
Appeal Decision

Site visit made on 4 February 2020

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2020

Appeal Ref: APP/Z4310/W/19/3240312

4 Arundel Avenue, Liverpool L17 3DA

- 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 Watkins against the decision of Liverpool City Council.
 - The application Ref 19F/1602, dated 29 May 2019, was refused by notice dated 6 September 2019.
 - The development proposed is described as demolition of single storey side extension, replacement with 3 storey 3 x 1 bed flats and removal of poplar tree.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are i) whether the proposal would preserve or enhance the character or appearance of the Toxteth Park and Avenues Conservation Area (CA); ii) the effect of the proposal on the living conditions of the existing and future occupiers of the appeal proposal and nos 4 and 6 Arundel Avenue with particular reference to outdoor amenity space and outlook; and iii) the effect of the proposal on protected trees.

Reasons

Conservation area

3. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decisions maker to pay special attention to the desirability of preserving or enhancing the character or appearance of CAs. Paragraphs 193 and 197 of the National Planning Policy Framework (The Framework) require decision makers to afford great weight to the conservation of a designated heritage assets. Similarly, Policies HD10 and HD11 of the Liverpool Unitary Development Plan 2002 seek to preserve or enhance the character of the CAs by ensuring that development proposals are, amongst other things, of a high quality design that are appropriate to their setting and context.
4. The appeal site is within the Toxteth Park and Avenues Conservation area, an area that is characterised by its range of Victorian houses laid out in a grid format and interspersed with ornate church buildings occupying prominent corner positions.

5. The host property is a three storey building constructed in buff brick and slate. It represents the side wing of a relatively prominent dual frontage building on the corner of Arundel Avenue and Brompton Avenue. The property has a simple, symmetrical arrangement of openings across a wide frontage. Like the majority of surrounding properties, the appeal property is set back from the road behind a short front garden. Mature trees lining the highway add to the verdant character to the street scene. The property is currently used as an HMO.
6. The appeal site comprises a garden area to the side of host property which adjoins the outdoor space of a nursery school at no 6 Arundel Avenue. I acknowledge the appellant's submission that Arundel Avenue appears to have a less uniform character than some of the surrounding streets, indeed during my site visit I noted the diversity of character within the locality arising predominantly from the range of property types, densities and sizes.
7. The northern side of Arundel Avenue consists of an almost continuous frontage of large semi-detached Victorian houses and modern three storey development. However, on the southern side, and in particular at the western end of the street, there are a series of gaps in the frontage. These gaps are created by the rear gardens of the back to back terraces that run perpendicular to Arundel Avenue. The appellant considers that the gap in the built form that is created by the garden area of no 4 Arundel is underused land that presents an opportunity for infill development. However, I consider that spatially, the appeal site contributes positively to the overall character and appearance of the CA, providing welcome relief in an otherwise relatively densely developed residential area.
8. The proposal would see the demolition of a small existing side extension and its replacement with a three storey modern extension that would provide three flats. I note the appellant's comments on the design ethos behind the proposal. Whilst I accept that the proposed extension would sit lower than the host property thereby appear subservient, I find that by virtue of its narrow frontage, misaligned openings and overall proportions it would represent a unsympathetic addition that would unbalance the façade when read in conjunction with the host property.
9. Furthermore, the proposal would have the effect of almost entirely filling the garden area of the host property. It would thereby erode verdant character of the location and the very prominent grid format of this part of the CA thus having a significantly detrimental effect on the character and appearance of the locality.
10. Accordingly, I find that the proposal would conflict with the design and conservation requirements of Policies HD10, HD11 and HD18 of the Liverpool Unitary Development Plan 2002 (UDP). Consequently, it would fail to preserve or enhance the character and appearance of the CA. In the context of paragraph 196 of the National Planning Policy Framework (the Framework) the harm caused to the CA would be less than substantial. Such harm must be weighed against any public benefits identified.
11. The appellant has identified good design as a public benefit. However, in the context that I have found conflict with the design aims of the development plan, it does not, in this circumstance, outweigh the less than substantial harm to the CA, to which I must afford great weight.

Living Conditions

12. Policy H5 of the UDP requires amongst other things, that new development maintains levels of privacy and amenity for existing and future residents. Furthermore, the UDP Supplementary Planning Guidance Note no 10 (SPG) states that garden areas should not be directly overlooked from other properties or gardens. This echoed by the Framework at paragraph 127 (f) which seeks to ensure that development creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
13. I accept the appellant's submission the Sefton Park is located in close proximity to the site and could provide additional recreational outdoor space for the residents. However, private and public amenity space are not entirely comparable in terms of how they are used, residents should still be afforded sufficient outdoor amenity space to fulfil everyday needs such as sitting out, drying washing etc.
14. Based upon the information I have been provided, the proposal would occupy almost all of the outdoor amenity space that currently serves no 4 Arundel Avenue. The remaining space, amounting to around 57m² would be divided into approximately 32m² for the 3 proposed flats and 25m² for the existing 8 bed HMO at 4 Arundel Avenue. I consider this be insufficient space to cater for the everyday needs of the existing and future occupiers.
15. Moreover, owing to its scale and position running almost the entire length of the shared boundary with no 6 Arundel Avenue, the proposal would have an unacceptably intrusive and overbearing effect thereby resulting in a considerably detrimental effect on the living conditions of the occupiers of No 6 Park Arundel Avenue in respect of outlook.
16. In conclusion, I have found that the appeal proposal would have a detrimental effect on the living conditions of the existing and future occupiers of the appeal proposal and nos 4 and 6 Arundel Avenue with particular reference to amenity space and outlook. Accordingly, I conclude that the proposal would fail to accord with the amenity requirements of UDP Policies HD5, HD7 and HD18, the SPD and the Framework.

Trees

17. Neither of the main parties has provided me with any substantive evidence which provides clarity on whether or not the submitted Arboricultural Report is compliant with BS5837. Consequently, I am unable to reach a certain conclusion on the effect of the proposal on protected trees in the context of UDP Policy HD22. Nonetheless, even if the proposal did accord with Policy HD22 it would not override my conclusions on the other main issues.

Conclusion

18. I have found harm to the living conditions of the existing and future occupiers of the appeal proposal and nos 4 and 6 Arundel Avenue with particular reference to outdoor amenity space and outlook. Furthermore, I have concluded that the proposal would fail to preserve or enhance the character and appearance of the Toxteth Park and Avenues Conservation Area. For these reasons and having regard to all other matters raised, the appeal is dismissed.

J Hunter

INSPECTOR