



Appeal Decision

Site visit made on 3 December 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeal Ref: APP/V5570/W/24/3339520

Ground Floor Shop, 116 Junction Road, Islington, London N19 5LB

- 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 Ifti Ahmed against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2022/3170/FUL.
 - The development proposed is change of use to the rear part of the existing shop and proposed single storey rear extension to allow for the creation of 1 no. self-contained residential unit (studio flat) (Use class C3) and associated alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the proposal is in a conservation area I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. The parties have been provided with the opportunity to comment on the implications of the revisions to their cases and I have taken these into account. Consequently, I am satisfied that neither party's interests would be prejudiced by the changes.

Main Issues

4. The main issues are:
 - i) The effect of the proposal on the character and appearance of the area, including the extent to which it would preserve or enhance the character or appearance of the St John's Grove Conservation Area (the CA);
 - ii) Whether the proposal would provide an adequate standard of living conditions for future occupiers, with particular regard to outlook, daylight and sunlight, and noise;
 - iii) Whether the proposal would make appropriate provision for affordable housing; and
 - iv) Whether the proposal would be sustainable development, having regard to sustainable design standards.

Reasons

Character and appearance

5. The CA extends along Junction Road, taking in the predominantly residential land and buildings to either side including St John's Grove, Bickerton Road and Cathcart Hill. It is a densely developed townscape with 2- and 3-storey terraced dwellings largely in the Georgian style, albeit that the local shopping centres feature modern ground floor commercial frontages. The terraced dwellings were designed for single families, with narrow plots including leafy private gardens to the rear. The significance of the CA, insofar as it relates to the appeal, is primarily associated with the fine grain and vertical emphasis of the Georgian and Victorian era dwellings, which illustrate the rapid growth and urbanisation of Islington in the 18th and 19th centuries.
6. No 116 is a traditional 3-storey mid-terrace property. It comprises ground floor and basement commercial uses, with a commercial ground floor frontage, and it is in residential use on the upper floors and converted loft space. The rear of No 116 has a small, partial-width extension at basement and ground floor levels, such that the property retains its strong vertical emphasis. The long linear plot includes a rear garden enclosed by tall walls, illustrative of its historic use as a family dwelling. Consequently, the rear of the appeal property contributes to the significance of the CA.
7. As the level of the garden is lower than the ground floor, the proposed single storey rear extension would be elevated above the garden with steps leading down to the outdoor space. As such, it would appear taller than a single storey. It would span the full width of No 116 and it would protrude out beyond the extension to No 114, which is itself an overly large extension that detracts from the character and appearance of the CA. Consequently, the proposal would be a substantial and bulky addition to the rear of No 116.
8. By virtue of its large size, dimensions and design, the extension would be a dominant feature that would be poorly related to No 116. It would be out of keeping with the historic townscape, taking into account the traditional rears and strong vertical emphasis of nearby properties including the Junction Road and Poynings Road terraces. The proposal would be a discordant feature that would make a negative contribution to local distinctiveness and sense of place. Being to the rear of the building, the proposal would not be visible in the street scene. It would however be prominent in views from the rear of the appeal property terrace, the rears of Poynings Road and Brennand Court properties. Therefore, it would be capable of harming the character or appearance of the CA as a whole.
9. Taking into account the above, I find that the proposal would fail to preserve the significance of the CA. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 213 advises that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification. Given the scale and nature of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight in the planning balance of the appeal.

10. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant considers the proposal would maximise the use of the site and provide a new dwelling in a sustainable location and that is likely to come forward quickly. However, the proposal would be the development of garden land in a built-up area, which is identified as a high value resource. One new dwelling would make a negligible contribution to the supply of homes, taking into account its small size and absence of affordable housing. The accessibility of the location in terms of services and facilities and public transport is a requirement of policy and not a benefit of the scheme. There would be limited economic benefits in the short-term during construction and from the occupation of a 1 person dwelling. These limited public benefits are not sufficient to outweigh the harm that I have identified.
11. Given the above, I conclude that, on balance, the proposal would fail to preserve the character or appearance of the St John's Grove Conservation Area. This would fail to satisfy the requirements of the Act, paragraph 212 of the Framework and conflict with policies D1, D3, D4 and HC1 of the London Plan 2021, policies PLAN1, DH1 and DH2 of Islington's Strategic and Development Management Policies Adopted September 2023 (the SDMP) and the Urban Design Guide Supplementary Planning Document Adopted January 2017. These seek, among other things, to ensure that proposals respond positively to local distinctiveness, taking into account urban form, surrounding context and historical evolution, and that they conserve the significance of heritage assets, having regard to the cumulative impacts of incremental change. The proposal would also conflict with the aims of the St John's Grove (CA28) Conservation Area Design Guidelines Adopted February 2008. As a result, the proposal would not be in accordance with the development plan.

Living conditions

12. The extension would protrude from the rear elevation of No 116 by about 7.5m and it would more closely approach the rear garden walls. The plans do not clearly illustrate the layout of the garden or the relationship between the walls and the proposed extension. However, the tops of the window and the door of the residential unit would apparently finish roughly at the same level as the top of the walls. As such, the outlook would be dominated by relatively close views of the tall garden walls.
13. The residential unit would be single aspect, with glazed openings in the rear elevation only. While west-facing windows may be expected to receive sunlight later in the day, the tall buildings to the south and west would be likely to shadow the windows and the garden in this case. Moreover, notwithstanding the small size of the unit and its layout, there is little evidence that the openings would provide adequate levels of natural light to internal habitable spaces. Consequently, it seems likely that the low level unit and its garden would be gloomy living spaces.
14. The appeal property is in a busy built up area adjacent to Junction Road which is a main arterial route that carries a moderately high volume of traffic. The neighbouring property No 114 is in use as a food and drink establishment and it is licenced for the sale of alcohol and live music until 0100 Sunday to Thursday and until 0200 Friday to Saturday. To the rear, No 114 has an

outdoor beer garden that extends along the boundary of the appeal site and mechanical plant, including a kitchen extractor system, associated with the commercial premises. Consequently, future occupiers of the proposal would be exposed to noise from several sources.

15. Sound levels to the rear of the appeal property were monitored by microphone over a 24 hour period from Friday 28 to Saturday 29 January 2022. There was a significant increase in noise levels between 1730 and 2330, thought to be attributable to the mechanical plant. The acoustic consultant concludes that internal noise levels would be within acceptable limits if appropriate noise reducing glazing was installed, together with a passive ventilation system and provided future occupiers kept the window and door closed.
16. Even if it was reasonable to expect future occupiers to keep the windows shut to mitigate adverse noise, it has not been demonstrated that noise levels in the garden would be acceptable during the evenings and weekends when the occupiers would reasonably expect to be able to enjoy their outdoor space free from excessive noise and disturbance. The acoustic survey was in any case limited, corresponding to one evening in January. There is little evidence in relation to the use of the beer garden during that time or whether live music was being played. It is not clear that the results are representative of other times of the year, such as the summer when more people might be expected to be outdoors during the afternoons and evenings.
17. The appeal site is in a mixed use area with residential uses above ground floor commercial premises, and the upper floors of No 116 are already in residential use. However, the proposal would be closer to the neighbouring premises and beer garden and it is not certain that future occupiers would experience the noise in the same way as the existing residential occupiers of No 116. There is in any case evidence, in the form of noise complaints, that activity, music and mechanical plant from No 116 does disturb local residents. Therefore, existing residential units in the area do not provide a justification for the proposal, in which future occupiers would be exposed to unacceptable noise levels.
18. The proposal would meet the nationally described space standards in terms of the quantity of internal living space for a 1 bed, 1 person unit. The quantity of outdoor amenity space would also be adequate. Notwithstanding, by virtue of the poor outlook, limited natural daylight and sunlight, and noise disturbance from the neighbouring use, the proposal would not provide a high standard of residential amenity for future occupiers.
19. Therefore, I conclude that the proposal would not provide an acceptable standard of living conditions for future residential occupiers, with particular regard to outlook, daylight, and noise disturbance. It would conflict with the aims of policies D6 and D13 of the London Plan and policies PLAN1, H2, H3, H4 and R3 of the SDMP. These require, among other things, that single aspect dwellings should normally be avoided; where there are exceptional circumstances to justify studio and bedsit units, these should provide high quality housing with functional, usable and comfortable spaces; and proposal should provide good amenity, taking into account noise, sunlight and daylight, sense of enclosure and outlook. It would also conflict with the residential amenity aims of Islington Urban Design Guide 2017 and the Framework.

Affordable housing

20. London Plan Policy H4 sets out that 50% of all new homes across London should be genuinely affordable, with affordable housing being provided on site or exceptionally offsite or as a cash in lieu contribution. SDMP policy H3 sets out that proposals comprising less than 10 residential units are required to provide a financial contribution to offsite affordable housing, in recognition of the continuing high demand for this type of housing in the borough. The policy is supported by Islington's Affordable Housing Small Sites Contributions Supplementary Planning Document Adopted October 2012 (AHSPD) which sets out that a commuted sum of £50000 per residential unit is likely to be viable. However, if the full amount would render a proposal demonstrably unviable, a lesser contribution in line with the findings of an independent viability review should be secured by a completed Unilateral Undertaking (UU).
21. In this case, the Financial Viability Assessment (FVA2022) with the planning application concluded that the scheme was not viable and it could not afford any affordable housing contribution. A revised and updated assessment (FVA2024) submitted with the appeal calculates that the scheme would be viable, but it could still not afford any affordable housing contribution. In this regard, the FVA2024 calculates that the residual land value (RLV) in the absence of the £50,000 contribution would be £24,534. Conversely, the Council's independent viability consultant (Adams Integra), having reviewed both FVAs and carried out its own appraisal of the scheme, calculates that, including the full contribution, the RLV would be £61,803.
22. The discrepancy between the appellant's and the Council's calculations arises due to differences in inputs to the respective assessments, most significantly in terms of build costs and Existing Use Value (EUV), but also the finance, sales and marketing percentages.
23. In terms of build costs, both parties acknowledge that the proposal is not of a type specifically listed in the BCIS data. However, the appellant not only selects a type of scheme with higher build costs than does Adams Integra but also adds 15% for externals, which Adams Integra consider to be unnecessary taking into account that little external work would be required and that the build rate would be adequate to cover such costs. Given the small size of the scheme and the limited extent of ground works, I find that the high build costs and need for expensive external works has not been robustly demonstrated.
24. The evidence with the appeal indicates that gardens and outdoor amenity space have increased in value since the Covid-19 pandemic, with potential value of £50,000-£70,000 depending on the size and quality of the space. The appellant considers the EUV of the garden is at the lower end of this range. However, there is little substantive evidence such as independent valuations that take into account the location to the rear of commercial premises or the noise and disturbance from the neighbouring premises. Similarly, while the appellant attaches higher percentages to finance, sales and marketing there is little robust evidence such as correspondence from estate agents and financiers to substantiate this.
25. Consequently, I cannot be certain that the costs associated with delivery of the scheme have not been overestimated. Given the wide variance between the parties, it seems likely that the scheme could at least afford a lesser, and possibly the full, commuted sum towards affordable housing and still remain

viable. However, no completed UU securing any amount of commuted sum has been submitted with the appeal.

26. Therefore, I conclude that the proposal fails to make any adequate contribution to affordable housing. It conflicts with the aims of Policy H4 of the London Plan, SDMP Policy H3, the AHSPD and Islington's Planning Obligations (Section 106) Supplementary Planning Document Adopted December 2016 (S106 SPD).

Whether the proposal would constitute sustainable design

27. The SDMP includes a range of policies (S1, S2, S3, S4, S6, S7, S9 and S10) which aim to ensure proposals are sustainable at design, construction and operational stages. These require proposals to demonstrate compliance in relation to matters including energy efficiency, water management and drainage, air pollution and quality, greenhouse gas emissions, heat management and contribution to the circular economy.
28. No detailed information or sustainability statement was submitted with the planning application to demonstrate compliance with these policies. The Council did not request further information in this regard prior to determining the application, as it considered that the proposal was otherwise unacceptable. However, while the appeal offers the opportunity to address the Council's concerns, the appellant has not submitted further details.
29. The Council has suggested a planning condition to secure the details, subject to a completed UU that secures a sum of £1000 towards carbon-offsetting. In this regard, SDMP policy S4 requires proposals to demonstrate how greenhouse gas emissions will be reduced in order to be net zero carbon. Part G of the policy states that where the zero carbon target cannot be demonstrably fully achieved on-site, the shortfall must be provided through a cash in lieu contribution to the Council's carbon offset fund. For minor new-build residential developments, all projected residential carbon emissions will be offset through a flat fee contribution of £1000 per new flat.
30. The proposal would not demonstrably be net zero carbon, yet no UU has been submitted to secure delivery of the commuted sum. I note that the appellant would accept a pre-commencement planning condition requiring submission of full details of proposed sustainability measures. However, the Planning Practice Guidance is clear that a negatively worded condition limiting the development that can take place until a planning obligation is entered into is unlikely to be appropriate, other than in exceptional circumstances. I am not aware of any exceptional circumstances in this case or that agreement has been reached between the parties to ensure that the test of necessity is met and in the interests of transparency. Consequently, I am not satisfied that this matter could be adequately addressed by the imposition of planning conditions.
31. Therefore, I conclude that the proposal fails to comply with sustainable design standards during design, construction and operation, including in relation to maximising energy efficiency, sustainable water management, minimising emissions including greenhouse gases and contributing to the circular economy. As a result, it conflicts with the aims of SDMP policies S1, S2, S3, S4, S6, S7, S9 and S10.

Other Considerations

32. Planning permission (P/2019/2305/FUL) was granted in September 2019 for a single storey ground floor rear extension with associated internal alterations. Limited details have been provided in relation to the permission and it has not apparently been implemented. However, on the basis that it was an extension to the existing ground floor commercial premises and not a change of use to residential, and considered in an earlier policy context, it is not directly comparable to the appeal and it does not provide a justification for it.
33. SDMP policies T1, T2 and T3 require new residential development to be car-free, with no on-site parking spaces and future occupiers precluded from obtaining on street parking permits without exceptional circumstances. Irrespective of the size of the proposal, the car-free policy requirements are well established and robustly justified. The S106 SPD states that the car-free status of new residential units can be formalised by legal agreement or via planning conditions. Consequently, I am satisfied that this is a matter that could be adequately addressed by the imposition of a planning condition.
34. The SDMP sets housing priorities in terms of size, type and tenure. The majority of housing need is for affordable housing, particularly social rented. Moreover, studios and bedsits are not a priority across any affordable or market tenures. The appellant considers a larger unit could not be delivered because a larger extension would either be unacceptable in design terms or in terms of the viability of the commercial premises. Be that as it may, the constraints of the site, in terms of the quantum of new residential development that could be delivered, does not constitute exceptional circumstances nor outweigh the harm that I have found.
35. The evidence indicates that the Council does not have a shortfall in its housing supply or delivery. Even so, the government is committed to increasing the supply of housing, with an emphasis on affordable housing. The proposal would make a negligible contribution to the supply of housing, but it would not be affordable housing and there is little demonstrable demand for this type of small studio unit. There would be limited economic benefits during construction and occupation. These matters carry little weight in favour of the scheme.

Conclusion

36. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations, including the revised Framework, that would outweigh that conflict.
37. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR