



Appeal Decision

Site visit made on 7 June 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 26 July 2023

Appeal Ref: APP/Z4310/W/22/3311132

33-41 Stafford Street, Liverpool L3 8LG

- 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 G Chu against the decision of Liverpool City Council.
 - The application Ref 21F/1393, dated 11 May 2021, was refused by notice dated 11 May 2022.
 - The development proposed is redevelopment and partial change of use for derelict building. New shop front and internal works to form 4no. retail units at ground floor level with new stepped access to individual units. Conversion and extension, including additional storey, of upper levels to provide 4no. three bed flats and 6no. two bed flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The council requested the provision of commuted sums from the appellant. The intention to make this request was not highlighted within either the Case Officer Report or the council's Appeal Statement, nor was the lack of a provision highlighted as a reason for refusal. This request was made after the submission deadline of the Appeal Statement.
3. In the interest of effective and efficient administration of appeals there are time limits for submission of documents. The request for commuted sums was new evidence submitted after the submission deadline. Whilst I acknowledge the Council's request, as the need for commuted sums was not detailed within the application documents or as one of the reasons for refusal, accepting this request would have caused prejudice to the appellant as they would not have had an opportunity to respond. For these reasons, I have not accepted this request.
4. The description of development detailed in the banner above is taken from the application form. During the determination of the application the appellant amended the scheme to include three retail units, instead of four. As I have no evidence of a written agreement between the parties on a new description of development, I have kept the description of development from the application form. Nevertheless, the Council determined the application as three retail units and 10 residential apartments, and therefore so have I.

Main Issues

5. The main issues of this appeal are:

- the effect of the proposed development on the character and appearance of the existing building and surrounding area; and,
- whether the proposed development would provide adequate access for all users.

Reasons

Character and appearance

6. The appeal property is located between Stafford Street and Rimmer Street. Stafford Street is a tree-lined road with wide footpaths and parking on either side of the road, it accommodates several shop frontages. In contrast, Rimmer Street is a narrow road which includes very limited footpaths, it largely accommodates service entrances to the retail units which front Stafford Street.
7. Rimmer Street connects with Craven Street, which in turn accommodates a large apartment block. The apartment entrances on Craven Street also appear to be secondary or service entrances. This further establishes the back land character of the area around Rimmer Street. These streets are very quiet and low trafficked and therefore they appear as secondary streets compared to the main roads of Stafford Street, Kempston Street and London Road.
8. Some neighbouring properties accommodate multistorey extensions which front on to Rimmer Street and extend slightly above the eaves of their pitched roofs. Whilst the extensions include flat roofs, the neighbouring properties have largely maintained their pitched roofs over the original building. Albeit, the neighbouring building accommodates a roof extension that protrudes from the pitched roof but does not cover the full width of the roof.
9. The appeal property includes a single storey extension to the rear, which is in a state of disrepair and when I was on site it did not include a roof. Notwithstanding its current condition, the appeal property is a good example of the traditional warehouse style buildings in the area.
10. The proposed development includes a multi-storey extension which would be built up to Rimmer Street and extend significantly above the eaves of the original building, close to the ridge and across the whole roof. The proposed development would include a residential access on Stafford Street alongside three accesses to the retail units, two of which would be the existing accesses retained. It would also include six new accesses to Rimmer Street but each of these would be either an emergency exit or servicing access.
11. The proposed extension would be much taller and larger than most neighbouring extensions. As it would extend close to the ridge and across the whole extent of the roof, from ground level the original pitched roof would be largely screened. As above, the extended sections of the buildings within the block accommodate flat roofs, but the pitched roofs over the main section of the building are still largely visible from street level, along sections of Rimmer Street and Craven Street closest to the A580. The proposed development would screen the pitched roofs of the neighbouring properties as well as the existing building. This would confuse the legibility of the surrounding area, as it could make the original building appear as though it is double fronted.
12. Given the height, massing and siting of the proposed extension, it would appear dominant on the existing building and would be incongruous when compared to neighbouring smaller extensions. The harmful effect of the

proposed development is amplified by the prominent position of the building close to the A580.

13. Whilst the proposed extension would be significantly shorter than the apartment block opposite, it would add significant bulk to the rear of the building, and the proposed extension would dominate the existing building and its block. As the accesses onto Rimmer Street would only be secondary entrances, the dominance of the proposed extension on the appeal property would confuse the townscape legibility and would be incongruous to the back land character of the area and harm the appearance of the building.
14. It is acknowledged that the draft tall building policy would support development of buildings up to five storeys in height and the new apartment block opposite is much taller. Nevertheless, I have not been provided with evidence on whether the policy has now been adopted, and if so, whether the wording has been amended or, if it is not adopted, how close the draft policy is to being adopted. For these reasons, I can only give very limited weight to the draft policy.
15. The improvement to the appeal property's frontage on Stafford Street would be a benefit of the scheme. Likewise, the extension and conversion from offices to apartments could increase activity and improve natural surveillance over the back land area. Nevertheless, these benefits would not overcome the harm caused by the proposed rear extension to the character and appearance of the area.
16. I conclude that the proposed development would have a harmful effect on the character and appearance of the host building and area. The proposed development would be contrary to policies UD1, UD7 and CC24 of the Liverpool Local Plan 2013-2033 (LP), January 2022. These policies require development proposals to demonstrate that the form, scale, and proportion within buildings has been taken into account; extensions to existing buildings should ensure that the form, scale and proportion of the existing building is considered; and new residential development in the city centre should reflect and enhance the character and function of the surrounding area.

Accessibility

17. LP Policy H12 requires all new housing development to make reasonable provision in all new build homes, for people to gain access to and use the dwelling and its facilities, and the provision must be sufficient to meet the needs of occupants with differing needs.
18. LP Policy UD4 indicates that development proposals, including extensions and alterations, for any building that the public may use, will be required to provide safe, easy, and inclusive access for all people.
19. The proposal includes the retention of two stepped accesses to retail units 1 and 3 from Stafford Street, and two additional accesses, one for the apartments and one for retail unit 2, which could accommodate internal ramps.
20. Given the provision of an internal ramp I consider that the proposed access to the residential apartments would be able to be accessed by people with differing needs. For these reasons, the proposed development would comply with LP Policy H12.

21. I also consider that the proposed access to retail unit 2 could provide safe, easy, and inclusive access for all people, if an internal ramp was secured by condition. Notwithstanding, it is acknowledged by both parties that the accesses to retail units 1 and 3 do not provide safe, easy, and inclusive access for people with mobility impairments or those with prams. For these reasons, the proposed development does not comply with LP Policy UD4.
22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (the Act) states *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise."* This approach is reiterated within paragraph 12 of the National Planning Policy Framework (the Framework), which indicates that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations indicate that the plan should not be followed.
23. It is accepted by both parties that the retail units would not require planning permission for the internal alterations or to operate as a retail unit. As such, retail units 1 and 3 could reopen without amending the existing access arrangements. This is a clear material consideration in favour of the appeal proposal.
24. The proposed development would therefore not lead to a worsening of the existing circumstances and would provide appropriate access to some parts of the building which is not currently accessible to all users.
25. In this instance, the material consideration detailed above, leads me to a decision which is at odds with a development plan policy. However, this approach is consistent with Section 38(6) of the Act and paragraph 12 of the Framework.
26. I have had due regard to the Public Sector Equality Duty set out under s149 of the Equality Act 2010. As the proposed development provides an improvement on the existing situation the proposed development, itself, would not lead to discrimination against people with protected characteristics, it would advance equality of opportunity for those people and foster good relations between them and others.
27. Whilst I conclude that the proposed development would not provide adequate access for all users, it would lead to an improvement on the existing access arrangements. The proposed development would not accord with LP Policy UD4 for the reasons given above. It would also not accord with the advice contained within the Design for Access for All Supplementary Planning Document, which indicates that the approach from the parking area to the entrance should be level, ramped or where necessary, accessible by the use of dropped kerbs. However, the proposed development would comply with LP Policy H12 and the Framework. Accordingly, I do not believe the appeal should be dismissed in respect of this matter.

Other Matters

28. The support from a local councillor for a ground floor retail unit in this location to improve the appearance of and attract activity toward Stafford Street is acknowledged. Similarly, the reuse of a vacant building and development of previously developed land, provision of cycle parking, accessibility of local

services and amenities for future residents and improved thermal efficiency of the building are all benefits of the scheme. Nevertheless, they do not alter my conclusion on the overall acceptability of the scheme.

Conclusion

29. 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 to the character and appearance of the building and surrounding area.
30. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR