
Appeal Decision

Site visit made on 3 May 2017

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 18th May 2017

Appeal Ref: APP/W4325/W/17/3168560

70 Park Road South, Birkenhead, Wirral CH43 4UY

- 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 Stuart Duff against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/16/00746, dated 19 May 2016, was refused by notice dated 17 August 2016.
 - The development proposed is internal alterations for the change of use of a 5 unit House in Multiple Occupation (HMO) to 5 individual flats.
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Decision

1. The appeal is dismissed.

Main Issue

2. The development proposed has been carried out. The main issue in this appeal therefore is whether the flats that have been created provide acceptable living conditions for residents in terms of internal living space and outlook.

Reasons

3. The appeal property is located within a Primarily Residential Area where residential development is acceptable in principle. It is also next to Birkenhead Park and close to the centre of the town with the services and facilities that it has to offer. It is therefore in an accessible location.

Living conditions

4. Of the two development plan policies referred to in the reason for refusal, only policy HS13 of the Wirral Unitary Development Plan (UDP) is relevant to living conditions and only in respect of outlook. Supplementary Planning Document 2 'Designing for self-contained flat development and conversions' (SPD) is also relevant in relation to outlook.
5. In planning policy 'living conditions' are also referred to as 'amenity'. The National Planning Policy Framework ('the Framework') is an important material consideration. It seeks the delivery of high quality homes. A core planning principle of the Framework is that high quality design and a good standard of amenity for future occupants of buildings should always be sought.

Living space

6. The Nationally Described Space Standard (NDSS) published by government as part of its Technical Housing Standards in 2015 sets minimum internal space standards for new dwellings. The Council states that all five flats would fail to
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meet the standard for total floor area, for a single person dwelling (37m² to 39m²) and a two person, single bedroom dwelling (50m²). However, the Council has provided no figures for the floor areas of its flats to support its claims. The appellant has in relation to the three flats on the second floor, albeit he has produced two different figures for flat 6¹. Taking the most generous of the figures for flat 6, only flat 7 would fail the minimum standard for a single person dwelling. In relation to the other two flats, Nos 4 and 5, on the first floor no figures have been provided. On the basis of the submitted floor plans, it seems to me that their floor areas are likely to be around the minimum standard for a one person dwelling.

7. On the basis of the submitted evidence, the best case scenario therefore is that flat 7 fails the minimum standard for a single person dwelling with all the flats appearing to fail the standard for a two person, single bedroom dwelling. However, the NDSS only applies in those local planning authority areas where a relevant current local plan policy has adopted it and explained how it will be applied. In this case there is no such policy. Therefore whilst the NDSS remains a material consideration, insofar as it indicates what the government envisages internal space standards could be if the hurdles to adoption of a relevant policy had been overcome, I attach only some weight to it. In the absence of adopted space standards in relation to new dwellings, the adequacy of internal space provision is therefore a matter of planning judgement.
8. In the three flats on the second floor, occupants live, cook, eat and sleep in the same room with the bed on an upper mezzanine. By any reasonable estimation, flat 7 is extremely small and the steep pitch of the roof restricts the sleeping area that can be used. Whilst larger, flat 6 also has very limited living space and owing to the steep slope of the roof the usable area of its mezzanine is also restricted, albeit to a lesser extent. Both flats have some built in storage and the absence of radiators slightly increases usable space. The high ceilings in both rooms mean that the flats feel somewhat more spacious than if they had normal height ceilings. Nevertheless, in my judgement, in both there is insufficient space for basic items of furniture including a sofa, television and dining table whilst also allowing an occupant to easily move around the room and carry out day to day activities. In relation the other flats, I find that the larger living spaces provided would be acceptable for occupancy by one person.
9. For the reasons that I have given, I therefore find that the development has resulted in cramped, unsatisfactory living conditions in flats 6 and 7 that fall well short of what could reasonably be interpreted as the good standard of amenity for occupants of buildings sought by the Framework. It is therefore contrary to a core planning principle in paragraph 17 of the Framework.

Outlook

10. Policy HS13 of the UDP requires that main living rooms have a reasonable outlook. The SPD extends this requirement to all main habitable rooms. It is not a matter in dispute that the windows serving the rooms within the flats on the first floor provide an acceptable outlook. I agree with that position.
11. Whilst the mezzanine bedrooms in the second floor flats are at a higher level than the living areas below, there are no walls separating the bedrooms from the living areas. As a result, from the bedrooms there are outside views through the windows in the living area of the flats. Furthermore, owing to the

¹ Flat 6; 33.5sqm quoted in drawings dated 18 October 2016; 45sqm stated in the appeal statement.

steep pitch of the roof a number of the roof lights serving the bedrooms also provide views of the surrounding area. For these reasons, I therefore find that an acceptable outlook is provided from all the flats on the second floor in compliance with policy HS13 of the UDP and the SPD.

12. Notwithstanding my favourable findings in relation to outlook, this does not negate the unacceptable harm caused to living conditions by virtue of inadequate internal living space in flats 6 and 7, contrary to a core planning principle in paragraph 17 of the Framework.

Other matters

13. The appeal property lies within the Birkenhead Park Conservation Area. In the exercising of planning functions, the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Conservation Area covers the park and adjacent well designed older buildings. The significance of the Conservation Area is therefore architectural and historical. The creation of the five flats, in not materially altering the external appearance of the building in public views, would therefore preserve the character and appearance of the Conservation Area and comply with the statutory test.

Conclusion

14. The Framework seeks the delivery of high quality homes through high quality design. The design of the development has sought to optimise the potential to accommodate flats within the building. However, as some flats are too small it has failed to do so. Whilst the development has resulted in low cost open market housing in an accessible location for which there is a demand, these considerations are insufficient to outweigh the harm that I have identified to living conditions. For the reasons that I have given, and having regard to all other matters raised, the appeal should therefore be dismissed.

Ian Radcliffe

Inspector