



Appeal Decision

Site Visit made on 26 October 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2020

Appeal Ref: APP/Z4310/W/20/3255621
3 Limesdale Road, Liverpool L18 5JF

- 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 Richard Harris against the decision of Liverpool City Council.
 - The application Ref 19F/2104, dated 7 August 2019, was refused by notice dated 5 June 2020.
 - The development proposed is to rebuild existing unit and use as hairdressers.
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Decision

1. The appeal is allowed and planning permission is granted to rebuild existing unit and use as hairdressers at 3 Limesdale Road, Liverpool L18 5JF in accordance with the terms of the application, Ref 19F/2104, dated 7 August 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 02; 07; 08; 09; and, 10.
 - 3) Notwithstanding the details shown on approved drawings 07 and 09, the proposed southeastern elevation wall of the development hereby permitted shall contain no openings, such as for a door or window.
 - 4) The building hereby permitted shall not be occupied until all the windows above ground floor level have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the finished floor of the proposed mezzanine level shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of nearby occupiers, with particular regard to outlook and loss of privacy.

Preliminary Matters

3. Contrary to the submitted Planning Statement¹, the proposed plan and elevation drawings² show a door-sized/shaped window on the southeastern

¹ Paragraph 4.29, bullet point 3

² Drawings Ref. 07 and 09

elevation of the appeal building at ground floor level. This window would face onto part of what would seem to be the rear curtilage of 8 Mapledale Road, a strip of land adjacent to the boundary wall of 6 Mapledale Road.

4. The Council's officer report makes no reference to this window which is also not mentioned in the appellant's Statement of Case. I contacted both main parties regarding this matter. The function and status of the strip of land between Nos 6 and 8 Mapledale Road has not been definitively resolved by the responses of the main parties.
5. Given these uncertainties, including the land's legal status or any rights of access over it that may exist, I have considered it to be part of the rear curtilage of No 8 in determining this appeal.

Reasons

6. The appeal concerns a single-storey, pitched-roofed building to the rear of shop-type units on Allerton Road; a garage on Mapledale Road; and, a semi-detached dwelling - 8 Mapledale Road. The appeal building is accessed by a short, walled alley from Limesdale Road, which also serves as a rear access to some of the shop-type uses on Allerton Road. Forming the opposite side of the alley is a boundary wall at 5 Limesdale Road, an extended semi-detached dwelling.
7. The appeal building currently has planning permission³ for a barber shop use and is located within the Allerton Road District Centre. The premises were closed at the time of my visit, mid-morning.
8. The existing use of the appeal building and the access arrangements from the alley would be retained as part of the proposed development. The property would be rebuilt on the same footprint as existing, with an upwards extension of the northernmost part of the building so as to create an internal mezzanine level.
9. The pitched roofed design of the existing building would be maintained with the ridgeline raised by some 1.3 metres, along part of its length. A new, part-gable elevation would thereby be created above the hipped roof, which would contain four windows facing southwestwards. Rooflights would be inserted into the hipped roof and the roof of the proposed extension.
10. The existing door and window on the northwestern (front) elevation would be replaced, with an additional window above the doorway; new windows would be inserted into the ground floor elevations on the northeastern (side) and southeastern (rear) elevations.
11. The proposed upwards extension would be positioned at the northern end of the building, away from the rear garden of 5 Limesdale Road. From the rear of 8 Mapledale Road the extension would be seen in the context of, and would be partly screened by, the next door garage on Mapledale Road.
12. The limited increase in scale and massing for the northern part of the building would not cause harm to the occupiers of nearby residences in terms of being overbearing. Furthermore, these changes would not significantly alter the

³ LPA Ref. 18F/1715

already somewhat constrained outlook from the rear of 8 Mapledale Road and 5 Limesdale Road.

13. The proposed obscured glazed window in the northeastern elevation would look out over the rear yard of a commercial property and so would not affect the living conditions of nearby occupiers. However, the aforementioned door-sized/shaped window on the southeastern elevation of the appeal building would face onto part of the rear amenity space of 8 Mapledale Road. The scale and position of this window, even if it were to be obscured glazed, would be an intrusive feature that would be likely to disturb the occupiers of No 8 when in their rear amenity space.
14. In responding to my enquiry regarding this window, the appellant offered to revise the scope of the appeal scheme somewhat. I do not recognise all aspects of the appeal scheme as described by the appellant, in particular the references to a fire proof door and a first floor window to the side. Nevertheless, I am satisfied that the appellant is content for the ground floor window on the southeastern elevation of the appeal building to be removed from the scheme and so for all of that elevation wall to comprise rendered blockwork.
15. With reference to Government guidance⁴ amending a proposal during the appeal process should only be undertaken exceptionally. The Council did not consider the door-sized/shaped window at all in determining the application, and whilst the occupiers of Nos 6 and 8 Mapledale Road were consulted on the proposal, they did not respond. In this case, I am satisfied that neither the Council, nor the occupiers of Nos 6 and 8 would be disadvantaged by such an amendment, which could be controlled by way of a condition.
16. I am also content that were the proposed southwest-facing upper floor windows to be obscured glazed and with restricted openings, actual overlooking would be practically impossible.
17. The appellant has indicated that they would have no objection to such an approach and whilst the Council has not suggested such a condition were the appeal to be allowed, this matter could also be satisfactorily controlled in this way.
18. A degree of overlooking, both actual and perceived, is to be expected in an area such as this, due to the proximity of the buildings. The size and position of the proposed southwest-facing upper floor windows would not significantly add to any such perceptions.
19. For these reasons the proposed development would not adversely affect the living conditions of nearby occupiers, with particular regard to outlook and loss of privacy. It would not, therefore, conflict with Policy S6 (development in or on the edge of district centres) contained in the Unitary Development Plan 2002.

Other Matters

20. The proposal would provide some additional floorspace within the building and the opening hours of the business would be extended until the early evening.

⁴ Procedural Guide Planning Appeals – England November 2020 Annexe M

However, given the appeal building's location within a District Centre and its current lawful use, I do not consider such changes to be inappropriate.

21. In determining this appeal I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. From the evidence, my decision has the potential to affect persons with a protected characteristic for the purposes of the PSED.
22. The use of a designated parking space for a disabled person by people using the District Centre is something that should not happen. However, this is a separate matter to the appeal before me. The limited intensification of one unit in the District Centre would be very unlikely to increase such behaviour significantly and it does not follow from the PSED that the appeal should be dismissed. In this instance, the very limited potential harm that I have identified does not cause me to reach such a conclusion.
23. Some general concerns around traffic and parking congestion in the vicinity of the premises, and disruption from construction activities, have also been raised. However, the Council considers the proposal to be acceptable in terms of its impact upon nearby streets and that construction activities can be controlled by alternative means. There is no substantive evidence before me that would cause me to disagree with the Council, in this regard.
24. Fly-tipping, anti-social behaviour or alternative uses of the alley would have no bearing on the appeal proposal, given the current lawful use of the building. The impact of the proposal on local property prices, the availability of alternative premises or similar businesses nearby, has no bearing on my decision.

Conditions and Conclusion

25. In addition to the standard commencement condition, a condition specifying the approved drawings would be necessary for reasons of certainty.
26. A condition confirming that the proposed southeastern elevation wall shall contain no openings would be necessary to protect the living conditions of nearby occupiers.
27. A condition requiring the windows of the proposed development above ground floor level to be obscured glazed and with restricted openings, would also be necessary to protect the living conditions of nearby occupiers.
28. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is allowed.

Andrew Parkin

INSPECTOR