



Appeal Decision

Site visit made on 10 March 2015

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 10 June 2015

Appeal Ref: APP/X5210/A/14/2229005
152 Royal College Street, NW1 0TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by P Ross (Tri Capital (Essex) Limited) against the Council of the London Borough of Camden.
 - The application Ref 2014/5486/P, is dated 11 August 2014.
 - The development proposed is the erection of a new building comprising 5 apartments and a retail unit.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was made against the Council's failure to determine the planning application. The appellant's grounds of appeal stated that they wished to address the 'reasons for refusal' in an amendment to the appeal once these were known. Further to the above, the appellant provided further drawings, marked 'for pre-application discussion', that were confirmed at the site visit as not part of the original planning application, and that were based on discussions with the Council that took place after the appeal was submitted. The appellant has requested that the revised drawings are taken into account in determining the appeal.
3. Notwithstanding the appellant's contention that the Council would not have re-consulted on these drawings, there is no written confirmation from the Council to that effect. In any case, whilst the proposed changes are relatively minor, the Council has not addressed them in its submission, which relates only to the plans originally submitted, and third parties have not had an opportunity to comment. The appeal process should not be a means to progress alternatives to the originally submitted scheme, or a chance to amend a scheme so as to overcome the reasons for refusal. As such, I consider that the revised drawings would need to be submitted to the Council as a new scheme in the first instance, and I have not taken them into account in making my decision. This also applies to a further 'option' including a mansard roof to the top floor that was also provided after the appeal was submitted.
4. The Council indicated in its submission that had it determined the application it would have refused planning permission for a number of reasons, relating to design, housing mix, living conditions, highway safety and provision for

infrastructure. I have treated this as the decision which the Council would have made, had it been empowered to do so, and framed the main issues accordingly.

5. Since the appeal was submitted the Council has adopted a Community Infrastructure Levy. I shall refer to this in more detail below.
6. There was an error in the numbering of the Council's suggested conditions. For the avoidance of doubt I have considered all 8 conditions suggested by the Council. There are also two drawings submitted with the application marked P103; the proposed third floor plan and proposed roof plan. I have taken both into account in reaching my decision. Furthermore, the flat numbers on section drawing P200 do not tally with those shown on the plan drawings. For clarity I have referred throughout to the flats as numbered on the plan drawings.

Main Issues

7. The main issues in the appeal are:
 - Whether the proposal would preserve or enhance the character or appearance of the Camden Broadway Conservation Area;
 - Whether the proposed housing mix is appropriate;
 - Whether the proposal would provide satisfactory living conditions for potential future occupants;
 - The effect of the development on highway safety;
 - Whether the proposal would make an adequate contribution to infrastructure.

Reasons

Effect on Camden Broadway Conservation Area

8. The appeal site is located at the junction of Royal College Street and Baynes Street. Regent's Canal lies to the south of Baynes Street and passes below Royal College Street. The northern section of Royal College Street, including the appeal site, falls within the Camden Broadway Conservation Area. Modern flatted development to the rear of the appeal site and on the far side of the canal on the west side of Royal College Street, lie outside of the Camden Broadway Conservation Area.
9. With regard to the Camden Broadway Conservation Area Appraisal and Management Strategy (2009) and my observations at the site visit, I consider that the heritage significance of this Conservation Area lies in its dense urban form developed in the early 19th century, including main roads and railway corridors, interspersed with quieter residential streets. This section of Royal College Street is characterised by three to four storey terraced properties with ground floor commercial uses. The two adjacent properties, Nos 154 and 156 are identified in the appraisal as buildings which make a positive contribution to the character and appearance of the Conservation Area, and which have good quality traditional shopfronts. The appeal site itself is identified as poor quality vacant space which could contribute more positively to the character and appearance of the Conservation Area through sensitive enhancement or redevelopment.

10. The appeal proposal would involve the erection of a building attached to the remainder of the terrace, forming 5 flats and a retail unit. It would be of broadly similar proportions to the adjacent buildings, but with an additional storey with a flat roof that would be set back from the front building line. The plans and elevations show this space, whilst very narrow, could be accessed by residents for sitting or standing outside.
11. I have had regard to the recessed top floor within the redevelopment of Nos 158-165, within the same terrace, but this is separated from the appeal site by Nos 154 and 156, which have a strong, unaltered parapet roofline. The proposed additional floor would dominate the appearance of these adjacent properties, and would thus cause significant harm to the character and appearance of the Conservation Area. Moreover, the window proportions to the front elevation would not reflect those of the rest of the subject terrace. The existence of examples of modern developments nearby but outside the Conservation Area would not negate or outweigh this harm.
12. Given the size and scale of the proposal, within the context of the Conservation Area as a whole, I consider that the development would cause less than substantial harm to the significance of the Conservation Area. I have therefore weighed any potential public benefits associated with the proposal against the harm caused by the development, in accordance with paragraph 134 of the National Planning Policy Framework (the Framework).
13. I consider that the redevelopment of the vacant site could be a public benefit, but I have found that the redevelopment scheme would cause material harm to the character and appearance of the Conservation Area. Consequently the proposed benefits would not be sufficient to outweigh this harm, and the development would be contrary to national policy.

Housing Mix

14. Five market housing units are proposed on the site. Policy DP5 of the Camden Development Policies 2010-2015 (CDP) (2010) requires all residential development to contribute to meeting the Council's objectives for the provision of a mix of dwelling sizes. The Dwelling Size Priorities Table 1 indicates that 1 bed and studio flats are considered a lower priority for the Borough, and 2 bedroom units are considered a very high priority for market housing, with the aim of least 40% of units to be 2 bedroomed. Whilst the supporting text to Policy DP5 states the Council will be flexible in applying the policy, taking into account particular site constraints, I note that all units would be 1 bedroom, and would thus represent a significant shortfall against the policy requirement of 40%.
15. I conclude that the development would fail to provide an appropriate housing mix, and would thus conflict with the requirements of CDP Policy DP5, and the Framework, which states that local planning authorities should plan for a mix of housing and identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand.

Living conditions

16. The Council are concerned that units 2, 3, and 5 fail to meet the minimum internal floorspace standards set out in Camden Planning Guidance 2 Housing (CPG2) (2013) and the Mayor of London's Housing SPG (2011). The appellant

contends that the proposed flats meet the internal space standards in the Mayor's Housing SPG, but the flats are all double bedrooms and would therefore accommodate 2 persons. CPG2 requires 2 person flats to be 48sqm in area, and the standard for a 1 bedroom, 2 person flat in the Mayor's Housing SPG is 50sqm. Flats 3 and 5 would fall short of this standard by over 15%, and flat 2 would fall short by almost 10%. Consequently these units would fail to provide an adequate standard of living accommodation, to the detriment of future occupiers.

17. Turning to the outlook from the proposed flats, the living/dining/kitchen area, bedroom and bathroom of Flat 5, and the bedroom and bathroom of Flat 4 would be at basement level. Whilst no daylight and sunlight assessment has been submitted, I consider that Flat 5 would receive only limited daylight from the narrow lightwell formed by the staircase entrance, and the basement level of Flat 4 would only receive indirect daylight from the living space at ground floor level, which is proposed to include a partly glazed floor. Accordingly, I do not consider the amount of daylight penetrating the basement level rooms would be sufficient to achieve a satisfactory standard of accommodation for future residents, and this would add to the harm I have already identified in regard to this main issue.
18. Moreover, the refuse storage for the flats is located at basement level, and there are no elevators within the development, meaning that residents would need to carry refuse down several flights of stairs; and no refuse storage is shown for the commercial unit. This would be contrary to CDP Policy DP26, and would also add to the harm already identified.
19. The Code for Sustainable Homes is no longer mandatory and thus would not constitute a reason for dismissing the appeal. Furthermore, I consider that an appropriate condition could be imposed to require the appellant to demonstrate how Lifetime Homes requirements would be met, as required by Policy DP6, if the proposal was acceptable in all other respects.
20. Nonetheless, for all the above reasons I conclude that the development would fail to provide satisfactory living conditions for potential future occupants. It would be contrary to Core Strategy (CS) (2011) Policy CS6 and CDP Policy DP26. These require new development to provide an acceptable standard of living accommodation for future residents. These policies are consistent with the Framework, insofar as it requires a good standard of living for all new and existing occupants of land and buildings.

Highway safety

21. The proposal would involve new or altered vehicular and pedestrian accesses to the appeal site, and the construction of a basement. As such, a Construction Management Plan would normally be required, in accordance with CPG 6. The Council considers that a Construction Management Plan is required to be provided through a legal agreement and CPG6 states that this would be required where the construction impact would be particularly significant, but given the size and scale of the development I consider it could be dealt with satisfactorily by use of a condition, if the development was acceptable in all other respects. Likewise the provision of suitable cycle parking within the building could also be dealt with by the imposition of a condition requiring the cycle parking specifications to be submitted and approved by the Council.

22. Turning to car parking provision, CS Policy CS 11 seeks to minimise provision for private car parking in new developments, amongst other things, by securing car free developments in the Borough's most accessible locations. CDP Policy DP18 requires new development to be 'car capped' in areas of on-street car parking stress, including the use of a legal agreement to ensure that future occupants are aware they are not entitled to on-street parking permits.
23. The appeal site has a Public Transport Accessibility Level (PTAL) of 6a, with excellent links to Underground and Overground stations and the bus network. I also saw that Royal College Street has a designated cycle route. The Council has stated that the site lies within the Somers Town Controlled Parking Zone (CPZ), with demand for spaces within the CPZ in excess of 104% during the evening and overnight. The proposal could generate a demand for up to 10 car parking spaces for the residential use and would thus have an adverse impact on parking stress in the locality.
24. The appeal form states that the appellant does not intend to submit a planning obligation, although the appellant's final comments indicate that he accepts the need for such an agreement on this matter. Nonetheless, no planning obligation has been provided, and thus I conclude that the development would have a materially adverse effect on highway safety in the vicinity of the site, contrary to CS Policy CS11 and CDP Policy DP18.

Provision for infrastructure

25. The Council requires financial contributions towards public open space, works to the highway and public realm, and for pedestrian, cycling and environmental improvements, in accordance with Policies CS15 and DP31, and CPG8. However, since the application was submitted, the Council has adopted a Community Infrastructure Levy Charging Schedule. In accordance with Regulation 122 (2) of the Community Infrastructure Levy (CIL) Regulations 2010, once a charging schedule has been published, a planning obligation which seeks to provide funding or the provision of infrastructure which is intended to be funded, wholly or partly, by CIL, may not constitute a reason for granting planning permission, and CIL Regulation 122 (3) restricts the use of pooled contributions towards items that may be funded via the levy. This could include contributions to off-site public open space and transport infrastructure.
26. On the balance of the available evidence it has not been adequately demonstrated that these planning obligations would meet the tests in CIL Regulation 122 (2). Nonetheless, as I am dismissing the appeal on the first four main issues, I have not pursued this matter with the parties.

Other Matters

27. The appellant's addendum to proof of evidence refers to various minutes of meetings and emails produced after a meeting with the Council on 27 November 2014, after the appeal was submitted. However, officer level comments are made without prejudice to a Council's formal decision on a planning application, and should be regarded as such. Accordingly, I have given this matter little weight.
28. I also acknowledge the concerns of the appellant regarding the manner in which the Council dealt with the planning application, but these concerns are

outside the scope of this appeal and should be pursued directly with the Council in the first instance.

29. With regard to the construction of the basement, CDP Policy DP27 requires consideration of a scheme's impact on local drainage and flooding and structural stability. Further detail is provided in the Basements and Lightwells SPD (2013), which states at page 10 that a Basement Impact Assessment (BIA) must be carried out by a person qualified in respect of the matters being considered, including surface water flow and flooding, groundwater flow and land stability. The submitted BIA was undertaken by an Incorporated Engineer (IEng) and Associate Member of the Institute of Structural Engineers (AMIStructE). However, the author of the report does not appear to hold any of the qualifications listed in the table on page 10 of the SPD. On the balance of the available evidence therefore, the BIA would not appear to comply with the requirements of the SPD. Again, as I am dismissing the appeal on other matters, I have not pursued this with the parties.
30. Finally, there were concerns regarding the impact of the development on trees in the vicinity of the site. A Tree Protection Plan was submitted with the application which identifies the adjacent street tree on Royal College Street, and indicates that protective fencing will be provided and retained in place during construction. Although the information provided is brief, I consider a condition could be imposed to require further details to be provided and approved by the Council, to ensure adequate protection for the tree and thus safeguard the character and appearance of the area. I acknowledge that there is a group of trees on the other side of Baynes Street adjacent to the Regents Canal, but consider that there is sufficient separation between these and the appeal site to avoid any undue harm, and note that the Council did not raise any concerns in this regard.

Conclusion

31. For the above reasons, and with due regard to all other matters raised, I conclude the appeal should be dismissed.

Claire Victory

INSPECTOR