
Appeal Decision

Site visit made on 22 February 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2024

Appeal Ref: APP/Z4310/W/23/3328671

95 Hartington Road, Liverpool L8 0SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by JSC Properties NW Ltd against the decision of Liverpool City Council.
 - The application Ref 22F/2707, dated 20 March 2023, was refused by notice dated 2 June 2023.
 - The application sought planning permission to erect three storey extension to the side in connection with the conversion of the property from 5 flats into a 2no x 5bed HMO and a 1no x 4 bed HMO without complying with a condition attached to planning permission Ref 19F/0481, dated 12 August 2019.
 - The condition in dispute is No 2 which states that: *The development hereby approved shall be carried out in accordance with the following drawings and documents:*
 - (i) *Drawing Numbers*
 - Drawings 1 of 3 Rev A, received 25/4/19.*
 - Drawings 2 of 3 Rev B (July 19) received 2/7/19.*
 - Drawings 3 of 3 (excluding cycle parking detail)*
 - (ii) *Supporting Documents*
 - Design and Access Statement.*
 - The reason given for the condition is: *For the avoidance of doubt.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (Framework) was published in December 2023. I have had regard to this in reaching my decision.

Background and Main Issue

3. The development as described above has been constructed otherwise than in accordance with the approved plans, including the facing materials that have been utilised and in terms of the fenestration design. The appellant sought to modify a condition to reflect the development as constructed.
4. The main issue is whether varying condition 2 would preserve or enhance the character or appearance of the Toxteth Park and Avenues Conservation Area (Conservation Area).

Reasons

5. The appeal building is a semi-detached property that is situated in an area that is formed of two and three storey properties which are set back from the highway on generally uniform building lines. There is variation in the style and design of properties in the area, but the architectural detailing and the consistent materials palette on groups of properties combine to positively contribute to the significance of the Conservation Area.
6. The extension has been constructed in facing materials which do not match the existing building. The texture and the shade of the brick appears incongruous against the original materials of this pair of semi-detached properties. Although the appellant does not consider the extension to be overtly harmful, it fails to replicate the high-quality materials that characterise the Conservation Area. Rather than appearing as a complimentary, contemporary addition, the use of poorly matching materials results in the extension failing to assimilate with the existing building and jarring in its appearance with the wider surroundings.
7. The windows on the front elevation of the extension are not aligned with those on the front of the existing building, and the taller first floor window has created an imbalance with the ground floor window on the same front elevation. Both these windows to the front are not set back in their reveals and appear flush on this elevation. These factors, together with the omission of the horizontal banding has resulted in the extension having a plainer, unbalanced appearance when seen against the existing main building.
8. The appellant has referenced the significant erosion to the original character of the Conservation Area. However, the designation of the Conservation Area is intended to provide protection against further unsympathetic changes. The facing materials are a significant positive contributor to the character and appearance of the Conservation Area, as is the architectural detailing on properties. As such, for the reasons set out, the development as constructed has a harmful effect on the significance of the Conservation Area.
9. I therefore conclude that the proposal fails to preserve the character and appearance of the Conservation Area. In terms of the Framework, I assess the harm to be less than substantial. Even so, great weight should be given to an asset's conservation. Paragraph 208 of the Framework advises that the harm should be weighed against the public benefits of the proposal.
10. The appellant has set out that the proposal would provide much needed affordable accommodation and make optimal viable use of land and buildings. The approved development¹ would however also provide these benefits and as such, this amounts to a public benefit of limited weight.
11. Consequently, the public benefits that would arise from the proposal do not outweigh the harm that would be caused to the heritage asset, to which the Framework states great weight should be afforded. Accordingly, the proposal conflicts with the Framework in terms of its aims to sustain and enhance the significance of heritage assets.
12. As such, the appeal development would conflict with Policies UD1, UD7 and HD1 of the Liverpool Local Plan 2013-2033, which seek, amongst other matters proposals which conserve the historic environment.

¹ LPA Ref 19F/0481

Other Matters

13. Reference has been made by the appellant to international guidance² on assessing harm towards a particular heritage asset. This is however intended to provide guidance on commissioning Heritage Impact Assessments on World Heritage sites, which the appeal site is not within.
14. My attention has been drawn to developments at 93 and 117 Hartington Road where the extensions have a visually distinct appearance to the original properties. Although both of these were approved following the designation of the Conservation Area, these developments were considered in a different policy context. In any event, I am not persuaded that the presence of these extensions provide support for the appeal development which is harmful for the reasons set out.

Conclusion

15. For the reasons given above the appeal should be dismissed.

F Rafiq

INSPECTOR

² International Council on Monuments and Sites (ICOMOS) Guidance on Heritage Impact Assessments for Cultural World Heritage Properties