



Appeal Decision

Site visit made on 14 June 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2022

Appeal Ref: APP/Z4310/W/21/3287352

Former Select Scaffolds Ltd Site, Land Rear of no. 2 Warbreck Avenue, Liverpool L9 4RL

- 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 Norman Ayers against the decision of Liverpool City Council.
 - The application Ref 19F/2886, dated 3 October 2019, was refused by notice dated 21 May 2021.
 - The development proposed is to erect part 3 storey, part 4 storey block comprising 17no. flats and 2no. townhouses and one 2.5 storey structure comprising bin store and upper floor flat, carry out associated works including landscaping, refuse storage and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed scheme was amended during the planning application and no longer reflects the description within the planning application form. In the header above I have therefore used the description agreed between the two parties during the planning application. However, I have also amended this description to remove the phrase “*amended plans*” as it is superfluous.
3. Whilst I understand that the policies of the Liverpool Local Plan (the LLP, January 2022) had not been adopted at the time of application’s refusal, they have now been adopted and supersede the policies of the Liverpool Unitary Development Plan (the LUDP). I must consider the appeal against the adopted policies as they stand now, rather than as they were during the planning application. Therefore, whilst the Council referred to LUDP Policies EP11, H3, H4, H5 and HD18, I have not given them weight in my determination of this appeal.

Main Issues

4. The main issues are the effect of the proposal on the:
 - Character and appearance of the surrounding area; and,
 - Living conditions of neighbouring and future occupiers.

Reasons

Character and Appearance

5. The appeal site is a parcel of land set between buildings facing on to Warbreck Avenue, Palace Road and the A59, and a footpath set within a former railway cutting. The A59 is characterised by primarily commercial uses while the surrounding streets appear largely to be residential. Although of varying styles the buildings near the appeal site are mostly terraced and of two-storeys. I note a number of examples of buildings with three-storey elements but these are limited and are found amongst the commercial buildings on the A59.
6. During my site visit I noted that while the main bulk of the appeal site is set behind buildings, views are afforded from a number of public locations such as Warbreck Avenue, Palace Road and the footpath. Other views from the other side of the railway cutting are also likely to be afforded given the open nature of both sides of the cutting.
7. Although the proposed scheme appears to have been reduced in scale when compared against that originally submitted during the planning application, the main part of the block of flats would still be significantly taller than the prevailing height of the surrounding buildings. In particular I note only one small section of the adjacent commercial building fronting on to the A59 which would be of a similar height to the proposal. The pitched roof would help in reducing the apparent height and bulk of the block to only a limited degree. Therefore, and as it would not be read in connection with the taller commercial buildings, the block of flats would still appear as a jarring feature against the two-storey residential properties. In views up from the cutting the relative height of the block in relation to the residential dwellings would be exacerbated. Consequently, the block of flats would be a dominant feature that would be incongruous as a result of its scale in relation to the surrounding area.
8. However, the extension of the terrace on Warbreck Avenue would only be seen within close, public, views from Warbreck Avenue and Weightman Grove. The proposed scale and form of the building as views from these roads would be in keeping with the terrace and wider street scene. To this extent this part of the proposal would not result in character and appearance harm.
9. Nevertheless, the proposal taken as a whole would harm the character and appearance of the surrounding area as a result of its scale, massing and siting. The proposal would therefore conflict with LLP Policies UD1, UD2, UD5 and H13 which collectively require, amongst other matters, that developments are of a high-quality design that, by way of its form, scale and proportions, reflects its surroundings, including the pattern of development. The proposal would also conflict with the overarching design guidance set out within the Supplementary Planning Guidance Note 10 (the SPG10) and Paragraph 130 of the National Planning Policy Framework (the Framework).

Living Conditions

10. As noted above, the appeal site is surrounded by a number of residential buildings, the closest of these being served by Palace Road and Warbreck Avenue. The backs of these properties are largely similar, being of two-storeys with an outrigger and short garden. With the exception of one property, the

outriggers serving the dwellings on Palace Road do not have windows but the outriggers on Warbreck Avenue do at the first floor. Although the dwellings on both streets are separated from the site by a tall boundary wall, the first floor windows of a number of the dwellings are afforded views directly into the site.

11. I find that as a result of the outriggers and pattern of development more generally, the properties on Palace Road and Warbreck Avenue are afforded a good level of privacy to both their rear windows and gardens. Although a number of windows serving the proposed block of flats are angled away from the rear windows and gardens of the neighbouring dwellings, the windows serving the living rooms on a number of the flats would directly face them. I understand that these windows would be clear glazed and significantly closer than the minimum separation distance set out within the guidance of the SPG10.
12. Therefore, those windows above ground floor would be afforded an outlook over the boundary wall, and given the close distance of separation, would cause overlooking to the private rear gardens and windows of a number of the properties along both Warbreck Avenue and Palace Road. Moreover, this close proximity, coupled with the height of the proposed development would result in a dominant feature in views from the gardens along Palace Road that would have an overbearing impact on neighbouring occupiers. These matters would unacceptably affect the privacy and outlook of the neighbouring occupiers and consequently the enjoyment of their dwellings and gardens to the detriment of their living conditions.
13. It is also clear from the evidence before me that the proposed 1, 2 and 3 bedroom flats would not meet the necessary floorspace set out for their respective bed spaces within the Nationally Described Technical Space Standards and required by LLP Policy H13. Although the shortfall is greater for the two larger types of flat, there is a shortfall for all three types that would result in a poor provision of space for future occupiers. While I note that the Council do not object to the under provision of M4(2) and over provision of M4(3) type dwellings, this does not outweigh the conflict with the space standards as identified above.
14. No outdoor amenity spaces, either communal or private, have been proposed with the development. Given the size of the townhouses it is likely that they would be occupied by families with young children. I note that there is a park within walking distance of the site that would meet some of the typical needs of future occupiers, primarily for children to play outside. However, it would be less appropriate in meeting the needs of adults, such as sitting outside, and as it is some distance away and requires walking along a main road, it would not so readily allow for unsupervised play as a private garden would. In this way I find that the proposed development would not meet the needs typically associated with family dwellings.
15. Whilst a tall boundary treatment may be necessary at the rear of the property to prevent unauthorised access to the site, I do not find that it would necessarily need to be a solid feature to ensure privacy. The distance and relationship of the rear ground floor windows to any viewpoints would be such it is unlikely that future occupier's privacy would be harmed without a solid boundary treatment. As such the outlook for future occupiers could, subject to a suitable boundary treatment, be protected.

16. Given their height above the finished floor level, the proposed rooflights would prevent future occupiers from having a ready outlook beyond views of the sky. Moreover, the rooflights would be above head height for shorter occupiers and those not standing, therefore resulting in the rooms solely served by rooflights feeling enclosed. Whilst I find that the rooms would still be served by a good level of light, this does not outweigh the poor access to outlook and sense of enclosure. Given the depth of the third floor living room/kitchen areas I find that the dormers at the rear of the property would not provide a sense of openness and outlook for occupiers at the opposite end of the room. I find the same to be true of the second floor bedrooms serving the townhouses. Therefore, I find that the front facing bedrooms and the living rooms of the third floor, and the townhouse bedrooms on the second floor would not provide suitable living conditions for future occupiers.
17. The appellant has suggested that the use of the site may revert back to the storage of scaffolding or other goods should the appeal not be allowed. Although the site is currently vacant, I understand that the existing use is still extant and so any adverse effects on the living conditions of neighbouring occupiers stemming from this use would be existing.
18. In light of the above, the proposed development would not provide a suitable level of living conditions for future occupiers and would harm the living conditions of neighbouring occupiers. Consequently, the proposal would conflict with LLP Policies H7, H12, H13, UD1, UD2 and UD5 which collectively, and amongst other matters, require that developments protect the living conditions of neighbouring and future residents with regards to matters such as privacy, outlook and amenity space. The proposal would also conflict with the guidance on living conditions set out within SPG10 as well as Framework Paragraph 130(f).

Other Matters

19. I note the appellant's concerns that the Council's five year housing land supply has not been tested. However, Paragraph 75 of the Framework states that a five year supply of deliverable housing sites can be demonstrated where it has been established in a recently adopted plan. In this case, as noted above the LLP was adopted very recently and so I find that, lacking any evidence to the contrary, the Council can demonstrate a five year housing land supply.
20. The Council has made reference to Policies H1, H3, R1, UD4 of the LLP in their reasons for refusal. However, I do not find that these are particularly relevant to the matters before me and as such they have not been determinative.

Planning Balance

21. The government's objective is to significantly boost the supply of housing and the proposal would provide 19 new dwellings with a good level of access to shops, facilities, and transport links. The proposal would be on previously developed land and would therefore reduce pressure to building on greenfield. The scheme would also lead to a small and time-limited economic benefit and during the construction phase, as well as social and economic benefits resulting from future occupiers and the renovation of the commercial use. Given the scale of the proposal, these benefits collectively attract moderate weight.

22. Conversely, the proposal would result in harm to character and appearance and the living conditions of neighbouring occupiers and, would not provide a suitable level of living conditions for future occupiers. The proposal would therefore conflict with the development plan taken as a whole. Cumulatively I attach these matters significant weight and they therefore outweigh the benefits associated with the proposed development.

Conclusion

23. The proposal would conflict with the development plan and there are no other considerations, including the National Planning Policy Framework, that outweigh this conflict. Therefore, and for the reasons given above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR