



Appeal Decision

Site visit made on 21 February 2012

by Stephen Roscoe BEng MSc CEng MICE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 March 2012

Appeal Ref: APP/X5210/A/11/2163152
61-63 Holmes Road, London NW5 3AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Daniel Gordon against the decision of the Council of the London Borough of Camden.
 - The application Ref 2011/0201/P, dated 30 December 2010, was refused by notice dated 27 September 2011.
 - The development proposed is the demolition of an existing building and the erection of a four storey mixed use development.
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Procedural Matters

1. The application was submitted as recorded above. The Council's refusal notice however better describes the proposal, and the appeal has been considered on this basis. At the site visit, Mr R Gordon confirmed that the appeal should be considered in the name of Mr Daniel Gordon, in which name the planning application was made.
2. The application was submitted in outline with appearance and landscaping reserved for future consideration. At the site visit, access to the neighbouring properties at No 55-57 Holmes Road was not available. Windows at the neighbouring properties were however sufficiently visible from surrounding vantage points in order to complete the decision.

Decision

3. The appeal is allowed and outline planning permission granted for the erection of a five storey plus basement building comprising light industrial (Use Class B1) at basement and ground floor levels and residential (Use Class C3) at first, second, third and fourth floors (5 one bedroomed and 3 two bedroomed units) following the demolition of an existing building at 61-63 Holmes Road, London NW5 3AN in accordance with the terms of the application, Ref 2011/0201/P, dated 30 December 2010, and subject to the conditions listed at the end of this decision.

Main Issues

4. The main issues in this case are:
 - (i) whether the proposal would provide an appropriate mix of residential unit sizes and types; and
 - (ii) the effect of the proposal on: parking stress and congestion; the provision of education services and public open space; highways and amenity in the surrounding area as a result of

construction activities; and pedestrian safety together with whether the proposal would accord with the principles of sustainable development.

Reasons

Residential Mix

5. As a consequence of housing needs in Camden, the Council's Dwelling Size Priorities Table referred to in Development Policy¹ DP5 gives a very high priority to the provision of two bedroomed market dwellings. The aim of the table, and therefore the policy, is that 40% of dwellings in any market scheme should be in this category. The table also gives three and more bedroomed dwellings a high priority, with one bedroomed dwellings having a lower priority.
6. The appeal site has an irregular footprint, within which there is insufficient area to accommodate 2 two bedroomed flats on any single floor. 37.5% of the dwellings within the proposal would however be of two bedrooms, and this would be close to the 40% sought by Development Policy DP5. In view of the lower priority given to three bedroomed flats, the option of a two and a one bedroomed flat on each floor would better reflect the aims of the policy than the provision of one three bedroomed flat. The proposal would therefore accord with Core Strategy² (CS) Policy CS6.
7. A duplex arrangement could increase the proportion of two bedroomed flats. Development Policy DP5 however suggests that, in aiming for the stated proportions, account should be taken of the size of the site and any constraints. In this case therefore, it would be unreasonable to require the proposal to include duplex units with their more costly stairways between floors.
8. I therefore conclude that the proposal would provide an appropriate mix of residential unit sizes and types and that it would thus not conflict with Core Strategy Policy CS6 and Development Policy DP5.

Unilateral Undertaking

9. The area around the appeal site is occupied by high density residential accommodation, and the site lies in close proximity to the Kentish Town District Shopping and Service Centre. As a result, the area around the site is subject to on street parking pressure and congestion. The site has a good PTAL³ of 4 and, to avoid any unacceptable contribution to parking stress and congestion from the proposed development, it should be car free. This would accord with CS Policy CS11, particularly in view of the proximity of the district centre in relation to the aims of Development Policy DP18.
10. The Council has a strategy in place to address a need for additional educational facilities, including in the Kentish Town area. The proposed two bedroomed dwellings could accommodate small families, which would be likely to result in additional demand for educational services. A financial contribution would therefore be necessary to support the provision of additional facilities in accordance with CS Policy CS10. There is little evidence of public open space (POS) in the area around the appeal site. Again, as the proposal could

¹ Camden Development Policies 2010-2025: Local Development Framework: November 2010

² Camden Core Strategy 2010-2025: Local Development Framework: November 2010

³ Public Transport Accessibility Level

accommodate small families and would not include any POS, it would be likely to increase pressure on the nearest POS. A contribution would therefore be necessary to improve the provision of POS in accordance with Development Policy DP31.

11. The footway outside the appeal site is in poor condition. The introduction of the car free proposal would increase footfall in this area, and it would be necessary that a safe route was provided outside the site in accordance with Development Policy DP17. CS Policy CS13 and Development Policy DP22 seek to ensure that new dwellings achieve Sustainable Homes Code Level 3 and reduce carbon related energy emissions. Environmental sustainability measures would be necessary to achieve these aims.
12. The area around the site includes narrow streets. Construction of the proposed development would be likely to increase activity on these streets, with the potential to detrimentally affect residential amenity and cause road user conflict. A Construction Management Plan (CMP) would therefore be necessary to avoid such harm. Such a plan could protect and avoid harm to residential amenity in accordance with CS Policy CS5 and Development Policy DP26. Such a plan could also avoid or manage highway disruption, as required by Development Policies DP20 and DP21, and ensure no harm to the highway network in accordance with CS Policy CS11.
13. The appellant has provided a signed and dated unilateral undertaking to the Council in relation to the proposal. The undertaking would: deny future occupiers of the proposed flats the opportunity to apply for Council parking permits; facilitate financial contributions towards the provision of education services, public open space and footway reconstruction; ensure that the proposed development accords with the principles of sustainable development; and regulate the implementation of an approved CMP.
14. These requirements meet the tests of Circular 5/05⁴ where applicable. The financial contributions would be necessary to make the development acceptable in planning terms, directly related to the development and would be fairly and reasonably related in scale and kind to the development. They therefore satisfy the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. The proposal would therefore accord with Core Strategy Policy CS19.
15. I therefore conclude that the proposal would not have a harmful effect on parking stress and congestion; the provision of education services and public open space; highways and amenity in the surrounding area as a result of construction activities; and pedestrian safety and that it would accord with the principles of sustainable development. I further conclude that it would thus not conflict with Core Strategy Policies CS5, CS10, CS11, CS13 and CS19 together with Development Policies DP17, DP18, DP20, DP21, DP22, DP26 and DP31.

Other Matters

16. Development in the immediate area around the appeal site includes buildings of 5 to 6 storeys. The density and height of the proposal would therefore not be out of keeping with its surroundings. It would also maintain sufficient separation with other residential uses to avoid unreasonable noise and disturbance commensurate with high density urban living. The appellant has

⁴ Circular 5/05: Planning Obligations

undertaken a groundwater flow screening assessment which indicates that no further investigation is necessary in this regard. This has been accepted by the Council. There is no reasoned evidence to suggest that the appellant should have carried out a further basement impact or letting potential assessment.

17. The multi-storey building at No 55-57 Holmes Road, adjacent to the appeal site, accommodates numerous residential flats. Some of these flats have dual aspect rooms, south facing balconies with large glazed doors and full length windows on the north elevation. Various windows face the appeal site on the west elevation of the building.
18. The appellant has undertaken a daylight and sunlight assessment on the impact of the proposal, in accordance with BRE Guidance⁵. This has concluded that all the rooms at No 55-57 which face the appeal site would have a vertical sky component which would be acceptable for an urban area and achieve the guideline annual probable sunlight hours. All rooms would also achieve the target average daylight factor apart from a study room. This room would achieve the target level for a bedroom but would be marginally below, 1.4% compared to a 1.5% target, the level for a living room.
19. As a consequence of the features of the flats identified above, such a shortfall would not be unreasonable, and this matter would therefore be no reason to dismiss the appeal. Moreover, there has been no objection from the Council's Public Protection officers in this regard. The assessment was undertaken using the relevant guidance in place at the time. The guidance has now been updated, but there is nothing to suggest that a different conclusion would have been reached using the updated version.
20. In terms of outlook, the rooms served by two of the second and third floor windows at No 55-57 which face the site have dual aspect windows and therefore outlook. Another two windows would be situated in close proximity to the rear elevation of the property, particularly when the rear cut back identified in the daylight and sunlight assessment is taken into account. The outlook from these rooms would therefore be acceptable. The outlook from a window that serves the study identified above would however be adversely affected, but this would not be sufficient reason to dismiss the appeal.

Conditions

21. Conditions in relation to contaminated land, waste storage, accessibility and noise insulation would be required to provide satisfactory living conditions for future occupiers. Conditions in respect of design quality and maximum floorspace and dimensions would be necessary to protect the character and appearance of the surrounding area. Cycle storage and garden roof detail conditions would be required in the interests of sustainable development. A specification would be required to ensure that the Class B1 space was suitable for this use. A restriction on roof access also would be necessary to protect the living conditions of nearby occupiers.
22. Otherwise than as set out in this decision and conditions, it also would be necessary that the development should be undertaken in accordance with the approved plans for the avoidance of doubt and in the interests of proper

⁵ Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice: Building Research Establishment: 1991

planning. Furthermore, the above conditions suggested by the Council would need to be amended in the interests of precision and enforceability.

23. The Council has also suggested conditions in respect of external materials and landscaping. These however relate to matters which would still be reserved should the appeal be allowed, and such conditions, if indeed necessary, should be imposed following the submission of details relating to the reserved matters. It has been suggested that weekend construction working should be prohibited. Such a restriction is not supported by the Council's Public Protection officers, and there is no reason to add to the restrictions that the Council could impose under any CMP approval.

Conclusion

24. Having taken into account all other matters raised, none carry sufficient weight to alter the decision. I therefore conclude that the appeal should be allowed.

Stephen Roscoe

INSPECTOR

CONDITIONS

- 1) Details of the appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development begins, and the development shall be carried out as approved.
- 2) The development hereby permitted shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 3) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 4) The submission of the reserved matters in relation to appearance shall include a statement explaining the underlying approach to the design of the building and how a high quality of design will be achieved in relation to the site access, layout and the surrounding urban context.
- 5) The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule at the end of these conditions.
- 6) The total floorspace of the development shall not exceed 851m².
- 7) The total floorspace of the Class B1 element of the development shall comprise 311m².
- 8) The total floorspace of the residential element of the development shall not exceed 540m².
- 9) The maximum height, length, depth and width of the building shall not exceed the parameters set by plan Nos 10028 P103 Rev A and 10028 P104 Rev B.
- 10) Notwithstanding Condition 5, no development shall take place until an access audit, to demonstrate how the development will allow inclusive access for the whole community, has been submitted to, and approved in writing by, the local planning authority. The audit shall refer to all parts of the development, including each of the uses and any communal entrances and circulation areas. It shall include: Lifetime Homes information to show that all of the 16 relevant points have been met for each residential unit or, where this is not feasible, the provision of a detailed justification and information to show that at least 10% of the units are wheelchair accessible, or easily adaptable for residents who are wheelchair users. Development shall be carried out in accordance with the approved audit.
- 11) Notwithstanding Condition 5, no development shall take place until a specification for the Use Class B1 floorspace hereby permitted, to ensure its suitability for Class B1(c) uses, has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved specification.
- 12) No development shall take place until a site investigation into the nature and extent of any contamination or landfill gas has been carried out in accordance with a methodology which has previously been submitted to,

and approved in writing by, the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to, and approved in writing by, the local planning authority. The site shall be remediated in accordance with the approved measures and a verification report submitted to, and approved in writing by, the local planning authority before development begins.

- 13) Notwithstanding Condition 5, no development shall take place until details of a storage area for 8 cycles have been submitted to, and approved in writing by, the local planning authority. The development hereby permitted shall not be occupied until the storage area has been provided in accordance with the approved details, and it shall thereafter be retained.
- 14) Notwithstanding Condition 5, no development shall take place until details of the location and design of waste storage facilities and the method of removal, to include for recycled materials, have been submitted to, and approved in writing by, the local planning authority. The development hereby permitted shall not be occupied until the facilities have been provided in accordance with the approved details, and they shall thereafter be retained.
- 15) Notwithstanding Condition 5, no development shall take place until details of the green roof have been submitted to, and approved in writing by, the local planning authority. The development hereby permitted shall not be occupied until the green roof has been provided in accordance with the approved details, and it shall thereafter be retained and maintained.
- 16) The development hereby permitted shall not be occupied until a scheme for protecting the proposed dwellings from noise from external sources has been submitted to, and approved in writing by, the local planning authority. The scheme shall include sound insulation and attenuated ventilation to ensure that noise from external sources shall not exceed the following levels:

Living Rooms	35dB _{L_{Aeq} 16hrs}	07.00 to 23.00 hours
Bedrooms	30dB _{L_{Aeq} 8hrs}	23.00 to 07.00 hours

The approved scheme shall be implemented before each dwelling is occupied and shall thereafter be retained.
- 17) The roof top area shall not be used as a roof terrace, and access onto the roof shall only be for maintenance and for no other purpose.

APPROVED PLANS

10028 P-1000	Location Plan
10028 E-100	Existing GA Plan
10028 E-200	Existing North East Elevations
10028 E-201	Existing North West Elevations
10028 E-300	Existing North West Section
10028 E-301	Existing North East Section
10028 P-100	Proposed Ground Floor Plan
10028 P-101 Rev A	Proposed Second and Third Floor Plan
10028 P-103 Rev A	Proposed Front Elevation
10028 P-104 Rev B	Proposed Side Elevation
10028 P105	Proposed Front Section
10028 P-106 Rev A	Proposed Side Section
10028 P-107	Proposed Basement
10028 P-108 Rev A	Proposed Fourth Floor Plan
10028 P-109	Proposed First Floor Plan
EB7 Daylight and Sunlight Assessment 14 August 2011	