



Appeal Decision

Site visit made on 26 April 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 22 June 2023

Appeal Ref: APP/W4325/W/22/3311639

86 Banks Road, West Kirby CH48 0RE

- 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 Stephen Carney against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/21/01070, dated 17 May 2021, was refused by notice dated 13 May 2022.
 - The development proposed is described as 'installation of extraction system'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council treated the application as retrospective development; albeit the Council indicated within the Officers Report that the plans do not match what has been installed. From my observations on site, I could not be certain that the installed extraction system was the same as the one shown on the application plans, as my view was partially blocked by a first floor terrace. My assessment is therefore based on the application plans, only. I refer to the extraction system as proposed development throughout my decision, although certain aspects may have already been installed.

Main Issue

3. The main issue of this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

4. 86 Banks Road is a restaurant with an apartment above and is located within a block alongside other commercial properties with apartments above. The proposed extraction system would be attached to the rear of the restaurant and the first floor flat above and would extend up the rear elevation beyond the chimney stack. The rear of the property accommodates a roof terrace at first floor.
5. The upper half of the proposed extraction system would be prominent in wider views towards the appeal site from Victoria Drive and Groveside, although lower sections of the flue would be partially screened by first floor terraces to the rear of properties on Banks Road.
6. The proposed extraction system would be tall and bulky and would dominate the rear elevation, particularly at the roof level. It would also be utilitarian in

appearance and whilst this may be considered acceptable in some commercial settings, in this instance it would be particularly prominent and incongruous when viewed from neighbouring residential streets against the domestic appearance of the first floor apartments.

7. The appellant has provided photos of similar developments in the area. Most of the photos show extraction systems which are much smaller or less bulky than the proposed development and are therefore materially different and more in keeping with the character and appearance of the area. Also, limited information was provided on their location and whilst some are in proximity to the site and therefore observed on my site visit, others were not. Whilst I accept that the presence of other extraction systems in the area is a material consideration, if they are not in proximity to the appeal site, they have little effect on the character and appearance of the area. Furthermore, no information was provided on whether the other examples of extraction systems were granted planning permission. I therefore cannot conclude that similar proposals have been accepted elsewhere in West Kirby.
8. The appellant has explained that a trestle screen has been attached to the existing flue by a neighbour to help screen it and they have offered to paint the flue to help it blend into the brickwork. Whilst some form of screening or painting would help visually assimilate the proposed extraction system with the building it would not overcome the harm caused by the height and bulk of the flue. Besides, screening the development would add additional bulk and could lead to greater harm to the character and appearance of the area.
9. The proposed development would have a harmful effect on the character and appearance of the area and would be contrary to Policy SH1 of the Wirral Unitary Development Plan (including minerals and waste policies), Written Statement, February 2000 (UDP). UDP Policy SH1 indicates that proposals for town centre uses will be permitted provided the siting, scale, design, choice of materials and landscaping is not detrimental to the character of the area.

Other Matters

10. Pre-application advice is provided by the Council on a voluntary, without prejudice basis and a site visit does not have to be undertaken. I acknowledge that advice has been sought from the Environmental Health Officer and a professional extraction company on the most suitable design. Nevertheless, the appearance of the proposed development would be harmful to the character and appearance of the area.
11. The appellant contends that other extraction systems along Banks Road do not meet the Council's standards, where the guidance advises that extraction should not be underneath a residential window. It is not alleged by the Council that the proposed development is contrary to its guidance on extraction systems. In any event, the appeal scheme is judged on its own planning merit.
12. I acknowledge that the appellant has made a significant effort to reduce potential smells from their restaurant and has organised an engineering agreement to maintain the proposed extraction system. Also, the Environmental Health Officer has no objection to the extraction system. I therefore consider that the proposed development would satisfactorily extract odours from the appeal site and protect the living conditions of occupiers in neighbouring properties.

13. The appellant argues that refusing permission would lead to the closure of the restaurant as a lack of an extraction system would not provide the right environment for the restaurant. However, it has not been demonstrated that there are no alternative extraction systems, that would not have a harmful effect on the character and appearance of the area, whilst providing an acceptable environment for the restaurant.
14. It is also acknowledged that the appellant has incurred a significant expense installing the existing extraction system, during a difficult economic period for the hospitality industry. However, the expense incurred does not weigh in favour or against the proposal when assessing its planning merits.
15. Local support for the restaurant outlining the benefits it provides to local business, the creation of jobs alongside boosting the overall vitality of the town centre; as well as positive comments on the renovation works to the property are all noted. However, these comments do not directly relate to the proposed extraction system which is subject to this appeal.
16. It has been highlighted within the appeal submission that a noise abatement notice has been issued and there is an ongoing dispute regarding land ownership. This appeal decision concerns the planning merits of the proposed development only and is without prejudice to any other action ongoing in relation to the appeal site and the proposed development.

Conclusion

17. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
18. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR