



Appeal Decision

Site visit made on 18 April 2023

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2023

Appeal Ref: APP/V5570/W/22/3308239

2 Digswell Street, Islington, London, N7 8JX

- 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 ALQMIS Limited against the decision of London Borough of Islington.
 - The application Ref P2021/1973/FUL, dated 28 June 2021, was refused by notice dated 8 April 2022.
 - The development proposed is a mixed use scheme comprised of the re-provision of existing employment space (Class E) and 4no. new dwellings (Class C3) in a part refurbished existing building and part new-build across 3 storeys above a newly excavated basement level.
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Decision

1. This appeal is dismissed.

Preliminary Matters

2. Amended plans and updated documents have been submitted at appeal stage including; a revised basement floor plan which increases floorspace at basement level, Basement Impact Report, Fire Statement, and an updated Daylight and Sunlight Report which reflects the changes made at application stage. These changes are minor, reflect alterations to plans which have already been accepted by the Council, or provide further detail only. A Heritage Appeal Statement and Design Statement for Appeal are included within the appellant's evidence. These support the appellant's statement of case but do not introduce significant new evidence. In relation to all the above, I have considered the nature of the changes or information along with the fact that the parties would have had the opportunity to respond to the content of these documents at appeal stage. For these reasons the parties would not be prejudiced if I were to consider these documents. Therefore, the appeal is assessed on the basis of the amended plans and updated documents set out above.
3. A completed and signed Unilateral Undertaking (UU) has been submitted which includes mechanisms which seek to contribute towards affordable housing, a carbon offset contribution and require that the development must be car-free. I will return to these matters later in this decision.
4. I have used the description of development from the decision notice as, due to amendments during the application process, this accurately reflects the proposed development.

Main Issues

5. The main issues are:

- The effect on the living conditions of neighbouring occupiers with particular regard to enclosure, overbearing and light to 1-3 Crane Grove and 1 Furlong Road.
- The quality of living conditions for future occupiers with particular regard to dual aspect, outlook and private amenity space.
- Whether the proposed development would provide an appropriate mix of housing with particular regard to 1 bedroom dwellings.
- The effect of the proposed development on the supply of business floorspace.
- Whether the proposed development would preserve or enhance the character or appearance of the Saint Mary Magdalene Conservation Area.

Reasons

Existing Living Conditions

6. The updated daylight and sunlight report shows that there would be one window at the Ground floor flat at 1 Furlong Road which would fail the BRE (2022) tests, with extremely low vertical sky component and No Sky Line values which represent a very substantial percentage loss from the existing conditions. As well as poor results regarding annual probable sunlight hours.
7. Based on representations and my site visit this window is the only window to a room which is currently in use as a bedroom and has obscure glazing. I acknowledge that light to this room is less important than a main living room and the results show that this window already receives poor levels of light and electric lighting is likely to be needed. It is also very close to the property boundary and therefore any development is likely to have a large impact.
8. However, even in these circumstances this is a main window to a room where some light is expected. The extent of the failures and very substantial percentage changes would result in a room where light levels were unacceptably reduced. However, as the window is obscure glazed this would not result in a sense of enclosure or overbearing to this room. As such, although limited to a single window, there would nevertheless be significant harm to the occupiers of this property in this regard.
9. During the application process a third floor was removed from the proposals. The updated daylight and sunlight report demonstrates that all the windows at 1-3 Crane Grove would now pass the BRE tests and therefore would receive acceptable levels of light. Additionally, the proposed bulk and massing in this location compared to the existing building would not be so substantial as to have an overbearing effect or harmful sense of enclosure to these properties.
10. Nevertheless the proposed development would have an unacceptable effect on the living conditions of neighbouring occupiers with particular regard to light to 1 Furlong Road. Consequently, it would be contrary to Policy DM2.1 of the Development Management Policies (2013) (DMP) which requires a good level of amenity including daylight and sunlight, amongst other things.

11. Policy D4 of the London Plan (2021) (LP) mainly relates to design analysis, scrutiny and quality maintenance, therefore the policy set out above is more relevant to this main issue.

Future living conditions

12. The two-bedroom units would be provided with private outdoor space in the form of rear terraces one at first floor and one at second floor. These would be open at roof level, but enclosed to the front and rear by the elevations of the development proposed, and on the sides by walls with obscure glazed panels. The space would therefore be enclosed on all sides with very limited outlook and would be likely to be quite gloomy. This would therefore result in poor quality outdoor amenity space for the occupiers of these units.
13. The advice in the Housing Supplementary Planning Guidance (2016) (Housing SPG) suggests that in exceptional circumstances where it is impossible to provide private open space for all dwellings, additional internal living space may be provided. However the DMP makes clear that Islington is particularly constrained in this regard with the second lowest amount of open space of any Local Authority in the country. The 2 bedroom units would exceed the minimum internal space standards. Nevertheless, in these circumstances the increased internal floorspace incorporated across the units would not provide the same function as private outdoor space and therefore this does not overcome the harm in this regard.
14. The one bedroom units would have their main outlook to Furlong Road, however they would also have side windows to the Living/Kitchen/Dining areas and rear windows to the bedroom. These would provide alternative sources of light and ventilation to these units and as such they would provide appropriate living conditions with regard to being dual aspect.
15. The windows for bedroom 2 of the two-bedroom units would face onto the space between the proposed development and the rear of 1 Crane Grove. They would have sufficient separation from the rear elevation of the Digswell Street building that the outlook to this room would not be unacceptable. Bedroom 1 of the two-bedroom units would gain their outlook across the enclosed terrace and through an angled window. This would be more limited. Nevertheless, given that there are multiple windows to the room the outlook would not be unacceptably poor.
16. I do not find harm with regard to outlook and ventilation. However, the lack of harm in these regards are neutral factors which do not outweigh the poor quality private amenity space that would be provided to two of the units. I acknowledge that some external space is provided and that this would affect 2 units only, and this would reduce the scale of the harm. Nevertheless, there is modest harm in this regard.
17. Therefore the proposed development would provide an unacceptable quality of living conditions for future occupiers with particular regard to private amenity space. As such it would be contrary to Policy D6 of the LP, Policy CS12 of Islington's Core Strategy (2011) (CS) and Policies DM3.4 and DM3.5 of the DMP. Together these require the provision of good quality usable, functional private amenity space to achieve a good quality of life. As well as the advice regarding private open space in the Housing SPG.

Mix of Housing

18. Policy DM3.1 of the DMP requires that a good mix of housing sizes should be provided, and seeks a mix of 10% 1-bed, 75% 2-bed and 15% 3-bed for market housing. This is supported by Policy CS12 of the CS which requires a range of unit sizes to meet the housing needs of the Borough. The proposed development would provide 50% 1-bed and 50% 2-bed.
19. There is an identified need for one-bedroom units, however the need for 2-bedroom units is greater, as reflected in the mix of housing sought by the DMP. Nevertheless, the proposed development provides a significantly greater proportion of 1-bedroom housing, relative to the number of units proposed, than is sought by the development plan.
20. Consequently, the proposed development would not provide an appropriate mix of housing with particular regard to 1 bedroom dwellings. As such it would be contrary to Policy CS12 of the CS and Policy DM3.1 of the DMP, the aims of which are set out above. As well as the advice regarding housing mix and choice in the Housing SPG.

Business Floorspace

21. Policy E4 of the LP requires a sufficient supply of land for industry, logistics and services to support London's economic function. Policy DM5.2 of the DMP sets out that, apart from in exceptional circumstances proposals that result in a loss of business floorspace will be refused.
22. The existing property has a Gross Internal Area (GIA) of 644sqm. The building is somewhat dated and would require refurbishment to be attractive to new tenants. This would be likely to include new insulation, toilets, stores and lifts which would reduce the net internal area. However, these are necessary requirements of any modern commercial floorspace and do not reduce the GIA. 58sqm of this floorspace was used as a caretakers dwelling. This would have been ancillary to the main commercial use of the site and as such would fall within the E use class.
23. The proposed development would include 584sqm GIA of floorspace. Overall there would therefore be a loss of business floorspace. I am not provided with detailed evidence that the site has been marketed and therefore I am not persuaded there is no demand. As such the proposed development would be contrary to the development plan in this regard.
24. Therefore, the proposed development would have a harmful effect on the supply of business floorspace. Consequently, it would be contrary to Policy DM5.2 of the DMP and Policy E4 of the LP, the aims of which are set out above.
25. Policy CS7 of the CS relates to Bunhill and Clerkenwell, therefore the policies set out above are more relevant to this main issue.

St Mary Magdalene Conservation Area (CA)

26. The CA derives its significance, as a whole, from the historic pattern of development and buildings including its historic housing dating from the late 18th century and Victorian era along with the commercial development along the principal route of Holloway Road and the St Mary Magdalene church and gardens. In the residential streets which surround the appeal site, many of the

houses are semi detached villas, often with semi-basements, and the gaps between the buildings create a spacious and distinctive character. The appeal site is also close to the historic commercial development of Holloway Road.

27. The existing building dates from the 19th century and spans between two frontages, one to Digswell Street and the other to the corner of Crane Grove and Furlong Road. It has an historic industrial appearance to its frontage to Digswell Street, which reflects the adjoining commercial uses which turn the corner to the nearby Holloway Road. These features make a positive contribution to the significance of the CA.
28. 3 Furlong Road is a three storey brick building. It follows the traditional fenestration pattern, appearance and materials of nearby properties and makes a positive contribution to the character and appearance of the CA in these regards. On one side, between 1 and 3 Furlong Road, there is a gated uncovered alleyway. It is put to me that the alleyway historically had a carriageway structure at first/second floor which has been removed. From the evidence before me this appeared to be a secondary, mainly set back structure. As such there would have been an apparent gap. Therefore, both presently and historically there would have been clear separation between these two buildings. The secondary side elevation in this location is not in a prominent position and does not detract from its surroundings. Notwithstanding its somewhat neglected appearance this gap therefore makes a positive contribution to the character and appearance of the CA.
29. On the other side, adjacent to 1 Crane Grove the property has a two storey rendered side addition which is set in from the main building line and steps back further at first floor. It includes a metal stair which adds visual clutter. This does not reflect the nearby significant features, and its poor quality, incongruous appearance makes a negative contribution to the CA.
30. The proposed development would broadly retain the Digswell Street frontage. There would be some alterations to fenestration with ground floor doors replaced and full height windows inserted. This results in a more modern commercial elevation than the historic industrial appearance. Nevertheless, the character of this overall frontage would be preserved.
31. The portion of the building directly adjacent to 1 Furlong Road would be set back from the front elevation and is proposed in a differing material. However, although gated, the ground floor would nevertheless be mainly enclosed and used for bin and cycle storage. The proposed eaves would also align with those at no. 1. As such it would appear as a three-storey infill addition. Even though there may have been development in this location in the past, the proposed three storey addition would not reflect the characteristics of a subservient carriageway structure. As such this element would not respect the important gaps in development in this location.
32. The part of the building adjacent to 1 Crane Grove would include a proposed basement. Semi-basements are common in the surrounding area, albeit the full storey depth of the proposed basement is not. However, although visible, it would be less exposed than those surrounding with a small lightwell which would be set behind a wall and planter. Consequently, this would not be so prominent or substantial as to result in the scale of the development being harmful in this regard. This elevation would be set on an angle, following the road between Crane Grove and Furlong Road. The footprint to Crane Grove

would also be set back to align with this building's frontage. Whilst the entrance door would be further forward than the recessed entrance to 1 Crane Grove, this would not result in the proposed building being unacceptably dominant. These features further break up the massing of this elevation and consequently the building would not appear out of scale. The part of the building adjacent to 1 Crane Grove would therefore be appropriate to the character and appearance of the area and would result in the removal of the poor quality addition in this location.

33. Consequently, on balance and taking all the elements into account, the overall effect of the proposed development would preserve the character and appearance of the CA.
34. There are a number of Grade II listed buildings nearby on Furlong Road. The application was not refused on the basis of harm to the settings of these buildings. Given I find that overall the effect on their surroundings would be one of preservation, I agree with these findings.
35. Therefore the proposed development would preserve the character and appearance of the Saint Mary Magdalene Conservation Area. Consequently it would be in accordance with Policy HC1 of the LP, Policies CS8 and CS9 of the CS and Policies DM2.1 and DM2.3 of the DMP. Together these seek high quality design which conserves or enhances the significance of heritage assets and reflects the character of the area, amongst other things. As well as the guidance within the Urban Design Guide Supplementary Planning Document (2017) and the St Mary Mag (CA06) Conservation Area Design Guidelines (2003) which provide further detail as to how this high quality design can be achieved, including with particular regard to the CA.
36. Policy D4 of the LP mainly relates to design analysis, scrutiny and quality maintenance, and D1 relates to defining an area's character and planning for growth. Therefore, the policies above are more relevant to this main issue.

Other Matters

Unilateral Undertaking

Car Free

37. Policy T6.1 of the LP, Policy CS10H of the CS and Policy DM8.5A of the DMP in part, require that all new development should be car free and set maximum parking standards. This is in order to ensure that the development would not lead to harm to congestion, air quality and public health. The development proposed does not provide any car parking. However, a mechanism would be required to ensure that occupants would not be able to obtain a resident's parking permit to park on street.
38. The UU seeks to achieve this. Its wording would prevent the residential units being occupied by a person who has a resident's parking permit on the date of occupation. However, there is no wording that would prevent the occupier from applying for a permit after this date. As such it would not achieve this aim and therefore does not make the development acceptable in planning terms. Consequently, it does not meet the tests and I have not taken this into account in determining this appeal.

39. The Council have suggested a condition which seeks to achieve the same purpose. However, the condition would relate to land outside the control of the applicant and the issuing of permits is the responsibility of the highway authority and enforced through the Traffic Regulation Orders (TROs), therefore the TRO would require amendment to remove eligibility to a parking permit. As such the condition suggested would be unenforceable and unreasonable.
40. Consequently I am not presented with a mechanism that would secure these units as car free. As such, even though the number of vehicles associated with the development would be limited the likely associated on street parking would nevertheless be harmful to congestion, air quality and public health and contrary to Policy CS10H of the CS, Policy DM8.5A of the DMP and Policy T6.1 of the LP, the aims of which are set out above.

Affordable Housing

41. Policy CS12 of the CS requires that 50% of additional housing should be affordable, with schemes of 9 units or below providing this as a financial contribution. However, the policy pre-dates the National Planning Policy Framework July 2021 (the Framework) which states that affordable housing should not be sought for residential developments that are not major developments.
42. The Council has provided evidence that there is a high level of need for affordable housing, the importance of small sites in delivering this, and that viability is considered when applying this policy and consequently it does not prevent development from coming forward. Therefore, based on this specific local evidence, the Framework's provisions do not outweigh the development plan in this instance.
43. The Affordable Housing Small Sites Contributions Supplementary Planning Document (2012) provides that for this development a contribution of £50,000 per new residential unit in off-site contributions in lieu of on-site provision would be required. This is reflected in the £200,000 contribution in the UU.
44. This would satisfy the requirements of Policy CS12, and the provision of affordable housing is an important benefit of the proposed development. Albeit taking into account that this provision would be off site and related to the scale of development proposed, this would be moderate.

Carbon Offset Contribution

45. The proposed scheme includes a communal Air Source Heat Pump and photovoltaic cells. However, this would not fully offset the carbon emissions of the proposed development. Policy CS10 of the CS therefore requires that the remaining emissions are offset through a financial contribution towards measures which reduce emissions from existing building stock. The Environmental Design SPD (SPD) requires that for development of this scale a contribution of £920 per unit is required. This amount is underpinned by the promoting zero carbon development phase 2 study (2010).
46. The UU includes the £4000 Carbon Offset Contribution requested by the LPA. Although slightly greater than the SPD requirements, given the passage of time since the analysis for this figure, it would not appear to be unreasonable. This would satisfy these requirements and prevent an increase in carbon emissions associated with the operation of the proposed development. However, this is a

requirement of policy and would not result in an improvement to carbon emissions. Consequently, this is a neutral factor.

Pre application advice

47. The Framework is supportive of early engagement and I have noted the appellant's concerns regarding the Council's pre-application advice. However, this does not alter my assessment of the planning merits of the proposal.

Planning Balance

48. The site is an unusual shape and is closely surrounded by existing development. In this complex setting the proposed development would provide the social and economic benefits associated with the provision of 4 new dwellings in a highly accessible location. Although reduced in size, the business floorspace provided would also be modernised and likely to attract Small and Medium Enterprises. This is in addition to the benefits associated with the contribution towards off site affordable housing outlined above. Taking into account the scale of the appeal scheme, taken as a whole there would be moderate benefits associated with the proposed development.
49. On the other hand, I have identified the development to be harmful in multiple ways. There would be a significant loss of light to a bedroom at 1 Furlong Road, poor quality living conditions for future occupiers with respect to the 2 proposed 2-bedroom units with inadequate quality outdoor space, harm to the strategic supply of business floorspace in the borough as well as the housing mix relating to an oversupply of 1-bedroom units relative to the number proposed. Along with an unacceptable effect on congestion, air quality and public health through the increase in cars associated with the development. Taking these numerous matters together, overall there would be significant harm.
50. As such this would not outweigh the moderate benefits associated with the proposed development outlined above.

Conclusion

51. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed

H Miles

INSPECTOR