

Appeal Decision

Site visit made on 16 May 2017

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 9 June 2017

Appeal Ref: APP/B4215/W/17/3169086

29-31 Old Church Street, Newton Heath, Manchester M40 2JN

- 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 Philip Cartwright against the decision of Manchester City Council.
 - The application Ref 111948/FO/2016/N1, dated 20 April 2016, was refused by notice dated 17 August 2016.
 - The development proposed is Demolition of storage area and garage to rear and erection of 3 no. self-contained flats.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the header to my decision (4th bullet point) is based, in accordance with normal practice, on that given in question 3 of the application form. I have, however, omitted the site address from this part of the header to avoid duplication.

Main Issues

3. The main issues are:
 - (a) Whether the proposed development would provide satisfactory living conditions for its future occupiers;
 - (b) The effect of the proposed development on the character and appearance of the host property and the surrounding area, including in views from nearby properties; and
 - (c) Whether the proposal would be consistent with the objective of minimising crime levels.
4. I have considered the matters which are raised in the Council's first two reasons for refusal in issue (a).

Reasons

Policy Context

5. The development plan, with which my decision must accord unless material considerations indicate otherwise, includes the Manchester Core Strategy Development Plan Document (CS) 2012 and the saved policies of the Unitary
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Development Plan for the City of Manchester (UDP) 1995. The National Planning Policy Framework (the 'Framework') forms an important consideration.

6. The appellant has stated, and the Council not refuted, that the area does not have a supply of specific deliverable sites sufficient to provide five years' worth of housing as required by paragraph 47 of the Framework. No specific restrictive policies such as those listed in footnote 9 of the Framework apply in this case. These points mean that, having regard to paragraphs 14 and 49 of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. I have applied this approach in my decision.
7. As the proposal is not for a House in Multiple Occupation (HMO) and the new flats would be formed primarily through new-build rather than conversion, policy H11 of the CS is of little relevance to my decision. I address the other policies referred to in the Council's decision later.

Living conditions

8. The Council's concerns in relation to this issue focus upon outlook, private amenity space provision, parking, bin storage arrangements, ventilation and noise.
9. In terms of outlook, flat 3 would have a fairly large window in each of its habitable rooms. However, these would look out into a small, enclosed yard area of little more than 1.5 metres in width. The only natural lighting within flat 1 would be provided by roof lights and 'high level' side facing windows. One of the bedrooms and the kitchen/lounge within flat 2 would rely on roof lights for their natural lighting.
10. The outlook from the proposed flats may be no worse than in some apartments elsewhere. The 2 existing flats within the property would, following the proposed works, still have an adequate outlook. However, the outlook from the new flats (flats 1 to 3) would in general terms be extremely restrictive to an extent which would materially detract from the quality of the living environment for their future occupiers.
11. I agree that many flats above shops and other commercial uses lack private amenity space provision. However, the appeal proposal, being primarily new-build, would go well beyond the re-use of space over a shop. Policy H1 of the CS states that all proposals should make provision for usable amenity space, including in high density development. By failing to provide any usable amenity space the proposal would not accord with this requirement.
12. Car ownership amongst occupiers of the proposed flats could be low given their small size and location close to public transport facilities and services. Occupiers who have cars are likely to be able to find car parking space on nearby car parks and streets. However, the lack of dedicated car parking provision adds to the deficiencies in the quality of the proposed living accommodation set out above.
13. I accept that a condition could be imposed to cover noise transmitted through walls from the café/takeaway. I also have no reason to believe that the coming and going of residents of the proposed flats would give rise to excessive noise. Ventilation would be covered by other legislation. However,

the occupiers of flat 3 are likely to suffer some disturbance from use of the adjacent shared bin storage area.

14. I am not aware that the national internal space standards for new homes have been adopted in Manchester. However, this point does not outweigh my concerns set out above.
15. For reasons set out above, I conclude that the proposal would provide unsatisfactory living conditions for its future occupiers. As a result its approval would conflict with policies SP1, H1 and DM1 of the CS, saved policy DC5 of the UDP and the Framework related to this issue.

Character and appearance

16. The appeal property comprises a café/hot food takeaway shop with 2 flats above in a terrace in the Newton Heath District Centre. Nearby properties are in a mixture of retail, other commercial and residential uses. Land to the rear, which includes Smallwood Street, a vacant site, a car park and a canal, is currently mainly open. The rear of the appeal building, which currently has a short 2 storey outrigger and a longer single storey outrigger, is prominently visible from these nearby areas.
17. The appeal proposal would lengthen the 2 storey element of the existing outrigger from its current length of 5.5 metres to 12 metres. Whilst its first floor would be set in slightly from the side boundaries of the appeal premises it would project all the way to the rear boundary of the site.
18. The built form in the surrounding area has variation in its design. However, the outrigger as proposed would be much longer than the 2 storey outriggers in adjacent properties. As a result, it would form a dominant feature when viewed from parts of the surrounding area and from the rear of adjacent properties.
19. I understand that the car park off Smallwood Street is allocated for future residential development. However, the timescale for the redevelopment of this land is unclear and there is nothing before me which demonstrates that it would reduce the visual dominance of the development subject to appeal.
20. Taking account of all these factors the proposal would cause substantial harm to the character and appearance of the host property and the surrounding area. Its approval would conflict with those provisions of policies SP1, H1 and DM1 of the CS, saved policies DC1 and DC5 of the UDP and the Framework related to this issue.

Crime

21. Pedestrian access to the 3 new flats would be provided via 2 new entrances directly off the footway alongside Smallwood Street, each of which would serve an internal area or yard, off which the individual entrances to the flats would in turn be located.
22. The area immediately outside the 2 outer entrances would be visible for example in views along Smallwood Street and from Silk Street. Some overlooking of this area would also be provided by flat 2 and to a lesser extent flats in adjacent properties. However, at night-time the amount of footfall on these streets and the nearby vacant land, car park and towpath is likely to be

limited. As a result, these entrances and people using them are likely to be vulnerable to harm from criminal activity. Whilst this situation may improve if and when land off Smallwood Street is developed in the future, there is no assurance that this will be the case.

23. I accept that the proposal would itself slightly improve the existing levels of surveillance on Smallwood Street. I also agree that steps could be taken to ensure that the internal and yard areas, off which the individual entrances to the flats would be accessed, would be secure. However, these points do not outweigh my concerns set out above.
24. I conclude that the proposal would not be consistent with the objective of minimising crime levels. Its approval would conflict with relevant provisions of policies SP1 and DM1 of the CS and the Framework relating to this issue.

Other Considerations

25. The proposal would provide a net increase of 3 flats. Furthermore, it would do so in an area where, according to evidence which has not been refuted, there is a shortfall in the 5 year supply of specific, deliverable sites for new housing and where there has been substantial under-delivery of housing, at least during the years for which figures have been provided (2010/11 and 2011/12).
26. I also have no reason to doubt that East Manchester, in which the property is located, has substantial housing and regeneration needs. The site has good access to a wide range of services by sustainable modes of transport, including those in Manchester city centre and in Newton Heath. The proposal would also provide high density housing, secure a more efficient use of the premises and offer an opportunity for a small developer.
27. Having regard to these points the proposal would contribute, albeit modestly, to a range of Government housing objectives, including that of significantly boosting the supply of housing. However, these benefits, whilst notable, must be weighed against my earlier findings. In addition, it should be noted that the currently authorised use of the premises as a café/takeaway with 2 flats above does not represent an inefficient use of the land.
28. I have noted the support for high density housing in the area provided by policy H4. However, this must be read in the context of all relevant development policies, including those to which I have referred earlier.
29. I note that the appellant has offered to re-open the toilet facilities within the café for use by the general public. However, whilst this benefit would no doubt be welcomed in the area little information has been submitted to show why this could not be done in the absence of the appeal proposal. Whilst the proposal would also provide work for the construction industry, this would be only for a temporary period. These benefits carry limited weight.
30. Whilst the appellant may have sought to overcome Council officer concerns this does not mean that the proposal would not be harmful.

Planning balance and conclusion

31. I have found that the proposal would provide unsatisfactory living conditions for its future occupiers. It would also cause substantial harm to the character and appearance of the host property and the surrounding area and be

inconsistent with the objective of minimising crime levels. Given the resultant conflict with development plan policies these matters carry substantial weight against allowing the appeal.

32. I have also found that the proposal would make a modest contribution to meeting housing needs in an area where there is an identified shortfall in the 5 year supply of specific, deliverable sites for new housing. It would do so by using a small, previously developed site in a sustainable location which is in need of regeneration. However, whilst these would be notable benefits, other benefits carry only limited collective weight.
33. Having regard to all these points I conclude that the harm that would arise from allowing the appeal would significantly and demonstrably outweigh the benefits of doing so. The proposal would not accord with the development plan as a whole. Furthermore, by failing to create a high quality built environment that supports the wellbeing of its occupiers it would conflict with the social and environmental roles of sustainable development, and fail to constitute sustainable development as a whole.
34. For the reasons given above I conclude that the appeal should be dismissed.

Jonathan Clarke

INSPECTOR