
Appeal Decision

Site visit made on 18 June 2019

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2019

Appeal Ref: APP/Z4310/W/3210406

Land between Francis Court and 153 Lark Lane, with adjacent land fronting Ivanhoe Road, Liverpool L17 8XE

- 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 Hugh Frost of Panoramic 34 Holdings Limited against the decision of Liverpool City Council.
 - The application Ref 18F/0902, dated 26 March 2018, was refused by notice dated 26 July 2018.
 - The development proposed is described as demolition of 12 single storey domestic garage units and replacement with ground floor A3 use development fronting onto Lark Lane and first/second floor C3 (a) use accommodation fronting on to Ivanhoe Road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the Lark Lane Conservation Area and,
 - the living conditions of the occupants of neighbouring dwellings with regard to outlook, noise and disturbance.

Reasons

Character and appearance

3. The appeal site is an irregular shaped parcel of land between Lark Lane and Ivanhoe Road. It has a frontage to both roads. The wider frontage is on Ivanhoe Road where there is a derelict block of garages. The frontage on Lark Lane is narrower and sits between a 1960s three storey block of flats, and a two storey shop at the side of a large villa type property which faces Linnet Lane and Sefton Park. There are derelict garages fronting on to Lark Lane too although at the time of my site visit there was a large hoarding along the Lark Lane frontage.
4. The appeal site was occupied by a large house which faced Ivanhoe Road, but the house was demolished many years ago and the garages built in its place. The adjacent property on Ivanhoe Road on the side away from Linnet Lane, no. 3 Ivanhoe Road, is a large Victorian house. It is currently boarded up and unoccupied.

5. The appeal site lies within the Lark Lane Conservation Area (the Conservation Area). The Council has not produced a character appraisal for the Conservation Area. Based upon the evidence submitted including the appellant's Heritage Statement and my own observations, I consider that the significance of the character of the Conservation Area lies in its large Victorian villas and terraces, the pattern of the streets, the connection to Sefton Park, and its relationship to the growth of Liverpool.
6. The character of Lark Lane itself and Ivanhoe Road are quite different to each other. Lark Lane is a busy straight street comprising shops, restaurants, and other commercial uses where there is a mix of building sizes, styles and designs. Ivanhoe Road is characterised by large houses and villas set in their own grounds on a tree lined street which curves towards the junction with Linnet Lane. The large villa, no.38 Linnet Lane, stands at the junction and separates the commercial street of Lark Lane from the residential street of Ivanhoe Road.
7. The proposed development is to demolish the garages and replace them with a building which will comprise a single storey restaurant with basement accessed from Lark Lane and then second and third storeys set towards the Ivanhoe Road side of the site. The basement would accommodate a kitchen and staff area. The second and third storeys would comprise a two bedroom apartment on each floor. The Lark Lane frontage would feature a glass box type entrance. The front and rear elevations at first and second floors would incorporate full height glazed windows and a stairwell column would extend out on the Linnet Lane side of the proposed building. Two car parking spaces would be provided on the site for residents and the flats would be accessed from Ivanhoe Road. The upper levels would feature a parallelogram shaped design in order to fit the constrained shape of the site. The building is proposed to have brick materials at ground floor level, coated metal cladding at first and second floor levels and a grey slate roof.
8. It is not disputed that the existing garages do not make a positive contribution to the character and appearance of the Conservation Area. The appeal site is awkwardly shaped and presents a number of challenges. As a consequence any form of redevelopment would have to respond to those constraints.
9. On Ivanhoe Road the building line of the proposed building would align with the angle of the other properties on that side as the road sweeps around towards the junction. However, the parallelogram nature of the proposed building would present quite a different form of building arrangement to the two large properties either side and those others on Ivanhoe Road. The external stairwell would be extremely prominent in views from the junction of Linnet Lane and Ivanhoe Road.
10. The nature of the materials of the stairwell, and side and front elevations, combined with the full length glass window on the front elevation would present a form of development which would jar with the tall and grand houses either side, and those further along Ivanhoe Road. The proposed building would incorporate metal cladding on the first and second floors which would clash significantly with the predominantly brick form of the existing houses on Ivanhoe Road. I also consider that the detailing of the rather stark ground floor elevation on Ivanhoe Road would stand out in contrast to the established

appearances of street level frontages of nearby dwellings and would add to the overall jarring effect of the proposal on the streetscene.

11. Whilst the height of the proposed building would not be at odds with the properties either side, the bulk, shape, materials and fenestration would combine together to make the proposed building look incongruous in the streetscene. In reaching this view, I have had regard to the footprint of the former property on the site which is indicated on the submitted plans. I do not know how that building appeared originally. However, in this sense it is not that maintaining the gap as it is currently above ground level is critical to the character of the Conservation Area at this point, it is more that the design of the proposed building would look out of place on this site, for the reasons above.
12. The gap above ground level between the existing buildings on the Lark Lane side is much narrower than on Ivanhoe Road but is still larger than many other gaps between buildings along this part of Lark Lane. The presence of numerous windows on the rear of no. 38 Linnet Lane has led the appellant to propose a single storey structure on the Lark Lane frontage. This structure, comprised mainly of a glass box entrance to the restaurant would be significantly different to any other frontage building on Lark Lane. However, I consider that its nature and single storey element would act to maintain the important gap between Francis Court and the Britannia Stores at the back of no. 38 Linnet Lane. In this sense it would not detract from the importance, in streetscape terms, of the Linnet Lane corner building being the significant property at the end of Lark Lane before the entrance to the park.
13. The Lark Lane ground floor elevation would be reflective of its use as a restaurant of which there are a number on the street. Opposite the appeal site there is a bistro and a bar, and whilst they do not incorporate fully glazed window frontages, do have a significant amount of glazing on their street elevations. From my observations, I consider this adds to the liveliness and busy character of the street. For these reasons and because of the general varied nature of the buildings along Lark Lane and that it would replace existing disused garages, I consider that the proposed development would not harm the character and appearance of the streetscene of Lark Lane.
14. However, I conclude that for the reasons set out above, the proposed scheme as a whole, primarily because of its impact on the streetscene on Ivanhoe Road, would have a harmful effect on the character and appearance of the Conservation Area. This would be contrary to Policy HD11 of the saved *Liverpool Unitary Development Plan* (the UDP) which seeks to ensure that new developments do not lead to harm to conservation areas. It would also be contrary to Policy HD18 of the UDP which sets out general design requirements.
15. I have had regard to the appellant's comments in the statement of case that materials could be controlled through the imposition of a suitable condition. However, in this case, the materials, particularly the metal cladding, are, when related to the fenestration pattern and other aspects, such a fundamental part of the scheme before me, that I am not satisfied that such a condition would overcome my concerns over harm, sufficient to enable planning permission to be granted.

16. I consider this harm would be less than substantial. In accordance with Paragraph 196 of the National Planning Policy Framework, this harm should therefore be weighed against the public benefits of the proposal including, where appropriate, securing its optimum use.

Living Conditions

17. Francis Court has windows on its rear elevation. The windows closest to the appeal site are rectangular and are wide. The submitted plans show these windows as serving bedrooms.
18. The proposed development at first and second floor level would sit at roughly right angles to Francis Court and would not be directly in front of those windows. I have not been provided with any standard adopted by the Council in relation to minimum distances between habitable room windows and development. Criterion (ix) of Policy HD18 of the UDP seeks to ensure that there is no loss of privacy or amenity to adjacent residents as a result of new development.
19. I consider that the outlook to the side from the ground floor bedroom window on Francis Court will already be to the existing garages, and in this respect will not be altered materially as the proposed single storey part of the appeal building would replace the garage wall at that point. The existing outlook from the first and second floor bedroom windows would be out over the existing garages to Ivanhoe Road. This view would be significantly altered by the proposal but the first and second floors of the proposed building would be to the side and a few metres away across a green roof. Given that these are bedroom windows, I consider that although outlook would be affected, it would not be unreasonably so. From my observations and the plans before me, I consider that the outlook from the rear windows of 38 Linnet Lane would not be unreasonably harmed.
20. The submitted plans show that the proposal would include an outdoor seated area in front of the restaurant entrance. However, this would be extremely close to the front window of the closest flat in Francis Court. Indeed this area would be almost directly outside that window. I have no evidence that the window does not serve a habitable room and I consider that the proposal would therefore lead to unacceptable harm to living conditions to its occupants with regard to noise and disturbance. In reaching this view, I have had regard to the presence of outdoor eating areas on Lark Lane, but consider their relationship with dwellings to be less close and direct. However, given the comments by the appellant in its statement of case, I consider that it would be appropriate to impose a suitably worded condition, should the appeal be allowed, to prevent this area to be used as an outdoor seating area.
21. For the reasons set out above, I consider that the proposal would not harm the living conditions of the occupants of neighbouring properties with regard to outlook and the proposal would accord with criterion ix of Policy HD18 of the UDP.

Other considerations

22. The proposal would remove disused garages which do not make a positive contribution to the character and appearance of the Conservation Area. I attach significant weight to this benefit.

23. The proposal would provide employment associated with the restaurant and would assist in boosting economic activity and vibrancy within the Lark Lane commercial area. I attach moderate weight to these benefits. I have no evidence which suggests that the use would not be viable.
24. The parties dispute whether the Council can demonstrate a five year supply of deliverable housing land. The appellant considers that the Council has a four year supply based upon an appeal decision¹, whilst the Council considers, with reference to an appeal decision² that I made on another site in Liverpool, that it has a five year supply. In any event, I consider that two properties would only make a very minimal contribution to housing land supply and so attach limited weight to this as a benefit.

Planning Balance and Conclusion

25. Whilst I have found, subject to conditions, that the proposal would not harm the living conditions of the occupants of neighbouring properties, I have found less than substantial harm to the character and appearance of the Conservation Area.
26. The proposal would provide some public benefits in the form of increased economic activity, provision of employment and removal of prominent disused garages and would provide a viable use for the site. However, taken together, and having regard to paragraph 196 of the Framework, I do not consider those benefits outweigh the harm which I have found. Having regard to Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I consider that the proposal would not preserve or enhance the character or appearance of the Conservation Area.
27. For the reasons set out above, I conclude that the appeal should be dismissed.

Mike Worden

INSPECTOR

¹ APP/Z4310/W/16/3166010

² APP/Z4310/W/18/3207829