



Appeal Decision

Site visit made on 23 April 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2024

Appeal Ref: APP/G4240/W/23/3330565

298 Mossley Road, Ashton-under-Lyne OL6 6LP

- 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 RA Project 2X Ltd against the decision of Tameside Metropolitan Borough Council.
 - The application Ref is 23/00091/FUL.
 - The development proposed is change of use of existing vacant office floorspace (Use Class E) to a large house in multiple occupation (Use Class Sui Generis) incorporating 12 bedrooms/12 occupants with kitchen and communal living space and associated cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the Council's decision notice. From the evidence before me the appellant has agreed to the amended description following the submission of revised plans. I have therefore used the amended description of development in assessing the proposal.

Main Issues

3. The main issues are:
 - whether or not the proposed development would provide appropriate living conditions for the future occupiers of the property, with regard to internal living space;
 - whether or not the proposed development would provide appropriate living conditions for the future occupiers of the property, with regard to external space; and
 - whether or not the proposed waste storage arrangements comply with local policy and guidance.

Reasons

Living conditions of future occupiers – internal space

4. The appeal site is a two-storey building, with rooms in the roof, located on the corner of Mossley Road and Caroline Street. The frontage faces Mossley Road and there is a two-storey rear projection along the back of the pavement on Caroline Street. From the evidence before me it was most recently used as offices but was vacant at the time of my visit. The property has a small area to

the front, enclosed in a low wall and hedge, and a small yard to the rear enclosed in close boarded fences.

5. The building is attached to 296 Mossley Road but the adjoining building is smaller in footprint, height and massing and also has less features. The immediate area around the property is mixed residential and commercial.
6. Both main parties have drawn my attention to a prior approval at the appeal site for conversion of the existing building to six self-contained apartments¹ (the fallback scheme). This previous prior approval is a valid fallback position and there is a very realistic possibility that the development as approved would take place should the appeal before me fail. I have, therefore, given substantial weight to the fallback scheme in considering this appeal.
7. Internally the proposal would provide bedrooms of sufficient size for single occupancy and are all provided with en-suite bathrooms. The principle of converting the property to residential is supported and would provide for the re-use of a vacant building and provide additional accommodation. Although no built-in storage is shown on the plans there would be space within each bedroom for this to be provided.
8. A kitchen/dining room is proposed on the ground floor with a single window facing into the rear yard. At first floor the proposal would include a living room at the front of the building.
9. Policy H10 of the Tameside Unitary Development Plan Written Statement, adopted 2004 (UDP) seeks to ensure that, amongst other matters, the layout of a development meets the needs of the potential occupiers. The adopted planning policies do not specify any internal space standards for shared rooms. However, the policies do seek to ensure that development provides reasonable living conditions.
10. The appellant has referred to the Tameside Metropolitan Borough Landlords Guide to Houses in Multiple Occupation (HMOs), amended July 2019 (the HMO Guide) and contends that the development would meet the standards set out. Although not a planning policy document the HMO Guide is produced by Tameside Council and is therefore a useful guide. The bedrooms would all comply with the HMO guide.
11. However, although shared facilities are proposed within the scheme the ground floor kitchen is shown with only one short wall of kitchen units and one cooking facility. From the evidence before me, although the kitchen would exceed the minimum floor area set out in the HMO Guide, the kitchen would not provide sufficient worktop space or cupboard space to comply with the advice at page 14 of the HMO Guide. Furthermore, the ground floor kitchen would be more than one floor distant from the bedrooms in the roof space.
12. The kitchen would be served by a small window which would look out onto the small yard area at the rear of the property and has no other external walls. This window is enclosed by the two-storey rear section of the appeal property and the two-storey rear section of the adjacent property. Although it would be over 10m from the property at the rear, the proposal before me includes providing enclosed cycle storage and waste storage facilities within the rear yard. The proposed development would, therefore, bring built structures close

¹ Council reference 23/00099/P3N

to this small window. The outlook from this window would be of the adjacent walls and the cycle store.

13. The proximity of the walls would also severely limit daylight to the kitchen. Although better than the previous proposal to locate the shared facilities in the basement space, the kitchen would have a poor outlook and restricted daylight. Overall, this room would not provide appropriate living conditions for the future occupants.
14. The first floor living room would provide an additional shared facility which would improve the living conditions of the future occupants but would not mitigate the harm from the poor kitchen facilities. That the bedrooms exceed the minimum required in the HMO Guide also would not mitigate the harm from the poor kitchen facilities.
15. The fallback scheme is materially different to the appeal before me in this regard as each apartment is provided with its own kitchen and living room. The total amount of kitchen and living space is substantially greater in the apartment scheme. The fallback scheme is, therefore, less harmful than the appeal scheme before me and would not justify the appeal proposal, which would cause greater harm to the living conditions of the future occupants.
16. The approved scheme at 71 Ryecroft Street² provides accommodation over two floors and significantly more kitchen facilities with more windows than the appeal before me. The approved scheme at 105 Nelson Street³ proposes less shared internal space overall but a larger and more functional kitchen area with more kitchen facilities. The two schemes referred to by the appellant are, therefore, materially different to the appeal proposal and are not directly comparable.
17. The poor kitchen facilities and the effect on the living conditions of the future occupants from the lack of outlook and daylight to the kitchen, would not provide appropriate living conditions for the future occupiers of the property, with regard to internal living space. The development would, therefore, be contrary to Policies 1.5 and H10 of the UDP which, taken together, seek to ensure that development promotes quality of life and is of high quality which meets the needs of the potential occupiers.
18. For the same reasons, the proposal would be contrary to the National Planning Policy Framework (the Framework), which, amongst other matters, aims to ensure safe and healthy living conditions for future occupiers and a high standard of amenity for future users.

Living conditions of future occupiers – external space

19. With regard to external space, Policy RD11 of the Tameside Residential Design Supplementary Planning Document, March 2010 (the SPD) requires all development to have access to functional, enclosed amenity space, whether communal or private. Policy RD12 of the SPD requires communal areas to be private spaces for residents which enable multi-resident use.
20. Although the supporting advice for Policy RD11 advises that the standards will be applied to ensure new build dwellings provide sufficient outdoor space,

² Council reference 22/00419/FUL

³ Council reference 23/00123/FUL

policy RD12 does not distinguish between new build or conversion schemes. Moreover, the SPD relates to all new residential development and seeks to promote high quality design in residential developments. I have assessed the proposal against RD11 and RD12 as the most appropriate policies relating to the proposed development. However, I have also considered the requirements of the UDP policies.

21. The proposed external space is of a similar size to the approved scheme at 71 Ryecroft Street. However, the layout of the space proposed at 298 Mossley Road would be constrained by its shape and size and the size of the refuse and cycle storage proposals. The remaining space between the cycle store and the kitchen window in the rear elevation would be very limited. It would also be between the two storey walls of the existing building and the two-storey wall of the neighbouring property. The space would not be functional external amenity space for residents to use as amenity space. Due to its size, it would also not enable multi-resident use.
22. The appellant has drawn my attention to nearby areas of open and green space. I visited all three spaces referred to. The Memorial Gardens is a green area with trees, paths and benches but is not a space for recreation. It is enclosed by roads and provides paths and benches which the future occupants of the appeal property could use for sitting out but not for any other activity.
23. Bank Top Field and King George V Playing Fields are both open green spaces that would provide recreation space, as well as areas for sitting out. However, both of these are further from the appeal site than the appellant asserts. It is highly unlikely that the future occupants of the appeal property would walk to either Bank Top Field or King George V Playing Fields on a regular basis.
24. For these reasons, the lack of external amenity space at the appeal property would result in harmful living conditions for the future occupants of the scheme and this harm is not mitigated by the provision of public open spaces nearby.
25. The lack of functional amenity space at the property would not provide appropriate living conditions for the future occupiers of the property, with regard to external space. The development would, therefore, be contrary to Policies 1.5 and H10 of the UDP and Policies RD11 and RD12 of the SPD which, taken together, seek to ensure that development promotes quality of life, is of high quality which meets the needs of the potential occupiers, provides access for all residents to functional, enclosed amenity space which is attractive, private, and secure and which enables multi-resident use.
26. For the same reasons, the proposal would be contrary to the Framework.

Waste storage

27. Waste storage facilities would be provided within the rear yard of the appeal site. A refuse storage area is shown on the submitted plans showing four waste receptacles just below the dimensions for Eurobin 500 set out in Policy RD14 of the SPD. The appellant could, alternatively, provide three Eurobins and two standard wheelie bins within the same space to enable a wheelie bin for food waste.
28. The Council Environmental Services Officer in their consultation response accepted that for a weekly collection service four bins would be sufficient and

that, irrespective of whether the waste is collected weekly or fortnightly, a trade contract would be required.

29. The proposed plan shows sufficient bin storage space is available within the rear yard to provide for four bins and for weekly collection services as set out in the Officer report. I have no substantive evidence that there is insufficient space for this facility. I have also had regard to the scheme approved at 71 Ryecroft Street where less refuse storage is shown.
30. It would be for the property owner to ensure that a trade contract is provided, and that the collection of waste occurs for the lifetime of the development. Although the quote from Better Waste Solutions does not provide sufficient waste bins, as required by the Council, or as shown on the proposed plans, this is a commercial matter between the appellant and the contractor. It is not for me to secure the business arrangements for such a trade contract and a condition to require a trade contract would not meet the tests for conditions, as set out by the Council. The proposal would provide an appropriate amount of space for the storage of waste, and I have no substantive evidence that the development would result in waste spilling out onto the pavement and highway of Caroline Street or Mossley Road.
31. Consequently, I find that the waste storage arrangements as proposed would, therefore, comply with local policy and guidance set out in Policy RD14 of the SPD which seeks to ensure that bin stores are large enough to store all the bins required by the development. With regards to the design and size of the refuse storage area I also find no conflict with the guidance in the Framework.

Planning Balance and Conclusion

32. Both main parties agree that the Council is unable to demonstrate a five-year housing land supply. Paragraph 11(d) of the Framework therefore applies. In this case there are no specific policies in the Framework relevant to footnote 7 which indicate that development should be restricted.
33. The proposal would accord with paragraph 60 of the Framework which seeks to significantly boost the supply of housing. I also acknowledge there would be general social and economic benefits, as supported by the Framework, and broad support for re-use of existing buildings. These benefits contribute positively and carry moderate weight in favour of the proposal.
34. The site is close to shops, services, and public transport links and has a Greater Manchester Accessibility Level of 7. However, the economic benefits of the location of the site are limited and would be the same for the approved fallback scheme.
35. There would be environmental impacts in terms of the harmful effect on the living conditions of the future occupiers of the scheme from the limited internal shared living spaces and from the insufficient external space. The development would, therefore, be contrary to paragraphs 131 and 135 of the Framework, which amongst other matters seeks to create better places to live, with safe and healthy living conditions and creates places that have a high standard of amenity. These environmental impacts are afforded significant weight.
36. In my judgement the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against

the policies in the Framework, taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

37. For the reasons given above the proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which would outweigh this. Therefore, the appeal should be dismissed.

K Townend

INSPECTOR