



Appeal Decision

Site visit made on 21 December 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/Z4310/W/22/3305094

Mossley Manor Care Home, North Mossley Hill Road, Liverpool L18 8BL

- 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 Leo Rowland Limited against Liverpool City Council.
 - The application Ref 220/1706 is dated 15 June 2022.
 - The development proposed is outline planning application (with means of access, layout and scale considered) and appearance and landscaping reserved, for demolition of existing building and the erection of 9 no. detached residential units and works required to facilitate the proposed development.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Leo Rowland Limited against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. Outline planning permission is sought, with matters of appearance and landscaping reserved. I have determined the appeal on this basis.
4. Historic England was asked to assess Mossley Manor for listing. During the course of the appeal a decision was made by Historic England not to recommend the building for listing.

Main Issues

5. The appeal was submitted due to the Council failing to make a decision within an agreed period of time. Based on the submitted policies, my site visit, and representations from the parties; I consider the main issues to be the effect of the development on:
 - the character and appearance of the area, having particular regard to the non-designated heritage asset and whether the proposal would preserve or enhance the character and appearance of the conservation area;
 - trees; and
 - the living conditions of residents of neighbouring properties with regard to outlook and privacy and of future occupiers with regard to outlook, privacy and provision of external amenity space.

Reasons

Character and Appearance

6. The site comprises Mossley Manor, a Victorian mansion building identified by the Council as a non-designated heritage asset and located in the Mossley Hill Conservation Area (the CA).
7. The significance of the CA derives from its origins in the 18th and 19th century as an affluent outer suburb of the city, with large, traditional mansions in extensive gardens. The immediate part of the CA has a more mixed form of development today. While still largely residential, it has many examples of modern houses and flats, including on Palmerston Road adjacent to the site. Nevertheless, the overall significance of the CA is retained through the surviving fine, traditional houses set in mature gardens with high boundary walls, which ensure that the origins of the area remain readily apparent.
8. Mossley Manor is an example of one such building. Originally built as a residence in the late 1850s, it is said to have potential association with notable figures in the city's history. It was later used as a maternity home, children's home and care home, with alterations and modern extensions added to the side and rear, including an unfinished extension. However, these are discretely located and notably subservient to the main building, set back from the front elevation line. As such, they do not seriously erode the form or value of the building as a whole, nor do they detract from the overall understanding and appreciation of the contribution the main building makes to the surrounds.
9. The most recent care home use of the building ceased in 2015, following which Mossley Manor has been vacant. It is clear the building has fallen into disrepair over the years. The grounds are overgrown and the entrance gates boarded up, with the building having been subject to fire damage and vandalism. As evidenced by the Structural Report the building in parts is in a poor to fair condition, but with areas that have collapsed due to fire such as parts of the roof and internal floors. It cites evidence of water entry into the fabric, decay and extensive dry rot. It further concludes that parts of the remaining structure are liable to further collapse due to loss of support.
10. It is argued that the poor condition of the building has reduced its significance and the visual contribution it makes to the surrounding CA. However, paragraph 196 of the National Planning Policy Framework (the Framework) states that where there is evidence of deliberate neglect of, or damage to, a heritage asset, its deteriorated state should not be taken into account. There is also no evidence before me, nor did I note anything on my visit to indicate, that any steps have been taken to address the condition of the building or prevent its further deterioration.
11. In any event, despite the damage, the fabric of the building remains evident, particularly along the front elevation. Its external form appears sufficiently complete such that its original scale, design and placement is apparent, contributing to the understanding of the history and character of the CA. While the overgrown grounds and entrance gates reduce its visibility from North Mossley Hill Road, views of the manor remain from surrounding sites. I agree that it is a non-designated heritage asset. Overall, Mossley Manor makes a significant positive contribution to the character and appearance of the CA, in addition to being of moderate significance as a non-designated heritage asset.

12. The proposal relates to the demolition of Mossley Manor and the erection of 9 detached dwellings in a cul-de-sac formation that would be reflective of surrounding residential development layouts. However, it would lead to the total loss of a non-designated heritage asset of moderate significance. The demolition of Mossley Manor would also cause harm to the character of the CA due to the total loss of a building that makes a significant positive contribution to the historic character and appearance of the locality.
13. Although the appearance of the proposal would be part of a reserved matters application, the final design and how this would contribute to the CA is uncertain. To fully assess the implications of the loss of the non-designated heritage asset, it is important to understand the quality and design of what would replace it, and to be certain that the scheme to be constructed in its place would be acceptable within the CA. The appellant has provided a Design Code with elevations and landscape strategies, including parameters for the property scales and key elevation principles. However, these are indicative and provide wide parameters for the appearance of the scheme such that, even if secured by condition, there remains uncertainty at this point as to precisely what development would replace the non-designated heritage asset.
14. I acknowledge that the effects of the proposal would be localised, with views experienced primarily in the immediate vicinity of the site in an area where varied residential development exists and proposed to be softened by landscape planting. As such, it would result in less than substantial harm to the significance of the CA as a whole. Nevertheless, the Framework makes it clear that great weight should be given to the conservation of heritage assets.
15. Paragraph 202 of the Framework specifies that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits of the proposal including, where appropriate, securing its optimum viable use. Paragraph 203 states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
16. The proposal would bring the site back into use, resulting in nine dwellings in a Primarily Residential Area. This would add to the housing mix of the area, attracting residents that could contribute to the local economy and creating employment during construction. It would address anti-social behaviour through the redevelopment of the vacant building and reinstate a boundary wall reflective of the character of the area. I note that letters of support from local residents have been received in these regards. The appellant further states that the proposal would remove, restore and re-use salvageable heritage features, and enable a full record of the building to be placed in the public archives. It is agreed between the parties that the proposal would result in ecological benefits. These public benefits are acknowledged.
17. The appellant submits that the repair and refurbishment of Mossley Manor would be unviable. It has prepared a cost analysis and viability appraisal, which set out the benchmark land value of the site and the estimated costs of repair to the building. It then assesses eight potential residential schemes including: refurbishment of the manor into a single dwelling; refurbishment of

the manor into apartments; schemes combining the refurbished manor with other residential dwellings; and the proposal. Of all assessed options, it is concluded the proposal is the only scheme to achieve a positive residual land value. This is a relevant consideration, to which weight should be ascribed.

18. Nevertheless, the Framework is clear that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. It also advises that any harm or loss to designated heritage assets should require clear and convincing justification. In demolishing a non-designated heritage asset the proposal would reduce the diversity of historic buildings which make a positive contribution to the CA and reflect its history, thereby causing visual harm to the CA itself. There is limited certainty as to precisely what would replace the lost asset and be constructed in the CA, beyond the cul-de-sac layout of nine dwellings within wide design parameters, in order to address or justify this identified harm.
19. Accordingly, even when taken together with the findings of the cost analysis and viability report, I find that the identified public benefits of the scheme would not outweigh the identified harm arising from the outline proposal due to the demolition of Mossley Manor. On the evidence before me, no clear and convincing justification has been put forward for the resulting harm to the CA.
20. For the reasons given I therefore find the proposal would cause significant adverse harm to the character and appearance of the area, having regard to the non-designated heritage asset, and would fail to preserve or enhance the character and appearance of the CA. As such, it would fail to comply with Policies HD1, UD1, UD2, and UD5 of the Liverpool Local Plan 2013-2033 (the LLP) insofar as they seek to ensure development preserves or enhances the historic environment and represents good design that takes designated and non-designated heritage assets into account. While Policy UD7 was also cited by the Council, this relates to extensions and alterations to existing buildings.

Trees

21. Numerous trees are present within the appeal site, particularly on the western end and lining the site boundaries. These make an important visual contribution to this part of the CA, lending a verdant feel, and are afforded protection by reason of being in the CA.
22. An Arboricultural Implications Assessment (AIA) was provided with the application. It identified the trees, including the root protection areas (RPA) for each and their distance from proposed development, citing those which would need to be removed due to the development. Of the trees to be retained, the AIA identifies encroachment from the property construction and hardstanding on the RPA of certain trees, the level of which is in all cases below 20%. A landscaping strategy proposes compensatory planting, albeit that this is illustrative at this stage.
23. However, the AIA lacks certain information. In particular, the Council has queried whether the no-dig approach would be possible when constructing the hardstanding due to the site levels, which has not been fully assessed within the AIA. Notwithstanding the outline nature of the application, these concerns have not been addressed by the appellant beyond confirming site levels. In addition, Policy GI9 of the LLP requires a draft tree protection plan as part of an AIA. Other than a method statement for the no dig surfacing, no details of

protection measures during construction for those trees to be retained at the site have been provided.

24. The trees could come under threat from future occupiers of the proposal who may seek their removal or pruning, which would alter the contribution they make to the surrounding amenity. However, by nature of their position in the CA, any such works to the trees would require consent, having to be considered by the Council in the first instance. The Council has also stated that a lack of information has been provided on the siting of underground services that could harm the RPAs of the trees, and on the mitigation planting in respect of removed trees. However, even acknowledging that landscaping is a reserved matter, had the development been acceptable in all other aspects these details could have been secured by an appropriately worded condition.
25. Nevertheless, due to the limited information within the AIA relating to protection of retained trees and the feasibility of no-dig surfacing, I cannot be certain at this stage that the proposal could be successfully implemented without significant harm to trees at the site, or that this could be adequately addressed by a condition.
26. For the reasons given, I have insufficient information to conclude that the proposal would not cause significant harm to trees. As such, it would fail to comply with Policy G19 of the LLP, which seeks to ensure the management of existing site vegetation. While the Council has also referred to Policies GI8 and GI10, these relate to green infrastructure enhancement and new planting and design, which I have confirmed could be addressed by way of condition if the proposal had been acceptable in all other matters.

Living Conditions

27. The appeal site is bound on three sides by residential development. The New Residential Development SPG advises that rear elevations of two-storey houses should normally be a minimum of 23m from other habitable room windowed elevations to achieve a reasonable degree of privacy. While this is a material consideration, it represents guidance rather than policy.
28. The main parties agree that this recommended separation distance is largely achieved. However, notwithstanding the lack of detailed information on the internal layouts of the properties and the fenestration placement, this separation distance is not achieved between rear elevations of the proposed dwellings and properties at Nos. 7-12 Elmswood Court, No. 6 Palmerston Close, Laund House and No. 35 Mossley Hill Road.
29. Nevertheless, in each case there is not a significant shortfall from the recommended distance, with many of the proposed dwellings also sitting at oblique angles to these properties. I further observed on my visit that the relevant site boundaries in these locations were lined with trees that would be retained as part of the proposal, screening views from the properties themselves and their gardens. As such, the proposal would not result in a harmful outlook or level of overlooking for residents of either the neighbouring properties or the proposed dwellings as a result of the separation distance.
30. At the centre of the site, two pairs of dwellings would be sited directly across from one another, with facing front elevations separated at a distance of some 16-18m. While this is below that recommended by the SPG, these properties

would be separated by the road passing through the cul-de-sac and it would not create a relationship that is uncommon in such a residential area. As such, even acknowledging the size of the proposed dwellings, I do not consider that this would result in harm to the living conditions of the future occupiers of these dwellings with regard to privacy.

31. In addition, while the garden depths of the proposal do not all meet the recommended level of 11.5sqm provided in the SPG, the shortfall is again not significant. Even with the presence of surrounding trees, ample amenity space remains at the properties to comfortably support the uses reasonably expected in such spaces. Accordingly, the living conditions of future residents would not be unduly impacted in this regard.
32. For the reasons given, I find that the proposal would not cause harm to the living conditions of residents of neighbouring properties with regard to outlook and privacy and of future occupiers with regard to outlook, privacy and provision of external amenity space. As such, it would comply with Policies H13, UD2, and UD5 of the LLP insofar as they seek to ensure good outlook and adequate privacy for existing and proposed development, including adequate separation distances and provision of private amenity. While Policy R1 of the LLP has also been referred to, this relates to pollution.

Other Matters

33. The appellant states that the demolition of buildings for replacement with residential uses is accepted within the area, and states that higher density development than that proposed exists within the CA. However, I have limited information on the precise nature of any other such applications which have been granted permission or their precise comparability to the proposal. In any event, each scheme is assessed on its own site specific merits.

Planning Balance and Conclusion

34. I have found that the proposal would be acceptable in terms of its effect on the living conditions of future and surrounding occupiers. This represents a lack of harm on these matters, which is neutral in the planning balance.
35. Nevertheless, I have identified harm to trees, in addition to harm caused by the loss of the non-designated heritage asset and the failure of the proposal to preserve or enhance the character or appearance of the CA, which is not outweighed by identified public benefits.
36. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR