

Appeal Decision

Site visit made on 16 July 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th September 2024

Appeal Ref: APP/V5570/W/24/3342837

104 Tollington Park, Islington, London N4 3RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kevin O'Grady against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2023/0493/FUL.
 - The development proposed is the demolition of existing garage buildings to the rear of 104 Tollington Park and construction of 5 new homes (1 x 1 bed, 3 x 2 bed and 1 x 3 bed), with associated refuse, cycle parking and landscape masterplan.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- the effects of the proposed development on neighbouring residential occupiers at 102 and 104 Tollington Park with regards to daylight, sunlight and outlook;
- whether the proposed development would provide satisfactory accommodation for its future occupants, with regards to outlook, privacy and private amenity space provision; and,
- the effects of the proposed development on the Tollington Park Conservation Area (Conservation Area) and 104 Tollington Park as a locally listed building.

Reasons

Living conditions – existing residents

3. The nearest proposed dwelling (R01) to the existing building at No. 104 would be positioned a short distance from an existing window¹ which serves a bedroom. This close proximity would result in an unacceptable loss of daylight and sunlight, with the appellant's Daylight & Sunlight Report (Neighbouring

¹ Window 21 in Daylight & Sunlight Report (Neighbouring Properties) Right of Light Consulting, 31 January 2023

Properties)² finding this same bedroom window would fail to meet the Vertical Sky Component and Daylight Distribution tests, as well as the sunlight test. The two-storey elevation of this proposed dwelling, a short distance from this window would also have an unduly enclosing effect on the occupiers of this bedroom.

4. Reference has been made to an additional window that could be inserted at ground floor level to serve the same bedroom. No details of this additional window have however been provided, and although it has been set out that a planning condition could be used to secure the provision of this window, it is not clear whether a window in the side elevation would provide sufficient light and adequate outlook.
5. The first-floor element of this same proposed dwelling would be positioned alongside a roof terrace and outdoor patio area to No. 102. Although the Council consider that there would be an increased sense of enclosure, the proposal, despite its height, would only have a limited projection along the shared boundary and be to one side of the neighbouring terrace. As such it would not unduly increase the sense of enclosure to the detriment of neighbouring occupiers' outlook.
6. Nevertheless, I conclude that the proposal would result in unacceptable harm to the living conditions of neighbouring residential occupiers at 104 Tollington Park with regard to daylight, sunlight and outlook. As such, it would be contrary to Policy PLAN1 of Islington's Local Plan Strategic and Development Management Policies (Local Plan) and Policy D4 of The London Plan, which seek, amongst other matters, a good level of amenity. It would also conflict with Paragraph 135 of the National Planning Policy Framework (Framework) in relation to it seeking a high standard of amenity.

Living conditions – future occupiers

7. A number of the proposed residential units would have windows that would face the communal walkway. If the windows serving the living/dining/kitchen spaces of these units were obscure glazed, then this would ensure that no harmful overlooking arises. Although this would result in these rooms being limited to a single aspect, as each of these living/dining/kitchen spaces would have large, glazed openings to their respective garden areas, it would provide adequate outlook to future occupiers.
8. A suitable height boundary treatment between each of the external amenity spaces and the communal walkway would prevent overlooking between the private and communal areas. It would also result in a comparatively greater level of enclosure to each of the private amenity areas than a lower boundary form, but the size and rectangular form of the garden areas would ensure that users of these spaces would not feel unduly enclosed. However, the amount of sunlight received within all of the private gardens would be limited, with the Daylight & Sunlight Report (Within Development)³, confirming that two garden areas would receive less than 2 hours sunlight on 21 March. Although reference is made to 'Garden 1' and 'Garden 7' within the Daylight & Sunlight Report (Within Development), these are communal areas and would not

² Right of Light Consulting, 31 January 2023

³ 30 January 2023

provide private amenity spaces for future occupiers and nor would nearby public open spaces.

9. Given the above, I conclude that the appeal development would fail to provide satisfactory living conditions for future occupiers with regard to private amenity space provision. As such, the proposal would be contrary to Policies H4 and H5 of the Local Plan, Policy D6 of The London Plan, the Housing Supplementary Planning Guidance (March 2016) and Paragraph 135 of the Framework, which seek, amongst other matters, good quality private outdoor space.

Conservation area and locally listed building

10. The appeal property is a locally listed building which comprises of a large villa that forms part of a group of similar buildings that are set back from the road in an elevated position. The presence of mature street trees and planting within front garden areas, as well as the imposing scale and architectural detailing on buildings contribute positively to the high quality, spacious characteristics of the area.
11. The area to the rear of the main building at No. 104 was formerly a garden but now comprises of single storey brick garages with corrugated roofs and hardstanding areas. The proposed residential units would replace the garages and introduce development at first floor level. However, the development would still be predominantly single storey and the large areas of hardstanding would partly be replaced by landscaping, as well as the incorporation of green sedum roofs on buildings. As such, and although areas that are not readily visible from public vantage points, can still contribute to the character and appearance of a conservation area, I do not consider the reduction in openness would result in the harmful loss of spaciousness.
12. The proposed development would introduce two storey development close to the locally listed building, but with the main part of the existing building being three-storeys in height, the proposal would appear subservient to it. The Council has raised concerns on the height of the two-storey proposal compared with the eaves height of the two storey rear wings of the existing building. The proposal however adopts a contemporary flat roof form and its height overall would be lower than the ridge height of the rear wings. As such, the proposal would not harm the significance of No. 104 as a non-designated heritage asset.
13. Given the above, I conclude that the proposal would preserve the character and appearance of the Conservation Area and would not have an unacceptable effect on the character and appearance of the appeal building as a locally listed building. As such, it would comply with Policies PLAN1, DH1 or DH2 of the Local Plan and Policies D1, D4 and HC1 of The London Plan, which seek, amongst other matters, for development proposals to conserve the significance of heritage assets. It would also not be contrary to the aims of the Islington Urban Design Guide Supplementary Planning Document, the Tollington Park (CA25) Conservation Area Design Guidelines (January 2002) or Paragraph 195 of the Framework, which seek, amongst other matters, to conserve heritage assets in a manner appropriate to their significance.

Other Matters

14. The appellant has referred to the fallback position of the site for storage purposes, with the potential for open storage to take place. Although the appellant states this use has no restrictive planning conditions, no further details have been provided. However, even if the site was used for storage purposes, and the appellant sets out they would seek to maximise the use of the site should this appeal fail, they have not set out what impact the comings and goings would have on living conditions on neighbouring occupiers. In any event, the proposed part two storey development, which would replace the existing single storey buildings would have a significant adverse impact on the living conditions of existing neighbouring occupiers. Consequently, the fallback position does not justify the proposal.
15. Whilst I have found the development to be acceptable in a number of areas, including in relation to unit mix and on highway and tree matters, these are neutral considerations and not ones which weigh in its favour.

Planning Balance

16. The proposal would contribute to increasing the supply of housing on previously developed land in an accessible location, and the proposal also receives support in relation to small sites contributing to housing delivery. With this in mind, I attach great weight to the appeal scheme's benefits.
17. I have found that the proposed development would be harmful in relation to living conditions. This harm would be long lasting and would be contrary to the objectives of the Framework. I ascribe this substantial weight and as such, the benefits would not outweigh the harm identified.

Conclusion

18. I conclude that the proposal would not accord with the development plan as a whole, and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this. I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR