



Appeal Decision

Site visit made on 16 April 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2024

Appeal Ref: APP/Z4310/W/23/3327925

59 Granby Street, Liverpool L8 2TU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Osama Mufti against the decision of Liverpool City Council.
 - The application Ref is 22F/0537.
 - The development proposed is a timber pergola roof to external side of premises at 59 Granby Street and location of two storage containers to footpath on opposite side of Northbrook Street.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed superfluous text from the description of development in the banner heading above as it does not constitute development.
3. Since the appeal was lodged, a revised National Planning Policy Framework has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

Main Issues

4. The main issues are the effect of the proposal on: (a) the character and appearance of the surrounding area, including the loss of existing trees; (b) highway safety; and (c) the living conditions of the occupiers of neighbouring properties, with particular reference to noise and disturbance.

Reasons

Character and Appearance

5. The appeal relates to an existing business to the rear of 59 Granby Street that is accessed from Northbrook Street. The planning history indicates that the premises is permitted as a hot-food takeaway, while the appellant suggests that it is used as a restaurant. Northbrook Street is a relatively short section of road with pavements to either side and double gates at the end providing access into the adjacent school grounds. A timber open-sided pergola with outdoor seating would be constructed along the pavement adjacent to No 59, while two metal storage containers be used for storage, an office and a street food service would occupy the pavement on the opposite side of the road.
6. No 59 forms part of a three-storey block consisting of commercial uses to the ground floor and residential uses above. On the opposite side of Granby Street

are terraced dwellings. The buildings in the surrounding area are predominantly constructed of brick/render with tiled pitched/hipped roofs. The proposed pergola and storage containers would be highly prominent from Northbrook Close and Granby Street and their scale, design and materials would appear incongruous within the surrounding area.

7. There are two trees planted within the pavement adjacent to No 59. One has been reduced to a stump and does not contribute to the visual amenity of the surrounding area. The other has been pollarded but has re-grown. It is highly visible from Granby Street and Northbrook Close and enhances the area's visual amenity. The siting of the proposed pergola would result in the loss of the tree and consequently, it would harm the character and appearance of the surrounding area.
8. An Arboricultural Survey¹ was submitted, however, the author of the report and their qualifications are not provided, nor does it include a tree survey schedule or a tree constraints plan. Consequently, I am unable to determine whether there is sufficient justification for the loss of the tree and, from the information before me, I am not persuaded that the proposal could not be designed to co-exist with the existing tree. Even if the loss of the tree could be supported, compensatory planting would be required. The appellant asserts that it would be provided off-site, but I do not have a mechanism before me to secure it.
9. In reference to the first main issue, the proposal would harm the character and appearance of the surrounding area, including from the loss of an existing tree. It would therefore conflict with Policies GI9, UD1, UD2 and H7 of the Liverpool City Council Liverpool Local Plan 2013-2033, adopted 2022 ('LP') which, amongst other things, seek to protect and integrate existing trees with new development, seek to ensure materials are appropriate to the characteristics of the surrounding area, and the form, scale and massing of the development is appropriate to its context.

Highway Safety

10. Northbrook Street is a short length of highway which, amongst other things, is used for on-street parking. It has not been demonstrated that the access into the school grounds is not utilised. The proposed pergola and storage containers would obstruct the pavement forcing pedestrians to walk on the road. Furthermore, the siting of the seating area on the opposite side of the road from the street food service would encourage customers to cross or congregate on the road. While vehicle speeds would likely be low, the proposal would result in conflict between pedestrians and vehicles.
11. In reference to the second main issue, the proposal would harm highway safety. It would therefore conflict with Policy TP6 of the LP which, amongst other things, seeks to ensure that development proposals demonstrate best practice in design for pedestrians and ensure that routes are safe.

Living Conditions – Noise and Disturbance

12. At the time of my site visit, two picnic benches were positioned outside the premises on part of Northbrook Street. However, I am unaware of the planning history surrounding the siting of these tables, and whether planning permission has been obtained or is indeed required. The appellant asserts they have a

¹ Arboricultural Method Statement and Assessment, dated 14 March 2022 – author unknown.

pavement café licence. However, this is a separate regulatory regime and does not negate the requirement for planning permission and the landowner's consent to be obtained before the use can commence. Furthermore, the picnic benches witnessed on my site visit were positioned on the road rather than the pavement. Notwithstanding this, the limited number of covers generated from the two picnic benches would unlikely lead to significant levels of noise and disturbance.

13. I have not been provided with details of the number of covers that would be provided or how the street food service would operate. However, it is clear from the scale of the proposed pergola that a large number of tables could be positioned beneath it. Consequently, the proposal would result in a significant intensification of outdoor seating for the consumption of food and drink which would generate a considerable level of noise and disturbance that would be perceptible to the occupiers of the surrounding dwellings. The serving of food and drink and the use of the seating area could be limited to specific times by condition. However, it would prove difficult to prevent customers and locals from congregating under the pergola outside of these times, due to its open-sided design.
14. In reference to the third main issue, the proposal would harm the living conditions of the occupiers of neighbouring properties, with particular reference to noise and disturbance. It would conflict with Policies H7 and SP4 of the LP which, amongst other things, seek to grant planning permission provided there is no adverse impact on residential amenity in terms of noise and customer activity.

Other Matters

15. The appellant asserts that the proposal would increase the vibrancy and usefulness of the neighbourhood and would attract more visitors to the area. However, this would not outweigh the harm I have detailed above. While the proposal could reduce fly tipping on the road, I am not persuaded that this could not be achieved by a less harmful form of development or alternative measures. A lack of representations from interested parties does not infer no objection to the proposed development. I acknowledge the appellant's concerns regarding the Council's handling of the planning application. However, this has not prevented me from determining the appeal proposal.
16. The site edged red, as shown on the submitted drawing, does not include the land on which the proposed development would be sited. However, as I am dismissing the appeal, I do not need to address this matter further.

Conclusion

17. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR