
Appeal Decision

Site visit made on 29 April 2014

by John Bell-Williamson MA MRTPI

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

Decision date: 4 June 2014

Appeal Ref: APP/X5210/A/14/2214029

Hawley Mews, Camden NW1

- 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 Goldcrest Land (UK) Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2013/3794/P, dated 18 June 2013, was refused by notice dated 31 October 2013.
 - The development proposed is redevelopment of former car park to provide three no. two bedroom mews houses and associated landscaping, amenity and cycle parking.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of former car park to provide three no. two bedroom mews houses and associated landscaping, amenity and cycle parking at Hawley Mews, Camden NW1. The permission is granted in accordance with the terms of the application, Ref 2013/3794/P, dated 18 June 2013, subject to the conditions included in the Schedule at Annex A.

Preliminary Matter

2. The Planning Practice Guidance was issued on 6 March 2014. The content of the guidance has been considered but in light of the facts in this case it does not alter my conclusions.

Main Issues

3. The main issues are whether the proposal would provide adequate living conditions for its occupiers, with regard to outlook; and the effect on the living conditions of nearby residents in Hawley Street and Hartland Road, with regard to outlook.

Reasons

4. The appeal site is an undeveloped, open area of land formerly used as a car park to the rear of terraced residential properties on Hawley Street and Hartland Road. It is enclosed on three sides by the boundaries of the rear gardens of these properties; to the front is access via Hawley Mews to the main Chalk Farm Road.

5. The principle of residential development on the site is not in dispute and the Council has produced a development brief indicating how such a use might be realised.

Living conditions – future occupiers

6. On the ground floor of each dwelling, the kitchen window would face the path by which access would be gained to the front entrances. The Council's concern is the outlook being restricted from these windows by the glass louvres, which are proposed to maintain privacy. This would only affect the dwelling closest to Hawley Mews and the one in the middle of the site due to neighbouring residents and visitors passing the windows.
7. However, the kitchen is a non-habitable room and the open plan design of the ground floor means that it has a dual aspect with more extensive glazing to the rear. Moreover, the louvres can be used to maintain privacy where necessary, but still provide some outlook when open. Taking these facts as a whole, no direct harm would result from this aspect of the proposal.
8. The window to the deepest part of the ground floor to the rear of each dwelling would face directly towards boundary fencing. If this were the only outlook available I would share the Council's concerns. However, two full length glass doors are proposed adjacent to the window, to provide access to the rear terrace. Despite its limited size, the depth and width of the terrace area and extent of glazing proposed would sufficiently alleviate any concerns that the outlook would be oppressive or inadequate.
9. The dwelling to the rear of the site would include an additional door to one side to provide access to a small terrace. While this would face a curved brick wall, this is not of sufficient height or the space so limited that the outlook would be unacceptably harmful.
10. The outlook from the front and rear bedrooms would be by way of windows that face side walls some three metres away. In the front bedroom, despite a relatively narrow window, the limited depth of the wall opposite means that some indirect views beyond this would be possible. To the rear, while the depth of the wall would be greater, the window would be wider than the one to the front also allowing some angled views beyond the wall. The dwelling to the rear of the site would include an additional window in the front bedroom. While this would include obscured glass to two sides, the direct outlook would be over gardens of neighbouring properties. Based on these findings, I consider that the outlook from these rooms, which are intended to be used principally for sleeping, would not cause significant harm.
11. Taking all these findings together, I consider that the internal environment of the proposed dwellings in a relatively densely-developed urban setting would be acceptable and not oppressive or otherwise harmful. Accordingly, I conclude, for the reasons given that the proposal would provide adequate living conditions for its occupiers, with regard to outlook. As such, there is no conflict with Policy CS5 of the Camden Core Strategy 2010-2025 or with Policy DP26 of the Camden Development Policies 2010-2025, both of which concern the protection of occupiers' and neighbours' amenity.

Living conditions – nearby residents

12. I agree with the Council that the effects of the proposed development should be assessed against the particular circumstances of the location, rather than by comparison with other similar types of development elsewhere; and that policies or standards applied by other Councils are not directly relevant.
13. The properties closest to the appeal site, which have the greatest potential to be affected by the proposal are Nos 4 to 12 Hartland Road and Nos 1 to 15 Hawley Street. Due to the relative heights of the existing and proposed buildings, I agree that the uppermost storey of the three-storey properties on Hawley Street would not be affected directly.
14. The distance between the existing and proposed dwellings would be just over eight metres for the Hartland Road dwellings and around seven and a half metres for those on Hawley Street. These are not unusual separation distances for a relatively densely-developed urban area such as in this case and the lower ground level of the appeal site and reduced building height together with the roof angling away from the boundary would help to alleviate concerns that the new dwellings would be overbearing when seen from within the existing properties.
15. The greatest potential affect, therefore, would be from the rear gardens on either side that are closest to the appeal site. Those to either end of the groupings referred to above would be less affected due to a greater sense of openness and visual relief provided by views across Hawley Mews at one end of the group of three new dwellings and across neighbouring gardens at the other.
16. For the group of dwellings directly opposite, the visual effects would be more apparent. However, the ground level of the appeal site would be lowered and the overall height of the dwellings would be reduced compared to that of a two-storey property standing on level ground. Moreover, with the lack of a conventional roof and its curving away from the garden boundaries, together with the articulated front and rear with inset areas rather than uninterrupted elevations, the building's design would reduce its bulk and mass viewed from the neighbouring gardens. The green roof would further soften the visual effects of new built development in this location.
17. While the effects of the development compared to the existing undeveloped site would be most apparent to neighbouring residents immediately after the dwellings' completion, I consider that the design features described would help it to be visually assimilated quickly into its setting. Therefore, for all these reasons, I conclude that the proposal would not be unacceptably harmful to the living conditions of the occupiers of these nearby properties, with regard to outlook. As a result the proposal is not contrary to Policies CS5 and DP26, described above.
18. I note that the Core Strategy and Development Policies document were both adopted in 2010. However, I consider that the substance of the relevant policies is largely consistent with the National Planning Policy Framework and I give them substantial weight in this case.

Other Matters

19. The appellant has submitted a Unilateral Undertaking, which would address matters agreed between the main parties that are necessary to ensure the proposal is acceptable in planning terms. These include details of a construction management plan, highways financial contribution, car free occupation, sustainability measures and highways works.
20. The Council has indicated that the Undertaking is acceptable and addresses the necessary matters. As it addresses matters that are directly related to the site and needed to enable the development to proceed, I conclude that the statutory tests in Regulation 122 of the CIL Regulations and the policy requirements included in the National Planning Policy Framework (paragraph 204) have been met with regard to the Unilateral Undertaking. Accordingly, I have taken it into account in reaching a decision in this case.

Conditions

21. Of the Council's suggested conditions I have imposed the standard time condition and, to avoid doubt and in the interests of good planning, one which requires development to be carried out in accordance with the approved plans (but not other reports submitted with the application as this is unnecessary. Relevant matters are addressed, where appropriate, by other conditions and in the Unilateral Undertaking).
22. I accept that a condition is necessary to ensure the external materials reflect any additional matters beyond the approved plans, included in the Design and Access Statement, in the interests of the area's character and appearance. I agree also that the lifetime homes features, cycle parking spaces and refuse storage should be provided before occupation, to ensure the dwellings meet relevant policy requirements.
23. The National Planning Policy Framework says that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. However, I accept in this case that due to the location of the site in relation to neighbouring properties, and the potential effect of additional development on residential amenity, the restrictions included in the condition are justified.
24. A condition to require provision of the front gate before occupation is necessary in the interests of security; and ones to require the windows including obscured glass and the louvres to the kitchen windows to be provided before occupation are needed to ensure existing residents' and future occupiers' privacy. I agree a standard condition concerning any on-site contamination is needed in the interests of occupiers' safety. Details of the green roof should be provided and approved to ensure that this important feature meets its intended purpose; and, finally, details of sustainable drainage measures should be provided and approved to address surface water run-off in accordance with relevant policies.

Conclusion

25. I acknowledge that the form of development proposed in this case is not the same as that envisaged in the Council's site brief. Nonetheless, this proposal

would make effective use of this vacant site and for the reasons given would not cause unacceptable harm to existing or future occupiers. Therefore, for the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be allowed.

John Bell-Williamson

INSPECTOR

Annex A

Schedule – conditions

- 1) The development hereby permitted must be begun not later than the end of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan, 5358/P1.01, 5358/P1.02, 5358/P1.03A, 5358/P1.04, 5358/P1.05, 5358/P1.21A, 5358/P1.22A, 5358/P1.24, 5358/P1.25 and JKK7874_01A.
- 3) All new external work shall be carried out in materials as shown on the approved plans and detailed in the Design and Access Statement by Goldcrest Architects (June 2013).
- 4) The lifetime homes features and facilities, as indicated on the drawings hereby approved shall be provided in their entirety prior to the first occupation of any of the new residential units.
- 5) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) and Part 2 (Classes A-C) of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.
- 6) Prior to the occupation of the units hereby approved the areas allocated for cycle spaces and refuse storage shall be provided, made available, and retained as such thereafter.
- 7) Prior to the occupation of the units hereby approved the gate shown at the entrance of the site from Hawley Mews shall be provided and retained as such thereafter.

- 8) Prior to the occupation of the units hereby approved the windows hereby approved indicated as being obscurely glazed shall be treated as such and maintained thereafter.
- 9) Prior to the occupation of the units hereby approved the louvres shown on approved drawing 5358/P1.25 shall be provided and retained as such thereafter.
- 10) In the event that contamination is found at any time when carrying out the approved development it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of the Environment Agency's Model Procedures for the Management of Contamination (CLR11); and where mitigation is necessary a scheme of remediation shall be submitted to and approved in writing by the local planning authority, and the scheme shall be implemented as approved, before any part of the development hereby permitted is occupied.
- 11) Full details in respect of the green roof and green wall as indicated on the approved plans shall be submitted to and approved in writing by the local planning authority before the relevant part of the development commences. The buildings shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.
- 12) Prior to commencement of development details of a sustainable urban drainage system shall be submitted to and approved in writing by the local planning authority. Such system shall be based on demonstrating 50% attenuation of all runoff. The system shall be implemented as part of the development and thereafter retained and maintained.