



Appeal Decisions

Site visit made on 9 March 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Appeal Ref: APP/Z4310/W/20/3264010

Land off Cotswold Street, Kensington, Liverpool L7 2PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr T Rehman against Liverpool City Council.
 - The application Ref 20F/1119, is dated 24 April 2020.
 - The development proposed is to erect 5 no. 6-bedroom house in multiple occupation dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council have subsequently issued a statement for the purposes of this appeal highlighting that it would have refused the application for planning permission. I have had regard to this statement and third-party representations in relation to the residential development of the site in framing the main issues.
3. During the course of the Council's consideration of the planning application revised plans were submitted by the appellant reducing the number of bedrooms in each unit to 6. This is reflected in their agreed description of development appearing in the banner heading above and was referred to in the main parties' appeal submissions. As the nature of the concerns of those who would normally have been consulted are clear from consultation on the original set of plans, I do not consider that their interests would be prejudiced if I take the reduced proposals into account. I have proceeded on that basis.
4. The main parties have referred to policies contained within the emerging Liverpool Local Plan (LLP). The plan has been considered at examination and found to be consistent with the National Planning Policy Framework (the Framework). Although it remains subject to modifications and has not yet been adopted by the Council, it is common ground that proposed Policies H7, H10, UD1 and UD5 carry significant weight given the stage of plan preparation, the fact that there are no longer any unresolved objections to them and the degree of consistency with the Framework. Specific proposed policies relating to student housing provision and houses in multiple occupation (HMO) are subject to objections such that they attract only limited weight. Notwithstanding this, the starting point for determining this appeal remains the saved policies of the City of Liverpool Unitary Development Plan 2002 (UDP) and the relevant UDP policies are broadly consistent with the Framework.

Main Issues

5. The main issues are the effect of the proposed development on the living conditions of prospective occupiers of the buildings and existing nearby residents.

Reasons

6. The site lies within a predominantly residential area at the end of two parallel rows of traditional long terracing lying back-to-back between the cul-de-sac ends of Cotswold Street and Fell Street. An area of public open space lies to the west. The two-storey terraces have tandem projecting outriggers to the rear providing accommodation on two floors. Various forms of later single storey extensions and rear dormer roof additions are also visible along the rows. To the rear, small yards are separated by a narrow alleyway such that the backs of the respective terraces lie in relatively close proximity to each other.
7. The arrangement of the proposed units would continue the pattern of the existing rows including two-storey rear outriggers. Two units would face on to Cotswold Street and 3 on to Fell Street. The backs of the properties would oppose each other albeit in a staggered alignment either side of the extended alleyway.
8. The bedrooms at second floor level would be substantially set within the roof spaces of the individual units. These would each be served by a single rooflight. The apertures would afford sufficient natural daylight into the rooms on account of the area of glazing which would be comparable to window sizes proposed to serve bedrooms on lower floors. However, the effective shortening of the vertical aperture arising from their angled position in the roof slope would limit the scope of outlook.
9. It is for that reason saved Policy H7 of the UDP and the Council's Conversion of Buildings into Flats and Bedsits Supplementary Planning Guidance [2001] (SPG) seek to prevent main habitable rooms being served by a single rooflight. Although Policy H7 and the SPG refer to the conversion of existing buildings rather than new-build, they set an expected standard of accommodation where shared spaces are more likely to be limited, a position that is not disputed by the appellant. This standard is proposed to be restated in emerging Policy H10 of the LLP. Accordingly, I find the restricted outlook would provide a poor standard of accommodation and significant harm to the living conditions of prospective occupiers of those bedrooms.
10. Whereas the traditional arrangement of accommodation in the terraces incorporated bathrooms within the first-floor part of the outriggers to avoid habitable room windows facing each other at close proximity, the development includes bedrooms in the corresponding positions. To avoid directly facing windows, the openings serving bedroom 4 in each of the units facing on to Fell Street have been incorporated into the side return wall of the outrigger. For the plots illustrated as 80 and 82 Fell Street, the first-floor rear bedroom outlook would be substantially enclosed by the main rear wall and the neighbouring outrigger. This would result in views dominated by blank walls in close proximity that would also offer a restricted outlook.
11. I acknowledge the comments of the appellant that the individual bedrooms would be supplemented by shared elements of the proposed accommodation.

However, in regard to outlook, the windows serving the shared kitchen/lounge facilities would also lie in close proximity to the boundary walls of the proposed yard areas. Whilst this would not be dissimilar to the effect experienced in the majority of rear ground floor rooms within the terrace rows, it wouldn't provide sufficient recompense for the limited outlook in rooms where individuals may spend much of their time.

12. The same windows would enable views into an existing first-floor window in the rear elevation of 78 Fell Street and bedroom 3 of the unit at 84 Fell Street respectively. Additionally, the rear-facing windows of bedrooms 4 of proposed Nos 81 and 83 would provide direct downwards views into the shared accommodation spaces at ground floor of Nos 80 and 82. Although views into rear-facing windows can be achieved elsewhere between the rows, these are generally not at such close distance to afford the level of intrusion that would result. This arrangement would fail to protect the privacy of those occupiers.
13. For the above reasons, I find that the proposal would have significant adverse effects on the living conditions of residents of an existing neighbouring property and some residents of the proposed development through overlooking and loss of privacy.
14. The properties are explicitly described as HMOs which would provide accommodation for up to 6 unrelated people with some shared facilities. There would be no restriction as to the nature of the occupation of the buildings as HMOs. However, there are recognised effects of high concentrations of HMOs within areas traditionally accommodating family houses or mixed accommodation. This is recognised in emerging Policies H5 and H11 of the LLP as they relate to student accommodation and HMOs in general. Some examples of potential effects are reported by a third party who has raised concerns about the amount of students in the locality and associated frequency of incidents of noise and disturbance.
15. It is common ground between the parties that there are numerous HMO properties in the locality, including those occupied by students. At the time of my site inspection several properties in the cul-de-sacs were being advertised for student rental. Although the proposals have been reduced from 7 to 6 bedrooms, the houses would generally have higher occupation rates in comparison to those used as traditional family housing where more space would be given over to shared living areas.
16. Accordingly, they would have a higher propensity for comings and goings, including those by associated visitors. This is on account of the unrelated nature of the occupiers and their more likely independent activity of fellow residents. Moreover, I do not doubt that some students do attend late night events (as do others), and that there may be some disturbance in the street when they return home or arising from parties held at unsociable times.
17. Whilst this might be tolerable in relation to isolated events, the introduction of 30 students, or other single occupiers, alongside existing HMOs in the streets would inevitably increase the likely frequency of such instances and significantly change the dynamic of the locality. This would be particularly notable given the additive nature of the proposals.
18. Notwithstanding that the proposed units would front on to 2 streets, the resultant localised high concentration of HMOs would likely have a significant

adverse effect. In reaching this view, I have taken into account the fact that the appeal site is located between the ends of cul-de-sac streets adjacent to open space where noise from traffic or other day-to-day activity is limited. Furthermore, the close positioning of the rows of terraces and high density of houses are such that disturbance in the enclosed streets or small rear amenity spaces would amplify their effects and increase the number of households affected in comparison to areas of lower density housing.

19. In support of the proposal the appellant indicates that if properly managed, there are no grounds to assume that occupiers will cause harm to the character of the area and that robust procedures would be in place to deal with noise or anti-social behaviour. This would include the use of anti-social behaviour clauses within tenancy agreements. Whilst I have little doubt that the majority of residents would contribute positively to the local community, the necessity for such measures identifies with the Council's general concerns in relation to the locations of HMOs as reflected in the emerging policies. Furthermore, there is little objective evidence to demonstrate that any measures proposed would be preventative or eliminate the propensity for such incidents.
20. I note the potential for the locality to be subject to an Article (4) restriction preventing a change of use between dwelling houses used for single family occupancy and those as houses in multiple occupancy for 3 to 6 people. However, there is no assurance that this would be concluded or apply to the area in question. It is therefore a matter of neutral weight in the case.
21. For the above reasons, I find that the proposed arrangement of development would result in a poor standard of living conditions for prospective occupiers through poor outlook. It would also cause significant harm to some prospective occupiers and existing nearby residents through overlooking and loss of privacy. The introduction of a high concentration of HMOs in close proximity to others would increase the likely frequency of anti-social incidents in an area of mixed housing to the detriment of the living conditions of existing residents. It would thereby conflict with Policies H4, H5 and HD18 of the UDP and emerging Policy H7 of the LLP which, of the policies referred to me, are the most relevant as they seek to secure high standards of amenity for future and existing residents. These policies find consistency with Paragraph 127 of the Framework in that respect. There are no material considerations that indicate the decision should be made other than in accordance with the development plan.

Other Matters

22. I have noted the objections from third parties to the proposal. However, in the light of my findings on the main issues of the appeal, my decision does not turn on these matters.

Conclusion

23. For the above reasons, the appeal should be dismissed.

R Hitchcock

INSPECTOR