



Appeal Decision

Site visit made on 6 July 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2021

Appeal Ref: APP/Z4310/W/21/3272789

75 Church Street, Liverpool L1 1DQ

- 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 Ozgur Soylu against Liverpool City Council.
 - The application Ref 21F/0113 is dated 8 January 2021.
 - The development proposed is new shopfront and external flue.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in July 2021, following the appeal submission. Parties were given the opportunity to comment on whether there were any implications for the appeal. The appellant confirmed he had no comments to add. I have taken the revised Framework into account in reaching my decision.
3. I note that the Council has an Emerging Local Plan, (ELP). With reference to paragraph 48 of the Framework, I appreciate the ELP is at an advanced stage and that it is likely to be broadly consistent with the Framework. However, I have not been provided with details of the extent to which policies have unresolved objections. For this reason, I have not attached weight to any of the emerging policies the Council refers to.
4. In his final comments the appellant states that the submitted plans are illustrative.¹ I agree that what has been submitted are illustrations, rather than scaled plans, which lack the detail and accuracy required should I have been allowing the appeal. However, the illustrations and supporting information submitted is the scheme that is before me. My decision must be, and is, based on this information.
5. Additionally, the description of proposed development and the evidence submitted make it clear that no change of use is applied for, due to the changes that came into effect from the first of September 2020 in the Town and Country Planning (Use Classes) Order 1987 as amended (UCO). These

¹ The appellant suggests that the proposed doors need not extend into the highway and that details could be secured by condition. However, if the doors did not extend into the highway the proposal before me would be materially altered, resulting in a scheme that would differ to the one the Council made its decision on. I consider using a condition in the manner suggested by the appellant would prejudice other parties, which would not be a fair or reasonable use of the power to attach conditions, as required by the Planning Practice Guidance – Paragraph:001 Reference ID: 21a-001-20140306.

changes resulted in what were Class A1 retail and Class A3 café/restaurant uses now falling within the same Use Class, ie Class E of Schedule 2, Part A.

6. The submitted drawings include lettering on the fascia board. However, should express consent from the Local Planning Authority (LPA) be required for such an advertisement, an application for Advertisement Consent would have to be submitted to the LPA. The advertisement does not form part of the appeal.

Main Issues

7. The main issues are:

- the effect of the proposal on the character and appearance of the area, and
- whether the proposal would have an unacceptable impact on highway (pedestrian) safety.

Reasons

Character and appearance

8. The site is a two-storey property which forms part of a terrace of two, three and four storey buildings located at the western end of Church Street, in the City's shopping area, which is designated as 'City Centre and District Centres' for local planning policy purposes.² The upper floors of the buildings in the terrace, and their window openings and frames, are mainly of traditional design with a vertical emphasis. One of the properties is Grade II listed.
9. The ground floors of the buildings within the terrace have a mix of retail, café/restaurant and betting shop uses. In contrast with the upper floors of the buildings, the ground floor frontages have a modern appearance, which reflect their commercial use. Although the designs of their frontages have some similarities, ie all have fascias and pilasters, they also have several differences. Thus, some have stallrisers, others do not; some have the door centralised, others have it at the side; some have a threshold, others do not; some of the frontages comprise of several glazed panels and door with a vertical emphasis, whilst a few have glazed panels with a horizontal emphasis.
10. At ground floor level there is a variety of materials used for the door and window frames, including traditional timber and modern aluminium, some of which are painted but some are not. Additionally, a mix of materials have been used on the pilasters and stallrisers that exist. Several of the buildings have a stucco finish on the upper floors and others have what appear to be painted concrete blocks.
11. The upper floor of the appeal building appears to have a rendered or stucco finish, with horizontal markings to suggest blocks similar to the neighbouring buildings either side. The ground floor frontage consists of pilasters with a tiled finish, sited either side of a large window with a horizontal emphasis and aluminium frame; a door is positioned at one side with an aluminium frame, and this is set behind a threshold. There is a fascia board above.

² The site was located within the World Heritage Site (WHS) buffer zone with respect to local planning policies. However, it is public knowledge that the City has had its WHS removed. It is therefore not necessary for me to consider the effect of the proposal on what was the WHS.

12. Within the context described above, I consider the ground floor frontage design of folding or sliding doors, with a vertical emphasis, would not harm the character or appearance of the host building or the area, subject to the panels being proportionate and fitted in a manner that would not harm pedestrian safety (a matter I shall return to below). I also consider the use of powder coated aluminium door frames would not harm the character or appearance of the host building or the area. However, I consider the use of pine timber cladding, with a dark stain on the pilasters and fascia would not be in keeping with the upper floor of the appeal property nor the upper and ground floors of other buildings within the terrace (regardless of the colour/shade of stain used). I accept that materials can often be secured by condition. However, in this instance the evidence is clear that stained timber cladding is the material desired by the appellant for the pilasters and fascia to assist in conveying the design concept.
13. Details of the proposed flue have not been provided. The evidence submitted indicates the flue would be installed on the rear of the building. The rear of the building fronts a narrow alleyway where there are other buildings directly opposite. The Council has not raised any concerns about the flue. The rear elevations of the buildings facing the alleyway include air conditioning units, extraction units and down pipes. Should I have been allowing the appeal, details of the flue could have been secured by condition. I am satisfied that the proposed flue would not harm the character or appearance of the area.³
14. In summary, I consider the use of pine timber cladding with a dark stain on the pilasters and fascia would not sit comfortably with the character and appearance of the host building and would be out of keeping with the character and appearance of other buildings within the terrace. As such, I conclude that the proposal would have a detrimental effect on the street scene, which would harm the character and appearance of the area.
15. In light of the above, the proposal does not accord with saved policies HD18, S3 and S16 of The City of Liverpool Unitary Development Plan-2002, (UDP), guidance in the Supplementary Planning Guidance Note 9, (SPG), or paragraphs 126 and 130 within the Framework. Collectively, and among other things these policies and guidance require development to be of high-quality, be sympathetic to local character and for shopfront materials to relate well to their surroundings and be in keeping with the host building.

Highway safety

16. The evidence indicates that the intended use of the building would include customers sitting outside the premises, which I assume would be at the front of the premises on the pavement, and a permanent arrangement, rather than a temporary one. However, the proposal does not include a change of use of the land. Although it may be the intension of the appellant to apply for such a change, I cannot prejudge the outcome of such an application. Nor can I prejudge the outcome of any forthcoming application for a 'pavement licence', should the intension of the appellant be to apply for such a licence. I must, and have, therefore made my decision based on the proposal in the context of the existing circumstances.

³ The appellant has requested a ruling as to whether, in the context of the creation of Use Class E on the 1st of September 2020, planning permission would be needed for an external flue as part of a change of operating business model from retail shop to café. However, it is not within my remit or powers to provide any rulings.

17. As noted above, the proposed frontage opening would consist of a collection of folding doors. When folded open, which is how the appellant intends them to be for considerable periods of time, the doors would project into the pedestrianised, pavement area. Although I consider the pedestrianised area within the vicinity of the site to be of a width that would ensure the uninterrupted, free flow of movement for most pedestrians, for some pedestrians, eg partially sighted people using canes, such an arrangement would be hazardous and dangerous. I therefore conclude that the proposal would have an unacceptable impact on highway (pedestrian) safety.
18. As such, the proposal would not accord with saved Policy T7 of the UDP or paragraph 111 of the Framework, which collectively, and among other things, require development to improve mobility for all pedestrians, including disabled people, and to refuse proposals that would have an unacceptable impact on highway safety.

Other considerations

19. The appellant has suggested that there would be several benefits associated with the use of folding or sliding doors. Although I have not found any harm with the use of such doors in respect of character and appearance, I have found harm with regard to the illustrated design of the doors impeding pedestrian safety. I note that the proposal would bring a vacant property back into use, which would provide minor economic and social benefits.

Conclusion

20. Notwithstanding my conclusions regarding the concept of folding or sliding doors, the use of powder coated aluminium for the door surrounds and the proposed flue, I consider the other considerations outlined would not overcome the harms I have found to the character and appearance of the area due to the proposed stained, timber cladding pilasters and fascia, and the unacceptable impact on (pedestrian) highway safety. For these reasons the proposal, as a whole, does not accord with the development plan. In light of all the above, I therefore conclude that the appeal is dismissed.

J Williamson

INSPECTOR