



Appeal Decision

Site visit made on 1 November 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2023

Appeal Ref: APP/Z4310/W/22/3301764

Land at 441 Mill Street, Dingle, Liverpool L8 4RD

- 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 Ms Healey against the decision of Liverpool City Council.
 - The application Ref 22F/0098, dated 7 January 2022, was refused by notice dated 28 April 2022.
 - The development proposed is to erect a 3 storey building, containing a HMO with 10no. bedrooms (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted to erect a 3 storey building, containing a HMO with 10no. bedrooms (Sui Generis) at land at 441 Mill Street, Dingle, Liverpool, L8 4RD in accordance with the terms of the application, Ref 22F/0098, dated 7 January 2022, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The planning application form gives the address of the appeal site as Mill Street, Dingle, Liverpool, L8 4RD. The Council's decision notice refers to land at 441 Mill Street, Dingle, Liverpool. L8 4RD. I have adopted this address as it more accurately describes the appeal site as it is shown on the submitted location plan. In addition, I have omitted the address from the description of development for both conciseness and as it does not assist in identifying the proposed development.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area, and on the living conditions of occupiers of neighbouring residential properties with particular regard to overlooking and noise.

Reasons

Character and Appearance

4. The appeal site is an unkempt vacant piece of land situated at the end of a three-storey terrace on the corner of Mill Street and Isaac Street. The properties along Mill Street are generally Victorian terraces with retail premises at ground level and residential above. The wider surrounding area is predominantly residential in character consisting of largely two-storey terraced dwellings.

5. The appeal proposal seeks the erection of a 3-storey building comprising a 10-bedroom house in multiple occupation (HMO). The front elevation of the proposed development would face onto Mill Street and its design and appearance would be in keeping with and complement the existing row of terrace properties to which it would adjoin.
6. Although predominately three-storey, the proposed building would drop down to two storey and then single storey at the rear. The single storey element would include a flat roof and extend to the rear boundary of the site, resulting in the development not providing any external amenity space. It is not uncommon however for terraced properties in the locality to have little or in some cases no external amenity space, often due to the erection of rear extensions or outbuildings. The proposed development would therefore relate to the surrounding built form and be in keeping with the character of the surrounding area.
7. Whilst not the prevailing form of roof type in the surrounding area, there are examples nearby of single storey additions and buildings to the rear of properties which have utilised flat roofs. This includes the property located directly opposite the appeal site on the corner of Isaac Street and Mill Street which is of similar design to the appeal proposal and comprises a single storey element which extends up to its rear boundary. Other corner plot properties in the locality have walled rear yards, with the walls being of a height comparable to the single storey element of the appeal proposal.
8. The proposed development would share a close visual relationship with and complement the existing property on the opposite corner of the junction of Isaac Street and Mill Street. Furthermore, the scale, massing and design of the proposal would be in keeping with several other corner plot properties in the area which see two or three storey buildings step down to either a single storey rear addition or a rear boundary wall. Accordingly, the proposed single storey element with flat roof would not appear as an incongruous feature and would integrate effectively with its surroundings, complementing the character and appearance of the area.
9. For the reasons given above, I conclude that the proposed development would not cause harm to the character and appearance of the area. It would therefore comply with Policies UD1, UD2, and UD5 of the Liverpool Local Plan 2013-2033 (adopted January 2022) (LP) which seek, amongst other things, to ensure that new developments respect the local grain and pattern of development, and that its form, height, scale, and massing are appropriate to the function of the building and its context.

Living Conditions

10. The side elevation of the proposed development would contain multiple windows, including several at first and second floor level which would serve bedrooms and a communal living area. These windows would face onto Isaac Street and the two-storey property opposite, which itself contains windows facing onto Isaac Street at both ground and first floor level.
11. The Council has referred to its Supplementary Planning Guidance Note 10: New Residential Development (SPG) which provides guidance for new residential developments, including window to window separation distances. The SPG advises that to ensure that new developments achieve a reasonable degree of

privacy, front elevations of habitable rooms facing each other in two-storey houses should be a minimum of 21.5 metres apart. The Council consider that for three-storey properties the separation distance would be 24.5 metres. The proposal however would result in a separation distance of around 11 metres, markedly below the distances set out within the SPG.

12. Whilst I acknowledge that the separation distance would fall short of the guidance contained within the SPG, I consider that there would remain sufficient separation distance between any habitable room windows. Furthermore, I do not find this distance to be significantly different to those which already exist in the locality, which is characterised by terraced properties with close relationships and limited separation distances. In particular, the presence of windows facing each other on the side elevations of corner plot properties is a common feature within the locality.
13. Additionally, the Council consider that the HMO use proposed would result in a greater tendency for nearby occupiers to be overlooked than if it was a family dwelling. Most of the windows facing Isaac Street would serve bedrooms, and whilst I accept that an HMO is a different type of occupation to a use as a single dwelling, there is no evidence before me that would suggest that there would be any greater risk of nearby occupiers being overlooked from these windows than if the proposal was for a large family dwelling. Consequently, I do not consider that the proposal would result in any significant overlooking issues which would unduly affect the living conditions of neighbouring occupiers.
14. The Council also contend that the presence of an HMO in this location would be uncharacteristic and would result in noise and disturbance which would be likely to have a considerable adverse impact on the living conditions of nearby residents.
15. The appellant states that there are two lawful HMOs nearby on Park Hill Road. It is also alleged that 437 and 439 Mill Street are currently in use as HMOs as well as there being other flats and apartments near the appeal site. Whilst neither party has provided any firm evidence to substantiate the number of HMOs in the locality, I observed that, notwithstanding the retail premises on Mill Street, the majority of properties in the nearby area appeared to be in use as single dwellings.
16. I acknowledge that the comings and goings of an HMO may be less regimented than that of a single dwelling, however I do not consider that the level of activity would be substantially different to that of one large household. Therefore, it would be unlikely that any noise and disturbance that might arise from the HMO would be significantly different from that of other nearby residential properties and would be indiscernible in the surrounding area. In addition, the Council has provided little evidence as to how the HMO would have an unacceptable impact on the living conditions of neighbouring occupiers with regards to noise and disturbance. I also note that the Council's Environmental Health Team has raised no objection to the proposal.
17. I therefore conclude that the proposed development would be acceptable in terms of its effect on the living conditions of occupiers of neighbouring properties. It would therefore comply with Policies UD2, UD5, H7 and H13 of the LP which seek, amongst other things, to ensure that developments protect

the living conditions of existing residents including ensuring that levels of privacy and amenity are maintained.

Other Matters

18. The appellant has referred to a previous planning permission¹ which was granted by the Council on 30 January 2017 to 'Erect 4 storey building incorporating front and rear dormers containing 4no flats' at the appeal site. Whilst the appellant considers that this previous permission confirms that a development similar to the appeal proposal has been accepted on the site previously, there is no evidence before me to suggest that this permission is extant and represents a genuine 'fallback' position. Accordingly, I have determined the appeal proposal on its own merits.

Conditions

19. I have had regard to the conditions suggested by the Council and have assessed them against the tests set out in paragraph 56 of the National Planning Policy Framework. As a result, subject to some minor variations, I have imposed the conditions put to me by the Council. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the pre-commencement conditions.
20. In addition to the standard time limit condition, I have imposed a condition concerning the approved plans for the purposes of clarity. In order to ensure a satisfactory appearance to the development, a condition has been imposed requiring samples or specifications of all external materials to be submitted and approved in writing by the local planning authority prior to their use on site.
21. To ensure that the development provides adequate provision for the storage of refuse and to encourage the use of non-car modes of transport by future occupiers, a condition has been imposed requiring a scheme for the provision of 10no cycle parking spaces and adequate bin storage to be submitted to and approved by the local planning authority. The condition also requires that the approved scheme is implemented prior to the development being brought into use. Finally, I also consider it necessary to limit the number of residents at the property to 10 to control the effect of the proposal on the locality, and to ensure adequate living conditions for future occupiers.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

David Jones

INSPECTOR

¹ Council Reference 16F/2790

SCHEDULE OF 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: 21.042-001 Existing Site Plan & Location Plan, 21.042-002 Proposed Site Plan, 21.042-003 Street Elevations: Mill Street, 21.042-004 Street Elevations: Isaac Street, 21.042-005 Proposed Floor Plans, 21.042-006 Proposed Elevations.
- 3) Prior to their implementation and use on site, samples or specifications of all materials to be used in the external construction of the development shall be submitted to and approved in writing by the local planning authority. The development shall be completed using the approved materials before the development is occupied/brought into use.
- 4)
 - a) Prior to the occupation of the development hereby permitted, a scheme for the provision of 10no. secure cycle parking spaces and adequate bin stores (within the internal store as indicated on plan ref. 21.042-PL-005) shall be submitted to and approved in writing by the local planning authority.
 - b) The approved scheme shall be fully implemented before any part of the development is occupied or brought into use and shall be retained as such thereafter.
 - c) All waste materials generated by the development, whether to be discarded as refuse or recycled, shall be stored within the approved internal store and all waste material shall be kept within the curtilage of the premises until the day it is due to be collected.
- 5) The number of persons in residence at the premises shall not exceed 10 persons at any one time.