
Appeal Decision

Site visit made on 11 July 2023

by Jonathan Hockley BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Appeal Ref: APP/V5570/W/22/3305298

3 Wilmington Square, Islington, London WC1X 0ES

- 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 Mike and Anna Tonkin and Liu against the decision of the Council of the London Borough of Islington.
 - The application Ref P2021/3546/FUL, dated 3 December 2021, was refused by notice dated 17 February 2022.
 - The development proposed is internal and external alterations to facilitate use of ground and first floor as two flats.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. This appeal was made against the refusal of planning permission for the above proposal. An application for Listed Building Consent was also refused, but this was not appealed by the appellant. The matters in this decision therefore relate to the planning application refusal, except where relevant and required under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LB&CA Act).
3. Subsequent to the refusal of the appeal scheme, a revised scheme was submitted and approved in 2022 for the relocation of the kitchen and bathroom within the existing flat and some minor alterations to various rear facing pipework. At the time of my visit all these works had been carried out. Revised plans to reflect these changes were submitted with the appeal. The Council have referred to such plans within their statement, and I do not consider that this has adversely affected any party. I have considered the appeal on this basis.
4. On 5 July 2023 the Inspector's final report from their Independent Examination into Islington's Local Plan was published. The Council state that the new Local Plan will be taken to a Full Council meeting in September 2023 to be formally adopted. Until that time the current Local Plan remains extant.

Main Issues

5. The main issues in this case are as follows:

- Whether the proposed flats would provide acceptable living conditions for future residents, with regard to the provision of internal space and private amenity space, cycle and refuse storage.
- Whether a financial obligation would be necessary towards the provision of affordable housing in the area; and

Reasons

6. No 3 Wilmington Square is an attractive Grade II listed terraced property, which is group listed along with the remainder of the Georgian terrace of Nos 1 to 12c Wilmington Square. No 3 is a four-storey property with basement and is constructed in yellow stock brick laid in Flemish bond with ground and basement having stucco dressing; stucco bands are also set between the first and second and in the form of a pediment between second and third floors. The property is two windows wide, with the first-floor windows being of full height, and the ground floor window matching the adjacent doorway with a round arch. The significance of the property arises from its age, its exquisite architectural detailing, and its setting opposite Wilmington Gardens and as part of the whole of the terrace.
7. Internally the property is split into three flats; with a basement flat, an upper third and fourth floor flat, and the maisonette which is the subject of the proposal, covering the ground and first floor. The proposal seeks to split this flat into two separate units, with one proposed flat on each floor. The internal layout of the property is such that all residents of the house enter through the ground floor doorway, into the shared hallway, from where stairs rise to the upper floor and down to the basement. The residents of the current ground and first floor flat therefore have to enter into this public hallway and stairs to move between the two floors of their flat, between their living room and kitchen (the piano nobile first floor) and their bedroom and bathroom (ground floor).

Living conditions

8. Each proposed flat would have a bathroom 'pod' installed within the rear room of the floor along with a fold out 'wall bed' and built in storage area. The front facing rooms would have kitchenettes installed. Due to the adjacent ground floor hallway, this room would be considerably larger in the first floor flat.
9. Policy DM3.3 of the Local Plan states that to maintain a supply of larger homes to meet the Borough's needs, the conversion of residential units into a larger number of self-contained units will normally only be permitted where the total floor area is in excess of 125m² and the proposed conversion would not include one person sized units or multiple one double bedroom units. If such requirements are met then acceptability will be assessed on various factors, including the physical characteristics of the property, including internal layout and the relationship of rooms on different floors within the scheme and the effect of any changes to the external appearance of the building. Part C of the policy also states that all conversions must be designed to meet or exceed the minimum housing space standards and Islington Accessible Housing SPD unless exceptional circumstances can be demonstrated.
10. Local Plan policy DM3.4 sets out the housing standards, with all new developments required to provide accommodation of an adequate functional and usable size with sufficient space for storage and utility purposes. All new

residential developments are required to be of a minimum gross internal area of 37m² for a studio/single bedroom flat or 50m² for a one double bedroom flat.

11. I have not been provided with detailed floor area calculations but the Council state that the existing two floor flat is of some 57m², while the appellant states that the flat is 60m². As mentioned above, the first floor flat is larger than the ground floor flat but based on the current flat size it seems likely that both proposed flats would measure less than the 37m² required for a single bedroom flat.
12. The proposal therefore seeks the conversion of an existing flat of considerably less than 125m² and seeks one person size units and would be contrary to Policy DM3.3. The size of the resulting flats would also be contrary to part (3) of DM3.3 and to DM3.4.
13. The appellant acknowledges the conflict with the Development Plan but considers that there are material considerations that indicate an exception should be made to adopted policies. These considerations essentially concern the rather contorted layout of the current flat, with the homeowner being required to enter into public areas (and lock the doors of the upper or lower floor) when travelling between the two 'zones' of the flat – between the principal living area and the sleeping area, or to use the bathroom. They also refer to a letter of support from the owner of the flat spanning the third and fourth floor of the building.
14. I have some sympathy with this position. The conversion of the existing flats into two would resolve the current private/public interface issue for the resident(s) of the current flat. The proposal would also provide an additional housing unit, with socio-economic benefits from the construction of this flat and the activities of the new resident. However, I am not convinced that the space is sufficient to provide a good quality of living for the residents of the two proposed flats.
15. The appellant has provided various drawings which show the layout of the flats, including ingenious solutions to the lack of space, particularly in the proposed bedrooms, with small precise bathroom pods and foldable beds and storage areas. However, the plans show that the bedrooms would be extremely tight with the beds down; the door to the bathroom pod would open right up to the bed edge, and there would be minimal space around the bed to manoeuvre. While clearly there would be more space with the bed folded up, the use of this space would be limited due to the need to keep it clear for when the bed needed to be folded down again. Given the space needed in the storage unit for the bed, additional bedroom storage for clothes, shoes and so on would be minimal and restricted to some narrow shelves and cupboard and an upper unit, the use of which would be hindered by the extract ducting for the kitchen and bathroom behind.
16. I consider that policy DM3.3 is aimed towards protecting larger homes, which the Council acknowledge in their statement. However, I am of the view that while the proposal would solve one problem in terms of the public/private interfaces, it would result in another issue, in terms of creating two flats both with extremely restricted bedrooms which would not be of adequate functional size or have sufficient space for storage purposes.

17. The Council also raise concerns over amenity areas and space for cycle and refuse storage. I have less concerns over such issues; the flat at present does not have access to amenity space (nor does the upper floors flat) and there is no current space for cycle storage. Access to public amenity space can be achieved via Wilmington Gardens opposite. Refuse space could be secured within the proposed kitchenettes.
18. I therefore conclude that while I do not consider that the proposed flats would create issues in terms of cycle or refuse storage, or access to private amenity space, they would not provide acceptable living conditions living for future residents with regard to the provision of internal space. The proposal would be contrary to policies DM3.3 and DM3.4 of the Core Strategy.

Affordable Housing

19. In their Statement of Case the Council note that the London Plan recognises that an increase in affordable housing contributions is required from all sources. Policy CS12 of the Islington Council Core Strategy¹ (the Core Strategy) states that Islington will meet its housing challenge to provide more high quality, inclusive and affordable homes by providing affordable housing, with proposals which deliver less than 10 units required to provide financial contributions towards affordable housing provision elsewhere in the Borough.
20. The formula for calculating such a financial contribution is set out in the Councils Affordable Housing supplementary planning guidance² (the SPG). This sets out that the Council will expect developers to pay a commuted sum of £50,000 or £60,000 per unit. The Council notes that the appellant had agreed during the application process to pay £50,000, which would need to be secured through a signed legal agreement. This situation was noted in the Council's Planning Officer's Report and their statement of case, but is only referred to obliquely in the Appellant's appeal statement and no final comments or legal agreement were submitted.
21. Paragraph 57 of the National Planning Policy Framework (the Framework) states that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Having considered the evidence contained within Policy CS12 and the supplementary information contained in the SPD I consider that such a proposed obligation would meet the tests set out in the Framework.
22. There is no signed planning obligation submitted with the appeal. Accordingly, I conclude that a financial contribution is necessary towards the provision of affordable housing in the area, and that as one has not been provided that the proposal is contrary to Policy CS12 of the Core Strategy.

Other matters

23. Above I have concluded that the proposal would be contrary to various aspects of the development plan. As described above, the appeal property is a listed building. The building also lies within the New River Conservation Area (NRCA). Section(s) 66(1) of the LB&CA Act states that in considering whether to grant

¹ February 2011

² Affordable Housing Small Sites Contributions Supplementary Planning Document, Islington Council, October 2012.

planning permission for development which affects a listed building, the Secretary of State shall have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses. s72(1) of the same Act states that with respect to any buildings in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

24. The proposed development would not have an effect on the exterior of the building and, despite the potential intensification of the use of the building that could arise through the proposed development, given the character of the surrounding busy urban area I consider that the proposal would preserve the character or appearance of the NRCA.
25. In terms of the listed building I have not considered in detail the aspects of the proposal which would affect the internal fabric of the building. However, the proposed siting of the bathroom pods, kitchenettes and bed storage units would fit into the design of the rooms and due to the height of them would allow the height of the rooms and the cornices to remain clearly visible and unobscured. Care has also been taken to conceal ducting within the proposed design and I do not consider harm would be caused to the listed building by the proposal. I also noted the quality of some of the recent works. However, the flat is clearly in a viable use at the moment consistent with the conservation of the listed building. I consider therefore that the lack of harm to the listed building that the proposal would cause would have a neutral effect in the overall planning balance; in effect as the flat is already in seemingly viable use there is no weight to be given to the asset's conservation via the proposal.

Conclusion

26. I have concluded that the proposed flats would not provide acceptable living conditions living for future residents with regard to the provision of internal space, and that a financial obligation would be necessary towards the provision of affordable housing in the area. Such an obligation has not been provided. The proposal would be contrary to the development plan, and while I have not found harm in other areas, including under s66(1) and s72(1) of the LB&CA Act such matters do not outweigh the harm that the proposed development would cause.
27. For the reasons given above I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR