



Appeal Decision

Site visit made on 27 July 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 August 2020

Appeal Ref: APP/X5210/W/19/3240315 67-74 Saffron Hill, London EC1N 8QX

- 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 Nyraff Limited against the decision of the Council of the London Borough of Camden.
 - The application Ref 2018/5028/P, dated 15 October 2018, was refused by notice dated 2 May 2019.
 - The development proposed is described as 'The application comprises: 1. Additional storey to the existing building that fronts Onslow Street comprising 151sqm. 2. Additional storey to the roof of the existing building comprising 250sqm.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council altered the description of application 2018/5028/P to read 'Erection of additional storey at fifth floor level and erection of additional storey at second floor level (rear/Onslow Street side) to office building (Use B1a)'. This more succinct description is also used by the appellant on the appeal form and I have considered the appeal on this basis.
3. Although they are not cited within the second reason for refusal, the Council's evidence refers to Policies E1 and E2 of the Camden Local Plan 2017 (CLP). The appellant has been able to comment in response to the Council's evidence on the relevance of the policies to the appeal, and I note that these policies are also both referred to within the undated Planning and Design and Access Statement which formed part of the application, indicating that the appellant was aware of them. I note the appellant's comments that it is unreasonable for the Council to introduce these policies at appeal stage, but for these reasons I am satisfied that no party would be unfairly prejudiced by my taking these policies into account.
4. The appellant has submitted a Planning Obligation by way of a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 (UU). This is dated 14 February 2020 and seeks to address the Council's second, third and fourth reasons for refusal relating to the provision of jewellery workspace, highway works, a Construction Management Plan (CMP), and a CMP Implementation Support Contribution. I have considered the Planning Obligation further in my reasoning below.

Main Issues

5. The main issues in this appeal are:
 - i) the effect of the proposal on the living conditions of neighbouring occupiers within the Ziggurat Building with particular regard to outlook and whether or not it would be overbearing;
 - ii) whether or not the proposal would make adequate provision for jewellery workspace; and
 - iii) the effect of the construction phase of the development on neighbouring occupiers, highway safety and convenience.

Reasons

Living Conditions

6. The appeal relates to an office building located between Saffron Hill and Onslow Street. As it fronts Saffron Hill, the southern part of the building appears two-storey and includes a shuttered entrance to an open service yard behind. The remainder of the elevation along the street appears four-storey, though there is also an additional storey to part of the building which is set back from the street. To Onslow Street, the rear of the building includes a basement level that is not visible to Saffron Hill and appears part six, part three-storey.
7. Facing the appeal site from the south are windows and balconies serving some of the dwellings within the Ziggurat Building. I was able to visit some of these dwellings and saw that while the flats at floor 6 and above look down onto the roof of the appeal building, the facing windows to flats on floor 5 currently have an outlook onto and across the closest part of its flat roof. At floor 4, views from facing windows are mostly towards the existing fourth floor of the appeal building, but there are open views above this in which the 2 existing lift overruns of the appeal building can also be seen.
8. The Council have not raised concerns over the effect of the proposed extension of the second floor of the building, and from the evidence before me and my site visit, I see no reason to reach a different view.
9. Closest to the Ziggurat Building, the fifth floor level extension would have a broadly L-shaped footprint, with the front part of the extension set back from the southern edge of the existing building. With reference to the 25 degree test outlined within Camden Planning Guidance (CPG) Amenity 2018, the appellant contends that this extension would not harm outlook for occupiers of the Ziggurat Building. However, the CPG explains that the 25 degree test concerns the effect of development on daylight and sunlight. While there can be a relationship with factors which also affect light levels, outlook is a distinct concept. I cannot therefore agree with the appellant that satisfactory levels of light are analogous to a satisfactory level of outlook.
10. The extension would be visible to neighbouring dwellings at floor 6 and above of the Ziggurat Building, but from their elevated position, they would look down onto it, and would retain an open outlook over its roof. The development would be seen against the existing building, and the set back of the extension from the edge of the existing building would also help to further limit its visual impact. Given these factors, I am satisfied that the development would not be overbearing, or unacceptably harm outlook for these occupiers. Screening of the extension by the existing building would also limit views for occupiers of

- flats on floor 3 and below such that there would be no material change in outlook.
11. The appeal building is the main component of views from the facing windows of flats on floor 4 of the Ziggurat Building. While there are some retained views of the sky above, I saw that its mass at close proximity is an imposing feature which already restricts outlook from these windows. With regard to the existing visibility of the lift overruns to the appeal building, it is clear that despite the set-back, the development would be conspicuous in views from these windows where it would run the depth of the roof behind the existing overrun and would largely obscure the last remaining open aspect above the existing building. Together with the proximity of the extension which would be only around 11.3m from the facing elevation of the Ziggurat Building, this would cause the development to appear dominant and overbearing to occupiers of these flats, and the resulting degree of enclosure would also be oppressive. The impact would be particularly acute given that many of the flats are single-aspect with no opportunity for alternative outlook. Consequently, I find that the proposal would detract significantly from the living conditions of these occupiers.
 12. The unbroken depth of the extension would also significantly curtail the open outlook afforded to occupiers of the closest flats on floor 5 of the Ziggurat Building across the roof of the appeal building. The set back would help to reduce the dominance of the extension, and I accept that the impact would be less severe than for the flats below given that some open aspect would be retained above the extension. Nevertheless, this would be partial and neither factor would prevent the development from becoming an imposing feature considerably diminishing the available outlook in comparison to the existing situation. The proposed green roof would also do little to offset the much greater visual impact resulting from the building's additional bulk and mass.
 13. I recognise that the appellant has made changes from the development subject of a dismissed at appeal in 2003¹ including an increase in separation to the Ziggurat Building and provision of the green roof. Windows have also been removed from the side of the extension and the appellant has drawn my attention to reasoning within the earlier decision which refers to harm to outlook, 'particularly owing to the proximity of a façade of office windows'. Nevertheless, the decision also comments that the height of the roofline of the appeal property has a crucial effect on outlook, and my reading of it as a whole is that it was the additional built form which included windows, not the windows themselves, which were the concern in this regard. While I have found that harm would not be caused to outlook for occupiers of flats on Floor 6, the alterations do not in my view overcome the harm that was identified in the previous decision to the occupiers of flats on Floors 4 and 5.
 14. I acknowledge that the appeal site is within a dense urban environment, and note the limited separation between the appeal building and some existing flats within the Ziggurat Building. The appellant also asserts that the Ziggurat Building and other neighbours, as well as other buildings nearby, have closer relationships than would result from the appeal proposal. Be that as it may, I do not know the details of the circumstances which led to these existing relationships, and cannot be sure that the conditions are directly comparable to the appeal before me. In any case, these examples do not establish a lack of

¹ Appeal reference APP/X5210/A/03/1114018

harm, nor offer a compelling justification to allow further development which would fail to provide the high standard of amenity sought at paragraph 127 of the National Planning Policy Framework (the Framework) and by local policies.

15. The appeal building is likely to impact already on light levels to some of the dwellings within the lower levels of the Ziggurat Building. However, given the position of the appeal site to the north of these neighbours and the set back of the extension, I am satisfied that it would not cause harmful overshadowing or loss of sunlight or daylight. In this regard, I note that the appellant's analysis of vertical sky component also indicates with regard to industry guidelines that the impact on daylight levels to neighbouring windows would be minimal. I am also satisfied that an appropriately worded condition could ensure that the proposed green roof is not used as a terrace, preventing unacceptable overlooking to occupiers of the Ziggurat Building that may otherwise occur. However, these factors do not outweigh the overbearing effect of the extension and loss of outlook for occupiers of the closest flats at floors 4 and 5 of the Ziggurat Building.
16. For these reasons, I conclude on this main issue that the proposal would cause unacceptable harm to the living conditions of neighbouring occupiers within the Ziggurat Building. Consequently, the development would conflict with Policy A1 of the Camden Local Plan 2017 (CLP) which seeks to protect the quality of life of occupiers and neighbours including through considering outlook. There would also be conflict with advice within CPG Amenity which guides that development should avoid an overbearing or dominating effect that is detrimental to adjoining residential occupiers.

Jewellery Workspace

17. The appeal site is located within the Hatton Garden part of the Central London Area. CLP Policy H2 generally requires that development resulting in additional non-residential floorspace of more than 200sqm within the Central London Area provides 50% of floorspace as self-contained housing. However, this is subject to considerations which include priority given within the Hatton Garden area to securing and protecting a stock of premises for the jewellery sector. This priority is intended to support the nationally important cluster that gives the area its special character, and is echoed at CLP Policy E1. Where development in this area would result in an increase of more than 200sqm floorspace, Policy E2 additionally seeks 50% of the additional floorspace as affordable premises suitable for the jewellery sector.
18. The appeal proposes 401sqm additional B1 Use Class floorspace. Against this, the 81sqm of affordable jewellery workspace outlined within the appellant's UU would fall some way short of the 50% provision sought by CLP Policy E2.
19. In support of the reduced quantum of jewellery workspace, the appellant indicates that 90sqm of jewellery workspace on the appeal site agreed under an earlier permission² remains vacant despite marketing since November 2017. I have been provided with a letter dated 30 October 2019 titled 'Marketing update – Jewellery Workshop, 67-74 Saffron Hill, London EC1'. However, this does not provide comprehensive details of marketing that has taken place. For instance, it does not give full details of marketing methods or material which have been utilised, how the space has been listed and terms, or information on

² Application reference 2016/4143/P

- comparable properties or other evidence to demonstrate that the price fairly reflects the location and circumstances of the space. In the absence of clear evidence on such matters, I am not satisfied that a lack of demand for the jewellery workshop space on the appeal site has been robustly demonstrated.
20. The appellant has also drawn my attention to advice within the CLP that the requirement to provide floorspace will be determined by supply in the area, but the onus would be on the appellant to demonstrate why existing supply would justify a departure from the general approach within Policy E2. There is no firm evidence before me to corroborate the appellant's suggestion that there would be a substantial oversupply in space in this case.
21. Accordingly, I am not satisfied that the submitted evidence provides compelling justification necessary to support the reduced quantity of affordable jewellery workspace proposed below the requirement sought by Policy E2.
22. The Council have additionally raised concerns that the suggested jewellery workspace within the UU has previously been secured under an earlier permission³ on the site. I have not been provided with full details of this earlier permission and so I cannot be sure whether or not it could be implemented alongside the appeal proposal. Be that as it may, I have already found the quantum of space to be inadequate and so because it could not alter the outcome, it is not necessary for me to consider this further.
23. In conclusion on this main issue, I find that the development would fail to make adequate provision for jewellery workspace. It would therefore conflict with Policies G1, H2, E1, E2 and DM1 of the CLP which amongst other things, require provision of jobs and infrastructure to meet identified needs including additional floorspace suitable for the jewellery sector in the Hatton Garden area.

Effects at Construction Phase

24. Policy A1 of the CLP seeks to manage the impact of development, including during the construction phase. The supporting text to the policy advises that planning obligations will be used to secure repairs or reinstatement of transport infrastructure, landscaping, roads and footway surfaces following development with further guidance on contributions within CPG Transport 2019.
25. The UU includes a financial contribution towards highway works in line with the Council's request which is said to be necessary to repave the footway outside of the site. However, I am mindful of the tests set out at Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (the relevant tests) and reflected at paragraph 56 of the Framework that any planning obligation must be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. The UU is drafted so that should I conclude that any part of it is incompatible with any of the relevant tests, then that element of the obligation will cease to have effect.
26. The Council has given no clear indication as to why damage would be likely to occur to the highway as a consequence of the development which would be within the footprint of the existing building. Moreover, there is little detail to justify the amount of the requested financial contribution, and repaving the

³ Application reference 2016/4143/P

footway would seem to go beyond reinstatement to the current condition. I am not therefore satisfied from the information before me that the contribution towards highway works would be necessary to manage the effects arising during construction. Consequently, I find that this contribution would not meet the relevant tests, and I afford it no weight.

27. However, given the constrained streets near to the site with a lack of space for parking and deliveries, and residential neighbours, the management of construction impacts would be complicated. I therefore agree with the Council that a CMP would be necessary to safeguard neighbouring living conditions and the safe and efficient operation of the highway network, and that this would require more detail than is normally controlled by a planning condition. Specific review, monitoring and management of the CMP would also be required, and a CMP Implementation Support Contribution would therefore be necessary. The UU provides for both a CMP and associated contribution which I am satisfied are necessary and a fair and reasonable requirement to make the development acceptable in planning terms. These obligations would therefore meet the relevant tests and it is appropriate for the UU to secure them.
28. With appropriate provision for a CMP and associated contribution, I conclude on this main issue that the construction phase would not result in unacceptable harm to the living conditions of neighbouring occupiers or to highway safety or convenience. On this basis, the development would accord with CLP Policies A1, T4 and DM1 which broadly seek to manage the impact of development on the surrounding area. I note the Council's specific comments on elements of the UU questioning its effectiveness. However, the existence of the UU to comply with requirements of the development plan would not in any case outweigh the harm in respect of the other main issues. As it could not alter the outcome, it is not therefore necessary for me to consider this further.

Other Matters

29. The appeal site is within the Hatton Garden Conservation Area (CA). I have therefore paid special attention to the desirability of preserving or enhancing the character or appearance of this area in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Given the design of the extensions and the mixed scale and form of the surrounding area, I am satisfied that the character and appearance of the CA would be preserved. However, this is a neutral factor weighing neither for nor against the proposal.
30. The proposal would make effective use of the existing employment site to provide additional floorspace that could be suitable for a range of businesses, helping to meet demand and support businesses and the function of the area. Nevertheless, the fairly small scale of the development would limit the contribution, and I find that the benefits of the proposal would not outweigh the inadequate provision for jewellery workspace and harm to neighbouring occupiers, or the conflict with the development plan when it is read as a whole.

Conclusion

31. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR