



Appeal Decision

Site visit made on 13 June 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Appeal Ref: APP/B4215/W/23/3315283

30 Melling Street, Manchester M12 4PH

- 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 Kawa Hussain against the decision of Manchester City Council.
 - The application Ref 134993/FO/2022, dated 20 September 2022, was refused by notice dated 10 January 2023.
 - The development proposed is erection of two number new dwellings in the grounds of the existing property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of 28 and 30 Melling Street with particular regard to outlook and light.

Reasons

3. The appeal site previously formed the side and part of the rear garden of 30 Melling Street, one of a pair of semi-detached dwellings with small front gardens. The site forms a gap between a row of terraced properties, and its associated narrow shared side and rear access, and the semi-detached dwellings. The terraced dwellings are sited directly to the rear of the pavement.
4. The proposal would introduce a 2.5 storey building that would extend beyond the rear elevations of the nearest terraced property, 28 Melling Street, and 30 Melling Street. The statement of case submitted by the appellant includes shadow paths. This shows that the garden of No 28 and 30 would experience some overshadowing from the proposal but suggests this is not to the extent that it would be unacceptable. I have not been presented with any adopted guidance to assess the impact of the proposal on daylight and sunlight or any alternative evidence which would lead me to conclude that the proposal has an unacceptable impact in this regard. I also note that overshadowing and loss of light to these properties was not expressly referred to by the Council in their reason for refusal. I therefore consider that the impact of the proposal on the living conditions of neighbouring occupants would be acceptable with regard to loss of light.

5. The Council has raised concerns that the presence of the proposed side facing windows would give rise to a sense of intrusion which would detract from the occupants of No 28 and 30 enjoyment of their gardens. However, should planning permission be granted a condition could be imposed to require such windows to be fitted with obscured glazing and non-opening below 1.7m above the floor, which would prevent any overlooking and loss of privacy.
6. I acknowledge that the proposal would be viewed at an oblique angle from the rear facing windows of the adjoining properties, and that the upper floor levels are set back at the rear. Nonetheless, given the scale, position and proximity of the proposed building it would have a substantial enclosing and dominating effect on the outlook from the rear facing windows and gardens of both adjoining properties. The impact on the rear windows and the garden of No 28 would be particularly significant given that the proposed building extends some distance beyond its rear boundary before it steps down to single storey in height. Consequently, the proposal would create an unacceptable visual intrusion which would be detrimental to the enjoyment of the rear garden of these properties, and unacceptably affect the outlook from their rear windows.
7. Accordingly, I conclude that the proposed development would cause significant harm to the living conditions of the occupiers of 28 and 30 Melling Street with particular regard to outlook. As such, it would conflict with Policy DM1 of the Manchester Core Strategy Development Plan Document, insofar as it seeks to ensure development has regard to effects of amenity. It would also conflict with the residential amenity aims of paragraph 130 of the National Planning Policy Framework (the Framework).

Other Matters

8. The appellant outlines that the proposal would make more effective use of land than a proposal for a single dwelling, and that higher density development is encouraged in inner city areas. The proposal would also add to the mix of residential units in the area. Whilst I attribute these benefits modest weight in the overall planning balance, they do not outweigh the harm to the living conditions of the adjoining occupants that I have identified above.
9. I note that the proposal reducing the burden of maintaining such a large garden, and that the garden that would remain for No 30 would be appropriate in scale. In addition, I note that the Council has raised no objections to the proposal with regard to design, parking or security concerns and based on the information before me and my observations on site, I have no reason to disagree. However, these are neutral factors that do not weigh in favour of the proposal.
10. I note that some of the representations received during the application process refer to flats, a materially different proposal to that considered in this appeal, which raises the question as to whether they have had sight of the appeal proposal. This does not, however, alter my view on the planning merits of the appeal scheme which I consider is unacceptable for the reasons set out above.
11. The appellant has raised concerns with the Council's handling of the planning application, however that is not relevant to my findings on the planning merits of the scheme.

Conclusion

12. 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.
13. For the reasons given above the appeal should be dismissed.

Elaine Moulton

INSPECTOR