



Appeal Decision

Site visit made on 19 January 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Ref: APP/V5570/W/22/3298395

25 Ormond Road, Islington, London N19 4ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Nick Cockburn of Opticrealm Ltd against London Borough of Islington.
 - The application Ref P2021/3029/FUL, is dated 5 October 2021.
 - The development proposed is described as "demolition of existing buildings and the construction of a mixed-use scheme comprising commercial floorspace at ground floor level with 9 residential dwellings above, with associated parking and landscaping".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on employment floorspace; the effect of the proposal on ecology and trees; the effect of the proposal on the character and appearance of the surrounding area and the public open space; whether the proposal provides adequate living conditions for future occupiers in terms of outlook; the effect of the proposal on the living conditions of occupiers of neighbouring properties with regards to light; and whether the proposal provides sufficient levels of affordable housing.

Reasons

Employment floorspace

3. Policy DM5.2 of the Islington's Local Plan: Development Management Policies 2013 (DMP) states that proposals that result in a loss or reduction of business floorspace will be refused unless exceptional circumstances can be demonstrated including evidence that there is no demand for the floorspace.
4. Whilst the appellant and Council disagree on the actual figure, the proposal would result in the loss of business floorspace of between 4 to 20 square metres. The appeal building is currently not vacant nor has there been any market demand evidence submitted indicating that there is reduced demand for employment floorspace in the area. Exceptional circumstances have not been demonstrated and given there would be a reduction in business floorspace, the proposal would be contrary to Policy DM5.2.
5. The existing premises has multiple separate rooms over two storeys and a servicing area which could be used for off street deliveries and parking. The employment part of the proposal would be primarily one room with a single access point and minimal fenestration. There is little evidence to suggest that there is flexibility to allow for the proposed employment premises to be easily divided into multiple premises for different business users. The proposal also

results in the loss of the service area meaning deliveries and parking would have to be on street with little information provided to demonstrate that such arrangements would be safe and not cause traffic obstruction or nuisance. The quality of the proposed employment premises is poor, particularly when compared to existing business arrangements.

6. The appellant describes that the London Plan (LP), adopted in 2021, prescribes a no net loss of industrial floorspace. Policies E2 and E4 of the LP do seek development proposals involving the loss of existing B Use Class business space to demonstrate that there is no reasonable prospect of the site being used for business purposes or ensure that an equivalent amount of B Use Class business space is re-provided which is appropriate in terms of type, use and size. As described above, I consider the proposed employment premises to be of poor quality and subsequently inappropriate in terms of type, use and size.
7. It is indicated that the proposal would represent an uplift in local employment as the current premises yields 7 full time employees and the proposal would yield approximately 11 employees. Insufficient information and detailed data has been provided to support this and there is minimal information describing how many people could be employed if a different business operated from the existing premises or if the premises was divided into separate business units.
8. The appeal site is not designed as a Strategic Industrial Site, Locally Significant Industrial Site or a designated local shopping area. The appellant would accept a condition limiting the scope of Use Class E to the more traditional B uses. The external amenity space has been designed with the importance of health and well-being in mind, and external green space can reduce stress levels, increase productivity and can help to reduce the prevalence of mental health conditions. These matters however, do not outweigh the concerns I have raised with regards to the loss of overall employment floorspace and that the proposal would introduce poor quality business premises.
9. Accordingly, the proposal would have a harmful effect on employment floorspace. The proposal would be contrary to Policies E2 and E4 of the LP, Policies DM5.1, DM5.2 and DM8.6 of the DMP and Policy CS13 of the Islington's Core Strategy 2011 (CS) which seeks existing business spaces to be safeguarded and new business spaces to be appropriate in terms of type, use and size.

Ecology and trees

10. The appeal site adjoins the Upper Holloway Railway Cutting Site of Importance for Nature Conservation (SINC) along the west boundary and is approximately eight metres from the SINC to the north. An Ecological Impact Assessment 2021 (EIA) has been submitted by the appellant.
11. The EIA does not provide clarity on the ecological enhancements that are proposed to be brought forward as part of the scheme as well as a lack of information on matters including lighting, removal of trees, shading from the building and the sedum roof. There are concerns that some of these matters would also have an adverse effect on the SINC.
12. A tree within Grenville Road Gardens (the Gardens) is proposed to be removed with the submitted Arboricultural Impact Assessment indicating that the loss would not have an adverse effect on amenity value. There is no detailed information on how the loss of the tree would affect biodiversity.

13. There is insufficient evidence before me to be certain that the proposal would not have a harmful effect on ecology and biodiversity in the area including surrounding trees and the SINC. The proposal would therefore be contrary to Policy CS8 of the CS, Policies DM2.1 and DM6.3 of the DMP, the Islington's Urban Design Guide Supplementary Planning Document 2017 and the Islington's Environmental Design Planning Guidance which seeks proposals to enhance Islington's character, improve the quality of an area and protect open spaces including SINC's.

Character and appearance, and public open space

14. The area surrounding the appeal site is characterised predominantly by large residential properties with other uses also visible in the immediate area including commercial premises and the railway immediately to the north of the site. The Gardens is located directly south of the appeal site and is allocated as open space. The surrounding area has prominent built development interspersed with open green areas with some low level buildings.
15. The proposed building would replace low level buildings and cover the majority of the site in terms of its footprint. The proposal would be sensitively designed and in keeping with the height and scale of existing residential accommodation within the area.
16. The existing buildings are currently built up to the boundary of the site with the Gardens and the proposal would have a similar relationship with the Gardens as the existing arrangement in terms of location of built form and connectivity. The proposal would engage with the Gardens in a similar manner to the existing buildings on the site. The proposed development would be higher than the existing buildings however, given its design including the fourth floor been recessed and reduced in scale, it would not appear as an overly dominant structure within the surrounding area or from views within the Gardens.
17. The Gardens provides an open nature to the area as well as substantial landscaping and therefore the lack of landscaping within the proposed development would not have an adverse effect on the natural environment of the area. Whilst the proposal abuts the boundary of the Gardens and would be higher than the existing buildings, given the size of the Gardens and the position of buildings in the area, the proposal would not be an imposing feature that detracts from the open nature of the area.
18. The proposed building would be located to the north of Grenville Road Gardens and therefore any overshadowing onto this parcel of land would be limited. There are windows and balconies that overlook the Gardens, including the children's playground, however this area is a public area and therefore it is unlikely that any users of the Gardens would expect complete privacy. The location of proposed windows would not compromise the enjoyment of the Gardens for its users. Concerns have been raised regarding potential overlooking onto the adjacent Adventure Playground. There would be no windows in the west elevation of the proposal and given the position of the development in relation to the Adventure Playground there would be no direct views from the proposed units.
19. The Council have raised some concerns with regards to the management of the building, particularly given the proposal would be constructed mostly up to the boundaries of the site. This issue is not necessarily a planning matter.

20. Due to the height, scale, bulk, design and footprint, the proposal would not be an incongruous structure within the surrounding built environment and would not create a sense of enclosure on the open nature of the Gardens. The proposal would not have a harmful effect on the character and appearance of the surrounding area or the Gardens.

Living conditions – future occupiers

21. The majority of the proposed residential flats would have windows in the north and south elevations. Flats 1.02, 1.03 and 2.04 would have windows in the north elevation overlooking the gallery access and the Council consider that they would require obscure glazing, particularly given their proximity to neighbouring units entrances. These windows are into kitchen areas and the south windows into the bedroom and living rooms of flats 1.02, 1.03 and 2.04 would provide sufficient outlook for the proposed units.
22. Flats 2.02 and 2.03 would exceed the minimum LP standards for internal floorspace with concerns being that they would not be an efficient use of land. Given the size of these flats in respect of the overall floorspace of the proposed building and number of units created, the proposal would not have a harmful effect in respect of use of the land. There are concerns that flats 2.02 and 2.03 could be subdivided to increase the number of units in the proposal to 11 units. The submitted plans are clear that the proposed development would be for nine residential units and my assessment is based on this.
23. There are concerns that the proposed windows in the north elevation relating to flats 1.04 and 2.05 would require the use of adjacent land for maintenance and that it may compromise future development on land to the north. My attention has not been drawn to any specific proposals on the land to the north and the issue of maintenance would not be a matter that I find would be particularly harmful to the overall development scheme.
24. Accordingly, I find that the proposed residential scheme would not have a harmful effect on the living conditions of future occupiers of the proposal with regards to outlook.

Living conditions – neighbouring occupiers

25. The proposed building would be located some 20 metres from the nearest neighbouring residential property. A daylight and sunlight assessment has not been submitted, nevertheless, given the height, bulk, design and positioning of the proposal in respect of neighbouring properties, I am satisfied that the proposal would not have a compromising effect on the neighbouring occupiers in respect of light. The proposal would therefore not have a harmful effect on the living condition of occupiers of neighbouring properties, including those at 1-28 Ormond Road, with regards to light.

Affordable housing

26. The Council have indicated that given the scale of development an affordable housing contribution would be required as part of the scheme. There are concerns that flats 2.02 and 2.03 are in excess of the minimum floorspace area and could be subdivided. The submitted floor plans are clear that nine residential units are proposed and I have assessed the appeal on this basis. Subsequently, on a nine unit residential scheme, the Council indicate that an affordable housing contribution of £450,000 is expected. Also in line with the Council's

Environmental Design Planning Guidance Supplementary Planning Document 2012 there is a requirement for minor new-build developments of one residential unit or more to offset all regulated CO2 emissions not dealt with by onsite measures through a financial contribution. The financial contribution for this scheme has been detailed as £9,000.

27. The appellant has questioned the requirement for contributions towards affordable housing provision, specifically in terms of Policy CS12 of the CS. Nevertheless, a Unilateral Undertaking has been submitted which details the affordable housing and carbon offset contributions. The Council have not directly responded to this submission however, it does appear to secure the contributions detailed by the Council and satisfy their requirements.

Other Matters

28. A Unilateral Undertaking has been submitted which includes financial contributions towards affordable housing provision, carbon offsetting, highways and parking, and tree replacement. The proposal would create construction employment and other long-term jobs such as cleaning and maintenance, as well as contributing to the housing stock and being redevelopment of previous-developed land. The site would be at very low risk of flooding with the proposal being air quality neutral and of a sustainable design and construction methods. The site is well connected to local public transport facilities with cycle parking proposed as part of the scheme with the appellant indicating that a disabled parking space would be provided. Given the scale of the proposal, I attribute modest weight to the benefits described above.
29. The appellant has referred to the emerging Islington Local Plan (ILP) in their statement of case, although not to any specific emerging ILP policies. The Council have provided an update on the status of the ILP, stating that it is at an advanced stage although not yet adopted. This matter does not alter my findings above and the conflict with the adopted development plans.

Conclusion

30. I have found that the proposal would not compromise the character and appearance of the surrounding area or the Gardens, nor would it compromise the living conditions of existing and future occupiers of the proposal and surrounding properties. The proposal would also contribute towards the delivery of affordable housing in the area. However, these matters and the benefits described above would not outweigh the significant harm I have identified with regards to employment floorspace, ecology and trees.
31. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding.
32. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR