



Appeal Decision

Site visit made on 21 June 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 14th July 2022

Appeal Ref: APP/B4215/W/22/3291617

Land adjacent to 66 Petersfield Drive, Baguley, Manchester M23 9PS

- 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 A2z Estates against Manchester City Council.
 - The application Ref 129318/FO/2021, is dated 6 February 2021.
 - The development proposed is the erection of a detached two storey dwelling.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The site address provided in the application form is different to that listed in the appeal form. I have used the address provided in the appeal form in the banner heading above as this appears to be more accurate.
3. The appeal follows the Council's failure to determine the application within the prescribed period. However, the Council has indicated in its grounds of appeal, that had it been in a position to determine the application, it would have refused planning permission for various reasons.

Main Issues

4. From the evidence before me, I consider the main issues to be:
 - The effect of the proposed development on the character and appearance of the area.
 - Whether the proposed development would provide acceptable living conditions for future residents, with particular reference to outlook, light, noise and disturbance.
 - The effect of the proposed development on pedestrian and highway safety.
 - Whether the proposal would create a safe environment for future residents and visitors.

Reasons

Character and Appearance

5. The appeal relates to a rectangular shaped piece of land that is currently utilised as an adopted highway and forms a part of a short cul-de-sac. The immediate surroundings are in mixed use, and the appeal site sits in between a

large detached public house known as 'The Jolly Butcher' and a short terrace row of 3 dwellings. Despite the variety in the style of the built form in the immediate vicinity, neighbouring houses are laid out in a roughly linear manner with their back garden areas located directly to their rear and spanning the full width of their plots. This results in a well-ordered layout and appearance.

6. The distance between the proposed dwelling and the gable elevations of No 66 Petersfield Drive and The Jolly Butcher would be similar to the majority of the gaps found between the other residential properties in the immediate area. As a result, I am satisfied that it would not upset the rhythm of the built development on this side of Petersfield Drive. The submitted plans also show that the proposed dwelling would be commensurate in its size and scale as many other properties in the area. Its relatively simple design, comprising red brick elevations and a grey concrete tiled roof would also not appear conspicuous in the context of the diverse properties in the near vicinity.
7. Nonetheless, the proposed garden area would be of an irregular shape and size, with the majority of it positioned to the southern end of the site. This arrangement is intended to provide space for an intervening hard surfaced parking area and to retain vehicular access for the residents of No 66 and 64. However, such an arrangement would appear contrived, disjointed, and at odds with the predominant layout and prevailing pattern of residential plots and development in the vicinity. Whilst this would not be readily apparent from Petersfield Drive, the discordant effect of the proposed development would be clearly visible from the first-floor windows of neighbouring properties.
8. In light of the factors above, the configuration of the proposed development would appear contrived and would not be of a high standard of design. As such I find that the proposal would have a significantly harmful effect on the character and appearance of the surrounding area. It would therefore conflict with Policies SP1 and DM1 of Manchester's Local Development Framework Core Strategy Development Plan Document 2012 (Core Strategy). Amongst other things, these seek to protect character and appearance by having regard to a number of factors including siting and layout. It would also not accord with the design objectives of the National Planning Policy Framework (the Framework), specifically Section 12, or design advice within the National Design Guide.

Living Conditions

9. It is uncontested by the main parties that the proposed ground floor rear kitchen and dining room windows would be located approximately 0.8 metres away from the proposed boundary fence. This would span across the majority of the proposed dwelling's rear elevation. As a result, the approximate 1.8 metre height and proximity of the proposed timber fence to these windows would result in an undue sense of enclosure that would significantly prejudice the level of outlook and reduce the amount of natural daylight to these openings, thereby having an oppressive and overbearing effect.
10. The appellant has suggested that a differently designed boundary treatment such as a slatted or hit and miss fence would allow more light into the proposed kitchen window and that this could be secured via a planning condition. Nonetheless, I have not been provided with any details of alternative schemes so cannot be sure that they would overcome the harm that I have identified.

11. Turning to the potential noise issues, I appreciate that some sound insulation would be provided by the blank gable elevation of the proposal. I also recognise that the entrance and car park to The Jolly Butcher is on the opposite side of this neighbouring building. However, this public house has a beer garden to the rear, which according to the Council's uncontested measurements is only around 5-6 metres away from the appeal site.
12. No substantive evidence to demonstrate the existing opening hours of the public house, and existing noise levels have been provided by either main party. Nevertheless, this outdoor area has the potential to generate noise from groups of customers, such as through talking, shouting or laughing at times such as summer evenings and weekends. These times would be when the occupiers of the proposal would be likely to use their garden area or have their windows open. It would consequently have the potential to result in frequent noise complaints from the future residents of the proposal.
13. I am also mindful of the representations received from local residents regarding the impact that the beer garden has on their living conditions. Some of these objection letters suggest that the pub has already received noise complaints from the residents of nearby dwellings and I am conscious that the appeal site is considerably closer to the beer garden than other neighbouring properties in the area.
14. Whilst the Council's Environmental Health Section has not objected to the proposal, I am unable to be certain on the basis of the evidence before me that the proposal would not cause an unacceptable level of noise and disturbance to future residents.
15. As such, I am unable to find that the proposal would provide acceptable living conditions for future residents, with particular reference to outlook, light, noise and disturbance. It would thereby conflict with Core Strategy Policy DM1 in respect of the effect on the amenity of neighbouring occupiers including light and noise. It would also fail to accord with paragraph 130 of the Framework which seeks to provide a high standard of amenity for existing and future users, and advice within the Manchester Residential Quality Guidance in respect of external noise.

Pedestrian and Highway Safety

16. An area of adopted highway would be retained to the western side of the proposed dwelling to allow for shared vehicular access to the proposed parking spaces and the existing vehicle crossovers to the rear of Nos 64 and 66. However, to enable this the existing pavement area to the side of No 66 is proposed to be reduced to a width of approximately 1 metre, providing a carriageway approximately 3 metres wide.
17. I appreciate that a planning condition could limit the amount of proposed off street parking spaces. Nonetheless, given the narrow carriageway width of the proposed shared access road and the proximity of No 64 and 66's existing vehicle crossovers to the proposed parking spaces I am not convinced that vehicles could easily manoeuvre in and out of the driveways for these neighbouring properties. This would be the case even if only 2 vehicles would be parked there.

18. This confined arrangement would be sensitive to awkward and convoluted traffic movements from future occupiers' vehicles, and the vehicles of the residents of No 64 and 66 reversing into or out of their respective car parking spaces. These manoeuvres would create the potential for conflict between highway users, including pedestrians who would have little room for refuge due to the narrowness of the footway.
19. Furthermore, should 2 vehicles meet along the carriageway, it is likely that one would need to reverse out onto Petersfield Drive so that they could pass each other. This would be detrimental to the free flow of traffic and also cause a serious risk to the safety of pedestrians and other road users.
20. Whilst I note the appellant's willingness to remove the footway to allow for a wider access road, this would fundamentally alter the proposal and I must deal with the application as submitted. In any case, I am not convinced that this would overcome all of my concerns.
21. All of the factors above have therefore led me to find that the proposed development would have a harmful effect on pedestrian and highway safety. As such, it would conflict with Core Strategy Policies DM1 and T2 in this respect. Together, these require regard to be had to vehicular access and car parking facilities.

Safe Environment

22. I appreciate that the proximity of the boundary fence and parked cars to the ground floor rear kitchen window of the proposed dwelling would limit surveillance from this opening. However, the proposed rear garden and parking area would be clearly visible from the proposed dwelling's first floor windows and those of a number of neighbouring properties, including the side window within the first floor flat at The Jolly Butcher. The main area of garden space is also accessible via a narrower strip of private amenity space. Such factors reduce its vulnerability. Furthermore, there is no evidence to substantiate crime levels in the area before me.
23. In the absence of any firm evidence to the contrary I am therefore unable to find that the proposal would fail to provide a safe external environment for future users and visitors. It would therefore not conflict with Core Strategy Policy DM1 in this respect, which seeks, amongst other matters, for all development to have regard to community safety and crime prevention.

Other Matters

24. The appellant's dissatisfaction with the Council's communication and handling of the planning application is noted. However, this matter has had no bearing on my decision as I have only had regard to the planning merits of the proposal that is before me. Furthermore, there is little substantive evidence before me to demonstrate that it is an established practice for refuse bins to be collected from outside of the gateways to the rear of Nos 14-18 Virginia Close. I appreciate that the loss of access through the rear gates to these properties would be inconvenient for its residents. However, I am not convinced that such inconvenience or frustration can necessarily be equated to material harm to existing residents' living conditions of a magnitude that would warrant withholding permission, particularly as this arrangement already exists for other terrace properties along Virginia Close.

25. It has been put to me that the proposal has been designed so that it is accessible for people with disabilities, and that it is well located to public transport and the motorway network. The appeal proposal would also make a contribution to the supply of family housing in the area. Nonetheless, given that the proposal is for only 1 dwelling any benefits in these respects would be contextually somewhat limited.
26. On my site visit I also saw that there was sufficient space along the Petersfield Drive highway to displace the existing parked cars on the appeal site and I note that the Council has not raised any objections in this regard. In addition, satisfactory intervening distances would be achieved between the proposal and existing nearby houses to ensure that the proposal would not have an overbearing impact or result in a significant loss of privacy to the occupiers of neighbouring dwellings. However, the absence of harm in these respects would be neutral factors that would not weigh in favour of the proposal.
27. It has also been put forward that the site has previously suffered from fly tipping and I saw evidence of this on my site visit. However, there is nothing in the evidence before me to indicate that the particular scheme proposed is the only way of achieving a solution to this problem. With all of the matters above in mind, I therefore attach limited weight to the appeal scheme's benefits.

Conclusion

28. I have found that there would be no adverse impact in respect of the provision of a safe environment for future residents and visitors, and that the proposal would bring benefits of limited weight. However, these considerations would not be sufficient enough to outweigh the harm that I have identified in regard to the other 3 main issues. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, the appeal is therefore dismissed and planning permission is refused.

Mark Caine

INSPECTOR