



Appeal Decision

Site visit made on 19 July 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2023

Appeal Ref: APP/Z4310/W/23/3315194

118 Empress Road, Kensington, Liverpool L7 8SF

- 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 Mr J Stockwell of Crockwell Properties Ltd against Liverpool City Council.
 - The application Ref 22F/2745, is dated 11 October 2022.
 - The development proposed is erection of a two-storey extension and single-storey extension to the rear, 2 no. roof lights to front elevation and 2 no. roof lights to rear elevation.
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Decision

1. The appeal is allowed, and planning permission is granted for erection of a two-storey extension and single-storey extension to the rear, 2 no. roof lights to front elevation and 2 no. roof lights to rear elevation at 118 Empress Road, Kensington, Liverpool L7 8SF in accordance with the terms of the application, Ref 22F/2745, dated 11 October 2022, and the plans submitted with it.

Preliminary Matters

2. The proposed development was complete at the time of my visit, so I have treated the appeal as being retrospective. When visiting the site, I saw that the internal layout is not in accordance with the submitted plans, but the difference is minor and not material to my consideration of this case. For the avoidance of doubt, I have referred to the submitted plans in my decision above.
3. As the proposal is in a conservation area, I have had regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. I note that the application describes the existing use as a small HMO. However, according to the Council, no planning permission exists for such a use. The Council has indicated that owing to the imposition of an Article 4 Direction in this area, planning permission would be required to change from the established use of the property as a dwelling house (use class C3) to a small HMO (C4). However, that is a separate matter and does not affect my consideration of this appeal.

Background and Main Issues

5. The appeal is made against the failure of the Council to determine the planning application within the prescribed period. The Council states that had it determined the planning application, it would have approved it, subject to conditions.

6. Having regard to the evidence submitted, including the concerns of interested parties, the main issues in this appeal are the effect of the proposal upon:

- the character and appearance of the host property, and whether it preserves or enhances the character or appearance of the Kensington Fields Conservation Area; and
- the living conditions of neighbouring and future occupiers.

Reasons

Character and appearance

7. The appeal site is a mid-terrace property located within the Kensington Fields Conservation Area (CA). The CA is characterised by long rows of two storey terraced properties with angled bays, shallow frontages and small rear yards in a grid pattern. The architectural consistency of the terraces and the extent to which original features have been retained contributes to the significance of the CA as a typical example of late 19th century terraced housing.
8. The proposed rear extensions are of the same width as the rear outrigger. The design, heights and depths of the extensions accords with other rear extensions in the area, and it is clear that they do not result in the overdevelopment of the site. While the extensions include a flat roof element, it has a fairly modest projection. The use of matching materials ensures that the proposal does not harm the character or appearance of the CA, nor its host. The conservation style rooflights to the front and rear roof slopes are not uncommon to the area, and they are of an acceptable design and position.
9. Overall, I find that the development is of a scale and design that does not undermine the character and appearance of its host, nor does it undermine the significance of the CA.
10. In reaching this view, I have had regard to an appeal decision¹ for a similar proposal on the same street, which was allowed. While I am not bound by other decisions, and I have considered the appeal before me on the basis of the evidence submitted and my own observations, my conclusion on this main issue is consistent with the previous appeal decision.
11. I therefore conclude that the proposal is sympathetic to the character and appearance of the host property; and it preserves the character and appearance of the Kensington Fields CA, and its significance as a designated heritage asset.
12. The proposal meets the statutory test as set out in the Act, and accords with Policies H7, H8, HD1, UD1 and UD7 of the Liverpool Local Plan 2013-2023 (2022). Taken together, these policies seek (among other things) to ensure that development proposals are of high-quality design, protect the character of the building and the area, and conserve the significance of designated heritage assets.
13. The proposal accords with paragraph 189 of the National Planning Policy Framework (the Framework), which seeks to ensure that heritage assets are conserved in a manner appropriate to their significance.

¹ APP/Z4310/W/21/3289497

Living Conditions

14. Interested parties originally objected to the planning application on the grounds that it would negatively impact residential amenity, but without further clarification. During my visit, it was clear that extensions of a similar scale were common to the area, and I found no reason to consider that the living conditions and/or residential amenities of neighbouring, existing and/or future occupiers has been unacceptably harmed by the proposal.
15. I therefore conclude that the proposal accords with Policies H7, H8 and UD7 of the Liverpool Local Plan 2013-2023 (2022). Taken together, these policies seek (among other things) to ensure that development proposals protect the living conditions of existing and neighbouring residents, and do not adversely harm residential amenity.

Other Matters

16. Matters pertaining to the handling of the planning application by the Council, or any other planning applications made by the appellant falls outside of my authority to address in determining this appeal.

Conditions

17. I have considered the conditions suggested by the Council and comments from the appellant, and in light of the Framework and Planning Practice Guidance.
18. I have already referenced the plans submitted with the planning application in my decision, and therefore a separate condition is unnecessary. As the development has already commenced, a condition specifying the time limit for commencement is not necessary. I am satisfied that the external materials match those existing, and therefore such a condition is not necessary.
19. I am also satisfied that the rooflights, now installed, are of a design in keeping with those in the wider area and within the CA, and thus a condition seeking approval prior to installation is not necessary. Furthermore, a condition seeking their retention is unnecessary as the plans detail the rooflights to be conservation style, and as such, this matter would be enforceable.

Conclusion

20. For the reasons given, the development accords with the development plan, when read as a whole, and the Act. No other considerations, including the Framework indicate otherwise. Therefore, the appeal should succeed.

J Moore BA (Hons) BPL MRTPI

INSPECTOR