



Appeal Decision

Site visit made on 24 August 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2020

Appeal Ref: APP/Z4310/W/20/3247087
80 Needham Road, Liverpool L7 0EQ

- 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 Ronaldo Garcia (Ron Sullivans Ltd) against the decision of Liverpool City Council.
 - The application Ref 19F/2798, dated 4 October 2019, was refused by notice dated 4 February 2020.
 - The development proposed is alterations and upgrade of existing 4 bedroom HMO, including loft conversion to accommodate 7no. bedrooms.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for Costs

3. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

Preliminary Matters

4. Whilst determining the planning application, the Council received a petition from local residents. The Council only had a hard copy of the petition and due to COVID-19 the Council has been unable to provide a copy of it. The Officer's Report sets out the grounds of the objections. I note that interested parties were also given the opportunity to comment on the proposal at appeal stage. Thus, I consider that the summary contained within the Officer's Report is acceptable and I do not consider that any party would be prejudiced by the fact that I have not been provided with a copy of the petition.
5. The appellant has submitted an amended scheme with the appeal in an attempt to overcome the reasons for refusal. The amended drawings show that the sill height of the roof lights have been lowered to 1.2m and a lower roof height of the proposed dormer. The appellant's final comments also show a window within the dormer which would serve bedroom 6. I understand that the appellant had discussed the submission of amendments with the Council but the application was determined before they had the opportunity to do so.

6. Generally, proposals cannot be amended through the appeal process. Where an appeal is made it is made against the decision of the Council and based on the plans submitted at the application stage. The proposed amendments have not been subject to any public consultation and the original application attracted a large number of objections from local residents, as well as local Councillors. The proposed changes are not insignificant and would alter the appearance of the dormer and introduce windows where none were shown on the original proposal.
7. To consider an appeal on the basis of the amended proposals without the ability to undertake a revised consultation exercise would be unfair and could prejudice the position of those who may wish to comment on the proposals. Consequently, I recommend that the appeal is determined on the basis of the plans originally submitted to the Council. Any amended proposal would be a matter for the Council to consider.

Main Issues

8. These are:
 - i. The effect of the proposal upon the character and appearance of the surrounding area;
 - ii. Whether or not the proposal would provide appropriate living conditions for future occupants, having regard to outlook; and
 - iii. The effect of the proposal upon the living conditions of neighbouring residents, with particular regard to outlook.

Reasons for the Recommendation

Character and Appearance

9. The appeal site is situated on a prominent corner plot. The appeal building is an end of terrace which fronts Needham Road with its side elevation adjacent to Wrenbury Street. The front facing gable roof is an attractive feature which is repeated along Needham Road with many of the end of terraces displaying this 'bookend' feature. The proposed dormer would be located to the rear inner side of the roof. Both main parties agree that the dormer would not be visible from Needham Road but would to a degree be visible from Wrenbury Street.
10. I observed on my site visit that only the side elevation of the dormer would be visible from Wrenbury Street. Wrenbury Street is a one-way road; hence the dormer would only be seen by pedestrians from the highway. Although the scale of the dormer would not be conspicuous from Wrenbury Street, the proposed, flat roof dormer would have a poor relationship with the existing roof form and would evidently unbalance the roof plane. The scheme would result in a dominant form of development which would span across the length of the rear part of the inner side of the roof and be visible from the neighbouring terraces, including No. 72-78 Needham Road.
11. The roof conversion would also result in the addition of five roof lights on the outer side of the roof and removal of chimneys. I observed on my site visit that the end-terraces had unbroken roof slopes and chimneys were an important architectural feature which make a positive contribution upon the street scene.

12. Although matching materials are proposed, the dormer would represent poor design which would not respect the character and appearance of the area. The dormer would be an unsympathetic and visually incongruous addition. As a result of the scale and massing of the proposed dormer it would not represent high quality design.
13. The appellant asserts that there are other similar dormers within the area. I observed on my site visit that dormer windows are not common within the vicinity of the site. The appellant acknowledges that some of the dormers highlighted could have been erected under permitted development but considers that a precedent has been set. The majority of the dormers drawn to my attention are not associated with corner plots and are dormers located to the rear which are not visible from public vantage points. Some of the dormers highlighted within the wider area are associated with corner plots but the massing does not appear to be as large as the dormer proposed. Accordingly, these examples cannot be directly compared to the appeal scheme and in any case, I have determined the appeal on its own merits.
14. Consequently, the proposed development would adversely affect the character and appearance of the surrounding area. In this respect, it would not accord with Policy HD18 of The City of Liverpool Unitary Development Plan (2002) (UDP) which seeks to ensure development relates to its locality and promotes high quality design.

Living Conditions- future occupants

15. The drawings show that the two proposed bedrooms, bedroom No. 6 and 7, would be within the new second floor. Bedroom 6 would have a velux roof light on the outer side of the roof and a flat roof light within the new dormer. Bedroom 7 would have two velux roof lights on the outer side of the roof. Both bedrooms would also have an en suite which would be served by a velux roof light. The Council are concerned that the roof lights would not provide the two bedrooms with an adequate outlook.
16. The Officer's Report highlights that Policy H10 of the emerging Liverpool Local Plan states that habitable rooms should not be solely lit by roof lights. The plan has not been formally adopted, I have therefore given it limited weight, in line with paragraph 48 of the Framework. In any event, Policy H10 was not included within the reason refusal. Nonetheless, Liverpool Unitary Development Plan- Supplementary Planning Guidance Note 7 (SPG) advises that roof lights should be at normal sill level if they are the only windows to a room and bedrooms should not be lit solely by roof lights as they do not provide a satisfactory level of amenity.
17. Given that the bedrooms would be part of a HMO, it is reasonable to assume that future occupiers would spend a reasonable amount of time within these bedrooms for privacy. It is therefore important that the bedrooms have an adequate outlook. As a result of their orientation, the roof lights would not provide a meaningful outlook and would result in low quality accommodation.
18. Accordingly, the proposed second floor bedrooms would not provide satisfactory living conditions for future occupants, having regard to outlook. In this respect, the proposal would be contrary to the SPG and paragraph 127(f) of the National Planning Policy Framework (the Framework), both of which seek to promote a high standard of amenity for future residents.

Living Conditions- neighbouring residents

19. On my site visit I observed that there are a number of windows in close proximity to the proposed dormer as the appeal site is located within a high-density area. Although the dormer unusually would not contain any windows, it would be considerable in size. The adjoining properties, including Nos. 72-78 Needham Road, have windows to the rear elevation. The appellant highlights that No. 72's first floor window is the only window which would face the dormer. Based on the evidence before me, this window is situated around 15 metres from the proposed dormer and it would satisfy the separation distances contained within Supplementary Planning Guidance 10 (new residential development).
20. The appeal property already has a dominating effect because it has a larger rear projection than Nos. 74-78. Due to the scale and massing of the proposed dormer it would have an overbearing impact upon in particular No. 78. Views from the rear windows would be further dominated by the appeal property through the introduction of the dormer. Similarly, the rear yards of the terraces are already dominated by the existing built development, the large proposed dormer would further add to the sense of enclosure.
21. The Council are also concerned that the proposal would impact upon the living conditions of occupiers of Wrenbury Street. The appeal property sits forward of the building line of the terraces to the rear, on the north side of Wrenbury Street. The rear yards of these properties are not directly behind the appeal site. The closest property on Wrenbury Street is No. 29 which is directly to the rear of the appeal site. I observed on my site visit that this property did not have any windows on the side elevation, facing the appeal property. Thus, the dormer would not have an overbearing impact upon occupiers of Wrenbury Street given the situ of the terraces, including their rear yards, and location of windows, in relation to the appeal site.
22. For the reasons given above, the proposed dormer would not have an unacceptable effect upon the living condition of occupiers of Wrenbury Street but would result in the living conditions of the occupiers of Needham Road, in particular No. 78, being adversely affected, with regard to outlook and overbearing impact. Consequently, the scheme would conflict with Policy HD18 of the UDP. This Policy seeks, amongst other matters, to ensure that new development does not harm the amenity of adjacent residents. For the same reasons the proposal would conflict with the aim of paragraph 127(f) of the Framework which seeks to provide a high standard of amenity for existing and future occupiers.

Other Considerations

23. The appellant asserts that the scheme could be carried out under permitted development. Whether the scheme would be permitted development is not for me to determine in the context of a planning appeal. It would be open to the appellant to apply for a certificate of lawful development to ascertain whether the dormer would be permitted development. The current appeal is before me and I must make a recommendation based on the merits of the scheme. For the reasons set out above the appeal proposal is unacceptable given the harm to existing and future occupiers as well as the impact upon the character and appearance of the area.

24. The appellant states that the building is in desperate need of repair and that refurbishing the property would improve its appearance. Additionally, the scheme would provide good quality affordable accommodation which exceeds the Council's minimum space standards. However, I do not consider such benefits outweigh the harm identified above. The repairs to the building could be carried out without creating accommodation within the roof space. Additionally, although the new bedrooms would provide affordable accommodation, I have found that this would be of poor quality due to the lack of suitable windows.
25. The appellant has responded to the objection comments within their appeal submission. I acknowledge that the Council considered the HMO use to be acceptable in principle and the scheme would not have an unacceptable impact on highway safety. I also appreciate that the Environmental Health Manager did not object to the development and that environmental impacts associated with waste management and community cohesion could be dealt with under landlord management HMO license requirements. However, the lack of harm in respect of these matters does not amount to a benefit that would outweigh the harm identified.

Conclusion and Recommendation

26. For the reasons given above I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

27. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be dismissed.

Chris Preston

INSPECTOR