
Appeal Decision

Site visit made on 1 December 2014

by Peter Rose BA MRTPI DMS MCM

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

Decision date: 23 December 2014

Appeal Ref: APP/V5570/A/14/2226349

9 Dallington Street, London EC1V 0BQ

- 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 Harmsworth Pooled Property Unit Trust against the decision of the Council of the London Borough of Islington.
 - The application Ref P2014/1604/FUL, dated 16 April 2014, was refused by notice dated 23 July 2014.
 - The development proposed is extension to existing fourth floor and the creation of a new fifth floor at roof level to provide an increase in office floorspace (Use Class B1a) and three residential flats (Use Class C3) together with associated external alterations, amenity space, landscaping and plant.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Harmsworth Pooled Property Unit Trust against the Council of the London Borough of Islington. This application is the subject of a separate Decision.

Procedural Matters

3. The Council's decision notice refers to the height of the proposed scheme in relation to the Council's Conservation Area Design Guidelines. The reference is made in the context of an objection due to the alleged effect of the development upon daylight and I shall consider the relevance of the Conservation Area to the Council's objection on that basis.
4. A Unilateral Undertaking dated 11 November 2014 (the Undertaking) has been submitted by the appellant as part of the appeal, and the Council has been afforded the opportunity to comment.

Main Issue

5. The main issue is whether the development, by reason of its height and proximity to the boundary, would be detrimental to the amenity of users of the neighbouring Dallington School with regard to loss of daylight.

Reasons

6. The appeal site comprises a 5-storey mid-terrace building with flat roof. The building has a glazed commercial frontage and associated facilities on the

- ground floor, and offices above. The site forms part of a densely developed urban setting with buildings extending to five storeys and above. Dallington Street comprises buildings of various styles and forms and with a range of uses. The site lies in close proximity to a number of other buildings, including Dallington School to the south, St Peter's and St Paul's Primary School to the north, and a residential development at Enclave Court to the east.
7. The site forms part of the Hat and Feathers Conservation Area. The Council's Conservation Area Design Guidelines A Supplement to the UDP Revised Version January 2002 (the Conservation Area Guidelines) refer to the Conservation Area in conjunction with two further such Areas. It advises that the fabric of the area derives from incremental development dating from Norman times, and that the character depends on its great variety of uses.
 8. The proposed scheme would extend the height of the host building at fourth and fifth floors in close proximity to rear windows of Dallington School and would include other works. The application is accompanied by a detailed technical assessment of the implications for daylight and sunlight, and with regard not just to Dallington School, but also in relation to other adjacent buildings. The assessment is based upon recognised national guidance provided by the Building Research Establishment (BRE). This is set out in the BRE report 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice', 2011, and draws upon British Standard 8206 Part 2.
 9. In relation to Dallington School, the appellant's assessment shows that, in terms of daylight, of the 35 windows tested at the rear of the school, 18 would fall short of the recommended standard in relation to Vertical Sky Component (VSC). An alternative test of the Average Daylight Factor (ADF) was then applied, however, to the four main teaching areas of the school. The submitted evidence shows that all four rooms passed the recommended threshold for ADF and that the impact would be of a scale which would not be materially noticeable. Due to the orientation of the school, only one window was tested in relation to sunlight and this passed. I further note that the Council does not challenge the findings of the submitted assessment, and I have little reason to question its adequacy.
 10. Whilst VSC looks at the amount of daylight available at a particular window, ADF takes into account the interior dimensions and surface reflectance of a room, as well as the amount of sky visible from the room. At my site inspection, I was able to view the appeal site from each floor of Dallington School. I saw that the main floors of the school are large, dual aspect areas with windows on both sides. I recognise the relevance of the ADF evidence in that context, given the essentially dual aspect arrangement of the floors.
 11. I also noted at my visit the existing use of artificial light within the school and am mindful of the contribution that generally makes to the internal use of buildings, including schools. I also have little evidence before me to suggest that it would be unusual for schools to be served by a combination of natural and artificial light. The building's south-facing windows to the front which draw significant light would also remain unaffected by the scheme. The appellant has also identified the possibility of painting the rear facing wall of the host building white to possibly assist reflected light levels into the rear windows.
 12. Nevertheless, I cannot disregard the significance of the VSC findings. These show both that daylight to a significant number of windows in the rear

elevation would be reduced by the development and, furthermore, that windows in that elevation already suffer from existing low VSC ratings. This was also evident at my visit when I observed the lighting conditions on all floors.

13. There is also a particular issue with the basement. The basement comprises administrative offices fronting Dallington Street and a teaching area to the rear. I saw that the teaching area in the basement does not enjoy dual aspect. Even though the basement is already constrained in its exposure reflecting its significantly enclosed setting, daylight to this teaching area from the rear would be impacted by the scheme.
14. Whilst the main floors are dual aspect, these comprise expansive areas running from front to back. Notwithstanding furniture and other informal arrangements, I accept they are not structurally divided. Even so, should the development proceed and the rear then become dependent upon daylight from the front as implied by the ADF evidence, I acknowledge this could represent a significant constraint upon the future operation of the school.
15. Daylight is a finite resource of particular importance to the school and for the future welfare of its children. Notwithstanding the evidence of the ADF assessment and the conclusions drawn, the school forms part of a tightly constrained setting in which daylight to the rear is already restricted and which would be further reduced by the proposed scheme. I also note that the BRE guidance advises that it should be interpreted flexibly, and as one of a number of factors relevant to site layout design. In the context of the overall impact of the scheme upon windows to the rear and the existing levels of daylight being received I find, on balance, that the scheme would be harmful to the environment of the school.
16. I therefore conclude that the proposed development would, by reason of its height and proximity to the boundary, unduly harm the amenity of users of Dallington School with regard to loss of daylight. Accordingly, the proposed development would be contrary to Policy DM2.1 of Islington's Local Plan: Development Management Policies June 2013. This seeks, amongst other matters, to ensure that development respects and responds positively to existing buildings, provides a good level of amenity, including consideration of daylight, and does not unduly prejudice the satisfactory operation of adjoining land. A core principle of the National Planning Policy Framework (the Framework) is also to seek a good standard of amenity for existing and future occupants of land and buildings and the proposal as it relates to the school would be inconsistent with that aim.

Unilateral Undertaking

17. The submitted Undertaking makes commitments in relation to various matters, including affordable housing. Nevertheless, I cannot be satisfied from the limited information before me that these specific commitments are necessary to make the proposal acceptable in planning terms, are directly related to the scheme, and are fairly and reasonably related in scale and kind to the development. Even so, the commitments made are not matters directly relevant to mitigating the harm identified in the main issue. Accordingly, I have not had regard to the detailed content of Undertaking in my decision.

Other Matters

The character and appearance of the Hat and Feathers Conservation Area

18. Whilst the Council's decision notice does not state the development would be harmful to the character or appearance of the Conservation Area and raises no objection to the design itself, concern has been raised by third parties regarding the height of the scheme relative to both adjacent buildings and to the wider Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon me to give special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. There is a clear presumption in this duty that preservation is desirable, and the finding of any harm to the character or appearance of a heritage asset would be a consideration to which I must attach considerable importance and weight.
19. The Council's Conservation Area Guidelines advise that new buildings and roof extensions should conform to the height of existing development in the area. Although the scheme would add a fifth floor to the host building, I do not consider this would be out-of-place in its setting. I note the height would be set below that of the adjacent gable of St Peter's and St Paul's Primary School. Furthermore, the extension would be set back from the main Dallington Street frontage. There would only be limited exposure from public views, and the views would be of a heavily glazed design which would not appear dominant or obtrusive. I am also satisfied that appropriate consideration has been given to detailed design of the roofscape and associated implications for the skyline.
20. I therefore conclude that the proposed development would not fail to preserve or enhance the character or appearance of the Hat and Feathers Conservation Area. Accordingly, the extension would not be contrary to the Conservation Area Guidelines which seek, amongst other matters, to ensure that roof extensions visible from the street should not be harmful to the character and appearance of the building. I find the guidelines broadly consistent with the Framework which recognises that heritage assets such as Conservation Areas are an irreplaceable resource and requires them to be conserved in a manner appropriate to their significance. The Framework also places great importance upon high quality design.

Enclave Court

21. At my site inspection, I was able to view the appeal site both from the rear courtyard of Enclave Court and from within an adjacent dwelling.
22. The Council does not identify any harm to the occupiers of Enclave Court in its decision notice, and the minutes of the Council's meeting state that it considered the issue of overlooking had been dealt with by the applicant. I also note that the submitted daylight and sunlight assessment concludes that no windows within Enclave Court would fail the relevant daylight or sunlight tests, and that there would be no adverse effect upon gardens or amenity spaces, as defined by the BRE, in terms of overshadowing.
23. I acknowledge that the outlook from Enclave Court would change, but I do not consider that the scale, proximity or form of the development would be visually intrusive to the living conditions of those residents. There is a possibility of overlooking from the proposed terraces, but I am satisfied that, in principle, such concerns could be mitigated by appropriate boundary treatment. There would also be no formal windows within the main east facing elevation of the

proposed extensions, although further details would still be required of the proposed glazing system, opal glass and other external finishes to be used.

24. Accordingly, I do not find that the scheme would be harmful to the living conditions of occupiers of Enclave Court with regard to light or visual impact, and that the scheme would not conflict with the expectations of the Framework to provide a good standard of amenity.

Other considerations

25. I have considered all other matters raised, including concerns regarding density and over-development, traffic and highway implications, provision for persons with disabilities, the need for future office and residential floorspace, and general issues of disruption. The Council raises no objections on these grounds and I have little reason to conclude otherwise.
26. I recognise the scheme would provide additional office space, and the opportunity for associated reconfiguration of the existing building. In this context, the Framework states that the government is committed to securing economic growth in order to create jobs and prosperity. A core principle is for planning to proactively drive and support sustainable economic development and the Framework encourages support for existing business sectors.
27. I also acknowledge the scheme would provide additional residential accommodation for the benefit of the local housing stock.
28. I have noted the various references to pre-application discussions between the main parties.
29. I have had regard to all references made to other sites, planning decisions and appeals. Nonetheless, the circumstances of each site and of each development will be different, and my decision is based upon the specific planning merits of the proposal before me.
30. I have noted the relationship between the scheme and the adjacent St Peter's and St Paul's Primary School. The Council raises no objection on that basis and I have little reason to disagree.
31. I have also had regard to the Mayor of London's Revised Early Minor Alterations to the London Plan published on 11 October 2013 and to the Draft Further Alterations to the London Plan January 2014.

Summary of other matters

32. None of the other matters raised are of such significance, either individually or collectively, that they would outweigh the factors that have led to my conclusions on the main issue.

Conclusion

33. For the above reasons, I conclude the appeal should be dismissed.

Peter Rose

INSPECTOR

Costs Decision

Site visit made on 1 December 2014

by Peter Rose BA MRTPI DMS MCM

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

Decision date: 23 December 2014

Costs application in relation to Appeal Ref: APP/V5570/A/14/2226349 9 Dallington Street, London EC1V 0BQ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Harmsworth Pooled Property Unit Trust for a full award of costs against the Council of the London Borough of Islington.
 - The appeal was made against the refusal to grant planning permission under section 78 of the Town and Country Planning Act 1990 for extension to existing fourth floor and the creation of a new fifth floor at roof level to provide an increase in office floorspace (Use Class B1a) and three residential flats (Use Class C3) together with associated external alterations, amenity space, landscaping and plant.
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Decision

1. The application for an award of costs is refused.

The submissions for Harmsworth Pooled Property Unit Trust

2. The applicant is seeking a full award of costs contending that the Council unreasonably refused planning permission contrary to Officer recommendation. The applicant maintains that the Committee failed to appreciate relevant technical guidance and site considerations, and sought to deliberately frustrate the proposal.

The response by the Council of the London Borough of Islington

3. The Council's response is that it acted reasonably by refusing permission on the basis of specific concerns and with reference to relevant policies. The site was also visited by Committee members prior to its decision and planning permission was only refused after full consideration of all relevant matters.

Reasons

4. The government's Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
5. The Guidance identifies a range of possible circumstances in which an award of costs may be made against a local planning authority. These include unreasonably refusing planning permission and failing to produce evidence to substantiate a reason for refusal. The Guidance also advises that where a local authority has exercised its duty to determine an application in a reasonable manner, it should not be liable for an award of costs.

6. A Council Planning Committee is not bound to accept the recommendations of its Officers. Whilst the applicant refers to behaviours and discussions at the Committee meeting itself and offers accompanying explanations, it is clear to me that Councillors had significant concerns regarding the impact of the scheme upon daylight, and that those views were formed with the benefit of a site visit.
7. Significant technical evidence was provided by the applicant regarding the impact upon daylight, but the Committee chose to attach greater weight in its decision to the already limited daylight reaching that part of the school.
8. Furthermore, the accompanying section 78 decision has found that the impact of the scheme would be harmful with regard to daylight and that the Committee was justified in refusing planning permission on that basis.
9. I therefore find that unreasonable behaviour on the part of the Council resulting in unnecessary or wasted expense, as indicated in the Guidance, has not been demonstrated and, accordingly, the application is refused.

Peter Rose

INSPECTOR