously not forming part of any residential land, would not harm the character or appearance of the CA.
12. Consequently, for the reasons set out above, I conclude that the proposed development would preserve the character and appearance of the Sotheby Road CA and its significance as a designated heritage asset. The proposal would therefore comply with the Islington Development Management Policies (2013) (IDMP) Policy DM2.1, which seeks to ensure high quality design and cognisance of a site's characteristics, and Policy DM2.3, which seeks to preserve or enhance Islington's heritage assets in a manner appropriate to their significance. The proposal would also comply with the heritage protection policies of the Framework and the guidance set out in Islington's Conservation Area Design Guidelines – CA36, Sotheby Road (2002) and the Islington Urban Design Guide (2017), both of which seek that development makes a positive contribution to local character and distinctiveness.

Other Matters

13. I have had regard to comments from occupiers of the neighbouring property. However, having carefully considered the matter, I agree with the Council's conclusions that the proposal would not be detrimental to the living conditions of neighbouring occupiers, provided a number of conditions are imposed in this regard, relating to plant noise, drainage and clarification of boundary treatment. Amendments to the position of the building and revised Daylight and Sunlight Report submitted during the course of the planning application have also addressed issues raised relating to light and outlook. In addition, any noise and disturbance associated with construction would be for a temporary period only.
14. I note comments that the proposed dwelling should be moved further away from No.69 and lack of accurate drawings. I have considered this appeal and the effects on neighbouring occupiers in light of the evidence and plans before me, which I find acceptable in planning terms for the reasons set out above.
15. Construction methods and communication with the appellant are not matters that are material to the planning considerations of the proposal.

² Islington Basement Development Supplementary Planning Document 2016

16. The appellant has submitted a signed and dated Unilateral Undertaking (UU) pursuant to section 106 of the Act³. This contains a planning obligation for financial contributions towards affordable housing and carbon offset. I consider these are necessary to meet the requirements of Policy CS12 of the Islington Core Strategy (2011) (ICS), Policy DM9.2 of the IDMP and the Affordable Housing Small Sites Contributions SPD (2012) as well as Policy SI 2 of the London Plan 2021 and the Islington Environmental Design Planning Guidance (2012).
17. The UU also includes an obligation relating to car free development. Policy CS10 of the ICS and Policy DM8.5 of the IDMP require new residential development to be car free and the council operates a controlled parking zone in the Sotheby Road area. However, the wording of the UU would not satisfactorily address the car free requirement because the mechanism for enforcing parking permits can only be secured through a Traffic Regulation Order. Furthermore, the Framework states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. The Council have suggested a condition that is similar to that provided in the UU. I consider a condition necessary to meet the requirements of Policy DM8.5 in this location but have amended the wording suggested having regard to Paragraph 56 of the Framework.

Conditions

18. I have considered the suggested conditions from the Council and had regard to Paragraph 56 of the Framework and the Planning Practice Guidance (PPG)⁴ in terms of the use of planning conditions. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. Both main parties have had the opportunity to review the proposed conditions. Condition 1 is a statutory requirement, Conditions 2 and 3 are necessary in the interests of certainty and to safeguard the character and appearance of the area.
19. Condition 4 is also necessary to enhance the character and appearance of the area and the biodiversity of the site. However, I have amended it as some aspects contained in the Council's suggested condition include elements covered by other conditions or are not relevant to the development. I have also incorporated wording from part of the Council's suggested green roof condition within it.
20. Whilst not conditions suggested by the Council, the Council's officer report refers to the need for such conditions. Therefore, conditions 5 and 6 are necessary to ensure the living conditions of occupants of No.69 Sotheby Road are not harmed with regards privacy and outlook. The Council also refer to noise from plant associated with the development. Having regard to the close proximity of the proposed plant to No.69 and in the absence of agreement on noise levels by the main parties, I consider condition 7 is necessary to protect the living conditions of occupants of adjacent properties.
21. I have included Condition 8 as suggested by the Council to ensure future occupiers are encouraged to travel sustainably. I have also imposed an additional condition, condition 9, which requires full details of drainage to be

³ Town and Country Planning Act 1990

⁴ PPG Paragraph: 003 Reference ID: 21a-003-20190723; revision date: 23 07 2019

- agreed and implemented prior to occupation, in the interests of securing the most sustainable and properly managed drainage of the site.
22. I have included Condition 10 as the existing vehicular access to the site will no longer be used and clarity is required as to how and where existing granite setts will be retained or re-used. Their retention on the site is necessary to safeguard the character and appearance of the area. Condition 11 is the Council's reworded car-free housing condition which I consider necessary to meet the requirements of IDMP Policy DM8.5. I have also incorporated another part of the Council's suggested green roof condition within Condition 12 but expanded it to refer to all the proposed roof, to protect the living conditions of neighbouring occupiers.
23. I have given careful consideration to the inclusion of Condition 13, having had regard to the PPG's advice on the inclusion of such restrictive conditions in specific circumstances. In this instance, given the ratio of building to private outdoor space, the location within the CA and the requirements of IDMP Policy DM3.5, additional built development on the site in relation to extensions, roof additions and alterations, outbuildings and hard surfaces would require further assessment because of the constrained nature of the site within the context of neighbouring properties and the character and appearance of the CA. As such, I consider the condition to be necessary. However, I have not included Class AA, D, G or H because an external canopy porch already forms part of the proposal and limitations exist to the introduction of additional storeys, flues and antenna to dwellings in a CA.
24. I have imposed condition 14, as suggested by the Council, because it is necessary to ensure the development would meet the needs of all future occupiers and visitors. Condition 15 has also been suggested by the Council and it has not been disputed by the appellant. On the basis that it is necessary to ensure compliance with the Council's SPD, I have therefore imposed it.
25. In terms of other conditions suggested by the Council that have not been referred to above, I consider the condition relating to waste is not necessary as the refuse store is clearly identified in the list of drawings attached to condition 2 above. The Council's suggested condition regarding tree protection is not necessary as a detailed tree root investigation has already been carried out by the appellant which confirms that the proposal would not affect roots from trees outside the site. The Council's highway officer requested a condition requiring that a s278 Agreement be entered into to ensure any damage to the highway would be made good. However, I note the Council have not suggested such a condition and I have limited evidence before me which indicates that it is necessary to make the development acceptable.

Conclusion

26. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Ann Veevers

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Location plan 639_001 Rev /
Existing ground floor plan 639_015 Rev C
Basement sequence SK-01 Rev A and SK-02 Rev A
GF neighbour proximity – existing 639_018 Rev /
GF plan_extg and prop compared 639_026 Rev /
Basement plan_proposed 639_099 Rev E
Ground floor plan_proposed 639_100 Rev E
Roof plan_proposed 639_103 Rev D
Proposed section A 639_200 Rev D
Proposed section B 639_201 Rev D
Proposed section C 639_203 Rev D
Proposed section G 639_208 Rev /
Elevation_south 639_400 Rev F
Elevation_west 639_401 Rev D
Elevation_north 639_402 Rev E
Elevation_east 639_404 Rev B
- 3) No development, except demolition, shall take place until details and samples of the materials to be used in the construction of the external surfaces of the dwelling and boundary walls hereby permitted have been submitted to and approved in writing by the local planning authority. Such details shall include any brickwork (including mortar courses), window and door treatment (including sections and reveals) and roofing. Development shall be carried out in accordance with the approved details.
- 4) No development, except demolition, shall take place until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include:
 - a) details of the substrate base, seeding/planting mix and maintenance of the biodiversity green roof;
 - b) indications of all existing trees to be retained;
 - c) a biodiversity statement detailing how landscaping maximises biodiversity;
 - d) existing and proposed underground services and their relationship to both hard and soft landscaping;
 - e) planting plans, including schedules of plants, plant supply sizes and proposed numbers/densities where appropriate;
 - f) written specifications (including cultivation and other operations associated with plant and grass establishment; and,
 - g) a timetable for implementation.All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in accordance with the agreed timetable; and any trees or plants which within a period of 5 years from the completion

of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 5) Notwithstanding condition 2, no development, except demolition, shall take place until details of the elevational treatment indicated in the southern elevation facilitating the dressing room and master bedroom has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) The dwelling hereby permitted shall not be occupied until details of the fence above the boundary wall adjoining No 69 Sotheby Road together with a timetable for implementation, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) The dwelling hereby permitted shall not be occupied until details of any plant to be installed within the site has been submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved details shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.
- 8) The dwelling hereby permitted shall not be occupied until details of a bicycle store within the site, together with a timetable for implementation, have been submitted to and approved in writing by the local planning authority. The bicycle store shall thereafter be provided in accordance with the approved details and kept available for the parking of bicycles.
- 9) The dwelling hereby permitted shall not be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b) include a timetable for its implementation; and,
 - c) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 10) The dwelling hereby permitted shall not be occupied until a scheme and implementation timetable for the retention and re-use of the granite setts used for the existing vehicular crossing to the site has been submitted to and approved in writing by the local planning authority. The granite setts

shall thereafter be reused in accordance with the agreed scheme and retained as such thereafter.

- 11) The dwelling hereby permitted shall not be occupied until:
 - a) The local planning authority has been notified in writing of the full postal address of the dwelling;
 - b) The Traffic Regulation Order has been amended by removing the dwelling from the list of dwellings for which Residents Parking Permits can be issued.
- 12) The roof area of the dwelling hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Class A, B, C, E or F shall apply other than those expressly authorised by this permission.
- 14) The dwelling hereby permitted 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) (as amended). Evidence, confirming that the appointed Building Control body has assessed and confirmed these requirements will be achieved shall be submitted to and approved in writing by the local planning authority prior to construction of the dwelling. The development shall be constructed in accordance with the details so approved.
- 15) A Chartered Structural Engineer (MI Struct.E) certifying the Structural Method Statement (SMS) dated 25/11/20 submitted to support the hereby approved development shall be retained (or a replacement person holding equivalent qualifications shall be appointed and retained) for the duration of the development to monitor the safety of the construction stages and to ensure that the long term structural stability of the existing buildings and other nearby buildings are safeguarded, in line with the supporting SMS. At no time shall any construction work take place unless a qualified engineer is appointed and retained in accordance with this condition.