



Appeal Decision

Site visit made on 21 January 2020

by Iwan Lloyd BA BTP MRTPI

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

Decision date: 26 February 2020

Appeal Ref: APP/Z4310/C/19/3228999

Land at The Tavern, 619-625 Smithdown Road, Liverpool L15 5AG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Keith Gurney Tavern Company against an enforcement notice issued by Liverpool City Council.
 - The enforcement notice, numbered C/16/0287, was issued on 25/04/2019.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a scaffolding/balcony structure to the rear of 619 Smithdown Road (part of The Tavern), Liverpool, L15 5AG.
 - The requirements of the notice are to permanently remove, in its entirety, the scaffolding/balcony structure erected to the rear of 619 Smithdown Road, Liverpool, L15 5AG.
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The ground (a) appeal and the deemed application

2. The main issue in this appeal is the effect of the development on the character and appearance of the area.
3. The development comprises a scaffolding frame structure wood floor and side panels secured to the rear roof slope of a two-storey annex. Access to the balcony is through a set of doors from the upper floor flat above the Tavern restaurant. The Tavern frontage facing Smithdown Road is a three-storey red brick Victorian building, the rear comprises a range of two-storey annexes, ventilation ducts, glass conservatory and air-conditioning units overlooking an enclosed yard and terrace properties.
4. Despite the variety and mixture of structures to the rear of this commercial property there is general uniformity to the appearance of the area, due to the scale of the annexes built below the eaves line of the main building and due to the regular pattern and location of residential properties situated close-by constructed of a similar palette of materials.

5. I saw no similar development to that enforced against in the vicinity of the area. The development is highly visible given its location on the roof slope and due to its projection and height. The materials include scaffolding poles and wood panels which are at odds with the prevailing built materials of the area which are brick and slate. The development enforced against is significantly harmful to the character and appearance of the area.
6. The appellant acknowledges that the development is not in keeping with the area and fails to comply with the Council's planning policies but has asked for more time to consider an alternative scheme. No alternative proposal is before me, and it would be a matter for the appellant to negotiate with the Council a suitable scheme through the submission of a planning application.
7. The development enforced against would fail to comply with saved Policies GEN 3 and H8 of The City of Liverpool Unitary Development Plan. These policies generally seek to ensure that new development harmonises with the character and appearance of the area in relation to scale, materials, design and appearance and that new development be of a high standard of design. I have also been referred to Policy H8 of the Liverpool Local Plan 2013-2033 (Pre-submission draft January 2018) but the Council acknowledge that this policy can only be given limited weight as the Plan is not adopted and the policy may be subject to change during the process of examination of the Plan.
8. I note the concerns of residents about the loss of privacy. However, the deemed application is the development enforced against which includes side boarded panels. Views from the platform are therefore presently limited but this would not discount the concern about privacy when consideration is given to an alternative development which would be subject to the submission of a planning application. In my view, the concern about privacy and overlooking is outweighed by the significant harm caused by the development to the character and appearance of the area.
9. I conclude that the ground a appeal and the deemed application should not succeed.

The ground (g) appeal

10. The appellant contends that the compliance period is too short and seeks 6 months to allow a replacement structure to be agreed with the Council. I consider that providing more time for a possible alternative scheme to be agreed with the Council does not outweigh the continued harm the development causes to the character and appearance of the area. Furthermore, the requirement to remove the structure would not render a gap in the roof since this is currently sealed from the elements by the access doorway from the flat.
11. I consider that the compliance period in the notice is proportionate having regard to the competing issues of the private interests of the appellant against the public interest of enforcing against the development.
12. The ground g appeal therefore fails.

Iwan Lloyd

INSPECTOR