



Appeal Decision

Site visit made on 24 February 2020

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2020

Appeal Ref: APP/B4215/W/19/3242025

Land East of Aspinall Street, Rusholme, Manchester X (Easting) 385130, Y (Northing) 395352

- 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 William Fulster against the decision of Manchester City Council.
 - The application Ref 121562/FO/2018, dated 16 October 2018, was refused by notice dated 29 May 2019.
 - The development proposed was originally described as residential development (Use Class C3) of 9 no. one bed apartments in a two storey block (3 units on Ground floor and 6 units on first floor), with 5 no dedicated off street car parking spaces, dedicated residents bin and cycle stores and commercial bin stores to serve existing commercial and residential units to rear of proposed new block, together with associated infrastructure, vehicular and pedestrian access from Aspinall Street.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr William Fulster against Manchester City Council. This application is the subject of a separate Decision.

Procedural Matter

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application which accurately describes the proposal.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular reference to outlook and privacy.

Reasons

5. The appeal site is a long narrow area of land to the rear of several commercial premises. During my site visit the appeal site appeared to be used

predominantly for car parking and for service arrangements. However, the appellant advises that such a use is not authorised.

6. Above the commercial premises are a row of residential properties accessed via staircases through the appeal site which lead up to a raised walkway/podium with the entrance doors to the properties at first floor level. It is the living conditions of the occupiers of these neighbouring properties which the Council have identified as being affected.
7. At present, the existing residential properties have windows facing over the existing railings and parapet wall on the first floor. This provides an open view beyond Aspinall Street toward trees and the buildings beyond on the opposite side of the street.
8. The proposed development would result in a long 2-storey building which would occupy most of the depth of the appeal site leaving a 1.5m clear access route. The proposed building would have a flat roof, however the building would rise above the walkway obscuring the view from the neighbouring properties first floor windows.
9. I note that the appellant has made changes to their scheme, following a previous refusal, with the view to finding a solution. However, due to the length of the building and its massing in close proximity to the first-floor windows the proposal would appear dominant from these properties. I recognise that there was an initial dispute between the main parties regarding the precise distance. However, from my observations on site and the plans before me the proposed building would, in my view, result in an oppressive outlook and sense of enclosure from these neighbouring properties.
10. I note reference is made by the Council to a sense of overshadowing. However, I have no substantive evidence regarding the extent of any shadowing effects. The proposal would be to the west of the neighbouring properties and considering its orientation, the height of the sun, and height of the proposed development, even if some shadowing occurred when the sun is at its lowest, any shadowing effect is not likely to be substantial overall. In this respect, even though the extent of shadowing effects may not be substantial, the proposal would still result in a significantly harmful effect on the outlook from the neighbouring properties.
11. The design of the proposed first floor rear elevation contains several windows which would serve kitchens, bathrooms and stairwells. Based on the plans before me, there would be uninterrupted views between these windows and the existing properties. The existing parapet wall and railings would not preclude such views. At such close distance there would be both a real and perceived loss of privacy for those occupiers of the neighbouring properties opposite.
12. I note the appellant's suggestion that these windows could be fixed and obscure glazed. In this regard, I have considered the imposition of planning conditions. It would be reasonable for bathroom windows to be treated in this manner. However, for all windows at first floor level to be treated this way, would in my view, have consequences for the living conditions associated with the proposed apartments. Moreover, fixed obscure glazing would not overcome the perception of being overlooked from these windows. In any event, the mitigation of overlooking and loss of privacy would not overcome the harm I have identified with regards to outlook.

13. I therefore conclude, based on my findings on outlook and privacy, that the proposed development would harm the living conditions of the occupiers of the neighbouring properties. It would therefore fail to comply with the requirements of Policy DM1 and SP1 of the Manchester Local Development Framework Core Strategy Development Plan Document (adopted 2012), the Guide to Development in Manchester Supplementary Planning Document and Planning Guidance (adopted 2007). These say, amongst other things, that all developments should have regard to the effects on amenity, including privacy.
14. The proposal would also conflict with the requirements of paragraph 127 of the National Planning Policy Framework (the Framework) which seeks, amongst other things, to ensure good standards of living conditions for existing occupants.

Other Matters

15. Concerns regarding the processing of the application including, amongst other things, matters relating to communication are not issues that I can assess as part of this appeal. The validity or not of such matters do not affect the planning merits or effects of the proposal before me.
16. References to historical enforcement action and unauthorised uses on the site have no bearing on the proposal before me and I have determined the appeal on its own merits.
17. I note the appellant's reference to the presumption in favour of sustainable development within the Framework. I recognise that the appeal site is in a sustainable location, would incorporate several sustainable design and construction features and would provide sufficient parking and cycling spaces. It would make an effective use of the land, would contribute to the overall objective to boost housing supply within the local area, including from a small residential site. Moreover, its design would have an acceptable appearance in the street-scene and would result in some social and economic benefits.
18. However, local and national planning policy expects housing to be located sustainably and provide sufficient parking and cycling spaces. As such these are not matters that attract substantial weight over and above what would normally be expected. Moreover, a net gain of 9 additional residential units would only have modest social and economic benefits, and I attach limited weight to the benefits in that regard.
19. I recognise that no objections from statutory consultees were received to the proposal. However, I have also had regard to third party representations made including, amongst other things, access rights and pollution. Moreover, I have also had regard to the concerns raised by the Council during the application regarding the effect on the living conditions of the future occupiers of the proposed development. However, as I am dismissing the appeal on other grounds, I have not pursued these matters further.

Conclusion

20. I have had careful regard to the benefits of the development as advocated by the appellant. Good design is a key aspect of sustainable development, creates better places in which to live and helps make development acceptable to communities. However, the design of the proposal in this location would result in a harmful effect on the living conditions of the occupiers of neighbouring

properties with particular reference to outlook and privacy. Therefore, the proposal would not represent sustainable development as sought by the Framework.

21. I have considered all the arguments advanced in support of the proposal. However, I do not consider such matters to clearly outweigh my conclusions on the main issue. The appeal is therefore dismissed.

Robert Walker

INSPECTOR