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# Appeal Decision

Site visit made on 28 November 2017

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

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

**Decision date: 9 January 2018**

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**Appeal Ref: APP/V5570/W/17/3183143**

**270 Caledonian Road, Islington, London N1 1BA**

- 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 Mr Andrew Panayi against the decision of the Council of the London Borough of Islington.
  - The application Ref P2017/1333/FUL, dated 28 March 2017, was refused by notice dated 29 June 2017.
  - The development proposed is new roof extension to provide an additional 1 bedroom residential unit, including associated internal alterations to the existing second floor flat and common staircase to facilitate proposals.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is whether the absence of any provision for affordable housing and carbon offsetting measures would be acceptable.

## Reasons

3. The appeal site is situated on the corner of Caledonian Road and Richmond Avenue and consists of a public house on the ground floor with residential flats above. The proposed development seeks an additional 1 bedroom residential unit in a new roof extension.
4. Part G of Policy CS12 of the Islington Core Strategy 2011 ('the Core Strategy') sets out the Council's approach to securing affordable housing. For development schemes below 10 units, the policy seeks the provision of a financial contribution towards affordable housing provision elsewhere in the borough. The policy is supported by the Council's Affordable Housing Small Sites Contributions Supplementary Planning Document ('the Affordable Housing SPD') 2012. In Section 4 of this SPD, there is a requirement that all minor residential development resulting in the creation of one or more additional residential units are required to provide a commuted sum of £50,000 per unit towards the costs of providing affordable housing units on other sites within the borough, unless it can be demonstrated that it would not be viable to make the full contribution.
5. Part C of Policy DM7.2 of the Islington Development Management Policies 2013 ('the DMP') states that all remaining regulated emissions from minor new-build residential development of one or more units, not dealt with by on-

site measures, will be offset. Development will be required to pay the full cost of carbon dioxide offsetting, unless it can be demonstrated that this is not feasible, in which case the maximum feasible payment for offsetting will be required. Policy DM7.2 is supported by the Environmental Design Supplementary Planning Document 2012 ('the Environmental Design SPD'). This SPD sets out a required financial contribution of £1,000 per flat for carbon offsetting.

6. Policies CS12 and DM7.2 and the two SPDs predate the Written Ministerial Statement (WMS) dated 28 November 2014, which is now confirmed as Government policy. The WMS establishes that affordable housing and tariff style contributions for developments of 10 units or less, and which have a maximum combined gross floor space of 1000 square metres, should not be sought. The main reason behind the approach in the WMS is to avoid a disproportionate burden of developer contributions on small-scale developers. The Planning Practice Guidance (PPG) contains a paragraph<sup>1</sup> to reflect the WMS as part of national planning guidance. There is therefore conflict between Policies CS12 and DM7.2 and the WMS and PPG. However, it is for the decision-maker to decide how much weight to give to relevant policies with regards to the circumstances of a specific case.
7. Policy CS12 is consistent with paragraphs 47 and 50 of the National Planning Policy Framework (the NPPF) which requires local planning authorities to address their affordable housing needs. The policy's supporting text and the Affordable Housing SPD make clear that each scheme will be examined carefully in terms of whether there may be site specific issues that cause viability issues. The Affordable Housing SPD says that the Council will accept viability assessments in circumstances where viability issues might arise. This flexible approach to Policy CS12 and the Affordable Housing SPD is consistent with paragraph 173 of the NPPF which states that to ensure viability, the costs of any requirements likely to be applied to development should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
8. The Council has set out the reasons as to why it continues to seek financial contributions for affordable housing from small-scale developments. This includes evidence relating to high houses prices compared to average salaries and the levels of population density, overcrowding and deprivation within the borough. The Council's evidence also states that around one-third of new housing delivery in the borough has come from small sites of 10 units or less. It also states that £7.2m has been received in small sites contributions to support the delivery of affordable housing, with further £10.2m secured on schemes yet to be implemented. Thus, it is clear from the evidence before me that there is a significant affordable housing need in Islington and that small sites make an important contribution towards affordable housing delivery in the borough.
9. The Council has provided less specific evidence on why a contribution is required from this development for carbon offsetting, but I note the aims of the Environmental Design SPD to address the effects of development on the environment. Therefore, the required contributions towards affordable housing

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<sup>1</sup> Reference ID: 23b-031-20161116

and carbon offsetting measures would 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. Accordingly, the contributions would meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

10. The appellant does not dispute the Council's justification of the need for affordable housing contributions. There is also little comment from the appellant on the need for the carbon offsetting contribution or that this particular contribution would make the development unviable. However, the appellant argues that the proposed development would be unviable with the required £50,000 affordable housing contribution.
11. A financial viability assessment (FVA) was provided by the appellant while the original planning application was being considered by the Council. The FVA stated that the proposed development could not viably provide the required £50,000 contribution. The FVA was reviewed by the Council's independent viability assessor (Adams Integra) who concluded that based upon their viability assumptions, the development would generate a surplus equating to £222,000 and could therefore viably provide the £50,000 contribution. This conclusion was reached on the basis that the appellant's total build cost of £480,000 was overstated including the cost of scaffolding and temporary roof costs, the preliminary costs, and the mechanical, electrical, plumbing and heating (MEPH) costs. Adams Integra estimated a build cost of £259,600 to which a 5% contingency was added and suggested that 15% was a reasonable profit level. Adams Integra also estimated that the sales value would be £600,000 based on local sales data, noting that the appellant has assumed the flat would be worth £500,000.
12. In their appeal statement, the appellant challenges a number of Adams Integra's assumptions including their estimated construction costs. These costs were based on the useable floor area rather than the total floor area. Moreover, the appellant provides a quote from a scaffolding company of £32,760 rather than the £15,000 estimate of Adams Integra. The appellant asserts that the total build costs would be £398,160, while the total overall costs would be £474,000 using the rates applied by Adams Integra. The appellant also provides evidence of local estate agent sales valuations for the proposed development, which averages out to be £400,000 based on current market conditions. This would mean the development resulting in a loss to the developer even without a financial contribution for affordable housing. The appellant also highlights that a 15% profit margin is conservative and that a 20% margin is normally standard.
13. In its appeal statement, the Council responds to the appellant's points with support from Adams Integra. In terms of the build costs, Adams Integra has revised its figures up to £317,900, to which a 5% contingency was also added. This was based on the physical constraints of the existing building. Adams Integra has been willing to accept the appellant's costs for MEPH and 26 weeks of preliminary costs rather than 20 weeks as originally estimated. Adams Integra still considers the costs of scaffolding and temporary roof costs are too high. They have revised their figure for these costs upwards from £15,000 to £25,000 and included a figure of £15,000 for the removal of the existing roof. The total overall costs of the proposed development taking into account the

above revisions and other financial elements is estimated by Adams Integra to be £471,000. The 15% profit margin is still applied.

14. In terms of the sales value, Adams Integra accepts that the market at the moment is showing actual sales values at less than the asking price, but still considers a value of £550,000 to be reasonable. This is due to the new build nature of the property and its good location on Caledonian Road. Based on the above revisions to build costs and sales value and taking into account other financial elements, Adams Integra's revised surplus figure is £80,980, which Adams Integra considers is sufficient to support the £50,000 affordable housing contribution. The appellant maintains that Adams Integra continues to under estimate the build costs while over estimating the sales valuation.
15. Following Adams Integra's revisions, there is now little difference between the Council and the appellant in terms of the overall costs of the project at £471,000 and £474,000 respectively. The main difference is in the estimation of the sales valuation. The appellant has challenged the sales data provided by Adams Integra in their review of the FVA. Two estate agents have critiqued the data for individual properties and stated that they are not comparable to the appeal development in terms of location, availability of garden and other private facilities, and the proximity of a public house on the ground floor. I note that most of Adams Integra's data relates to the advertised price rather than the actual sale price, but the appellant has also provided limited evidence regarding sale prices for comparable properties. I note that a one-bedroom property at 270a Caledonian Road has recently had an offer of £350,000, but I have insufficient information to be certain how this or any other properties cited by the Council or appellant compares to the proposed development.
16. Therefore, I am lacking sufficiently robust information on the valuation of the proposed development to be confident that either the Council's or the appellant's estimations are accurate. Furthermore, the appellant appears to assert that the total cost of building the development would be around £74,000 more than their estimated likely value of the development even without affordable housing contribution. This suggests that the development would not be viable at all, which casts some doubt on the overall case.
17. In conclusion, I am unable to find that the development would be unviable with the affordable housing contribution. There is also insufficient evidence that the development would be unviable with the carbon offsetting contribution. Therefore, the absence of any provision for affordable housing and carbon offsetting measures would not be acceptable. In the absence of financial contributions, the development would thus be contrary to Policy CS12 of the Core Strategy and Policy 7.2 of the DMP, as well as the Affordable Housing and Environmental Design SPDs. The evidence of local need for affordable housing and local efforts to address the environmental impact of development, combined with insufficient evidence regarding the effect of financial contributions on the viability of the development, indicate that Policies CS12 and DM7.2 are not outweighed by the WMS and the PPG in this instance.

## **Other Matters**

18. The appellant refers to procedural matters relating to the Council's forwarding of additional information from the appellant to Adams Integra during the application process, and whether this information was fully considered prior to the determination of the original application. However, it is evident that the

Council via Adams Integra has considered this additional information as part of the appeal process and its overall position on the proposed development remains unchanged. Thus, these procedural matters have had little bearing on my consideration of this appeal.

**Conclusion**

19. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Tom Gilbert-Wooldridge*

INSPECTOR