



Appeal Decision

Site visit made on 26 March 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Appeal Ref: APP/Z4310/W/23/3327603

98 Kensington, Liverpool L7 8XD

- 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 Mr J Davey, of Daveys Chemist Ltd against the decision of Liverpool City Council.
 - The application Ref is 19F/2566.
 - The development proposed is Change of use from dwelling house & shop to 2nr. 2-bedroom apartments & shop and 2nr. New mews houses including demolition of existing annex and garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated on 20 December 2023. The main parties have been given the opportunity to comment on this version and I have had regard to the revised Framework and any comments made by the parties in respect of the revisions, in reaching my decision.
3. The appellant has suggested that the Council has not considered revised plans submitted during the consideration of the planning application. However, I have considered the Council's Delegated Report and Statement of Case, which suggests that they did consider the revised floor plans when reaching a decision. In any event, the changes appear to relate to the internal configuration of the proposed development. On this basis, I have taken the revised plans into consideration.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of the neighbouring occupiers of 96 Kensington, with particular regard to sunlight, natural light, and outlook;
 - whether the proposal provides an acceptable standard of living conditions for future occupants, with particular regard to the provision of internal living space and outdoor amenity space, and

- whether the proposed development would create an accessible housing scheme with regard to the relevant policies of the development plan.

Reasons

Character and appearance

5. The appeal property is a three storey end of terrace building on the corner of Kensington and Saxony Road. Kensington is a busy road, which includes a mix of commercial uses. The streets which spur from the southern side of Kensington are formed in a grid iron street pattern, comprised of terraced housing. There are some occasional pockets of land that have been cleared of development, including one which is immediately adjacent to the appeal site. Overall, the streets have a visual coherence, achieved through the uniform layout, linear built form and height of terrace buildings, the consistency of architectural features and the use of similar building materials.
6. The height of the proposed building would be significantly lower than the host building and also noticeably lower than the terrace properties that front Saxony Road. In addition, the introduction of a Mansard roof, within a street scene of traditional pitched roof buildings, would appear unusual in the context of the surrounding area. As a result, the design and height of the proposed development would result in a staggered and inharmonious roof arrangement within the street scene. Given this, even if finished in similar materials, the proposed development would not result in a successful transition between the larger three storey buildings on Kensington and the two storey properties on Saxony Road.
7. Furthermore, the proportions of windows and doors, as well as the horizontal bands and cill heights, on the front elevation, would not harmonise with the host building. This would result in a contrived development which would not suitably respect the appearance of the existing building or those within the street scene or wider surrounding area.
8. The undeveloped land opposite would allow longer distance views of the proposed development within the wider area. Whilst I recognise that the scheme would infill a gap in the fabric of the street scene and block views towards unsightly rear elevations of adjacent terracing, it is nonetheless important that the new building is itself of an appropriate design. Overall, the proposal would result in an incongruous form of development in a prominent position within the street scene.
9. The Framework supports the use of mansard roof extensions on suitable properties. The appellant also suggests that mansard roof designs are evident in the surrounding area. Likewise, the appellant has highlighted other examples of existing development to the rear of similar three storey buildings in the wider area.
10. There is no question that such development could be acceptable in principle in this area and a building could result in visual benefits. Inevitably, it is the specific detail and the context of any development which determines whether it is acceptable in practice. In this case the proposal is for a new building with a mansard roof, as opposed to the addition of a mansard roof to an existing building. There are also other design features of the proposal that are not acceptable. Therefore, having considered the design of this proposal, and its

specific effect on the street scene, I consider that there would be unacceptable harm. Given this, these examples do not add significant weight in favour of the development. Accordingly, as I am required to do, I have determined the case before me on its own merits.

11. For the reasons given above, I conclude on this main issue that the proposed development would be unacceptably harmful to the character and appearance of the area. Consequently, it fails to accord with the design aims of policies UD1, UD2, UD5, UD7 and H13 of the Liverpool Local Plan 2013-2033 (2022) (LLP) which together and amongst other things, require all new buildings to be designed to the highest design standards, that make a positive contribution to the character and distinctiveness of its location.

Living conditions of neighbouring occupiers

12. The rear wall of the proposed mews houses would be built up to the shared boundary with the adjoining property 96 Kensington (No 96). No 96 is a mid-terrace property with a retail use at ground floor and residential accommodation on the upper floors. No 96 has a rear yard area which has shared access from the retail use and upper floor residential accommodation.
13. No 96 has a number of side and rear facing windows in the upper floors of the building. In particular, a kitchen and bedroom window in the rear elevation, which are immediately adjacent to a three storey wall of the appeal property. Whilst the outlook from the windows is already affected by the three storey wall, the position, scale, and solid appearance of the rear wall of the proposed development would result in a significantly more oppressive outlook from both windows.
14. The rear wall of the proposed development would also be overbearing on the rear yard area of No 96, due to its position, scale, and solid appearance. This would result in an unacceptable enclosing effect on the rear yard area, which is likely to be used by the occupiers of No 96.
15. There is also likely to be some further loss of light caused to the windows. However, a BRE Daylight and Sunlight Site Analysis has been submitted and due to the juxtaposition of the proposed development with No 96, and the orientation of the site, a significant reduction in sunlight and natural light to neighbouring windows is unlikely to be caused.
16. Consequently, for the reasons outlined above, I conclude on this main issue that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 96 Kensington, in respect of loss of sunlight and natural light. However, the proposals would cause unacceptable harm to the living conditions of the occupiers of 96 Kensington, in respect of outlook. Therefore, it would conflict with policies H7, H13, UD1, UD2, UD5 and UD7 of the LLP, along with Supplementary Planning Guidance Note 1 – House Extensions and Supplementary Planning Guidance Note 10 - New Residential Development, insofar as they together seek to ensure proposals protect the living conditions of existing residents.
17. My attention has also been drawn to policy H10 that relates to the conversion of buildings. That policy does not clearly relate to this main issue concerning the living conditions of neighbouring occupiers, and so is not directly relevant.

Living conditions of future occupiers

18. Each of the proposed residential units would contain two bedrooms, an open plan kitchen / dining and lounge area and a bathroom. The two mews houses would also have a w/c at ground floor.
19. Policy H12 of the LLP, amongst other things, requires that new development meets the Nationally Described Space Standards (NDSS)¹. Additionally, policies H10 and H13 of the LLP seek new residential dwellings to provide adequate garden space and sufficient bin storage.
20. The proposed development does not include any outdoor amenity space. In particular, the proposed mews houses are likely to appeal to small families with children and there would be no opportunity for activities such as sitting out, drying clothes, and for children to play. As such, the proposals would provide an unsatisfactory standard of living conditions for future occupiers.
21. I acknowledge that there is a public park in walking distance of the site that would provide public amenity space, but this does not overcome the shortfall of adequate private amenity space for the future occupiers of the proposed mews houses in particular.
22. The lack of amenity space within the site also results in there being no provision for waste storage bins externally for the mews houses. Therefore, it is likely that bins would need to be left on the street permanently. This would not be a satisfactory arrangement for the future occupiers or the character and appearance of the area.
23. A waste storage area for the two flats would be provided internally. Whilst not provided externally, the allocated area would provide a satisfactory arrangement for future occupiers of the two flats.
24. There is disagreement between the main parties about whether the proposals would meet the guidance set out within the NDSS. However, the appellant has set out the internal floor area for each of the proposed residential dwellings, which demonstrates that the proposals would accord with the NDSS.
25. For the reasons outlined above and on the evidence before me, I conclude on this main issue that the proposal would provide an acceptable standard of living conditions for future occupants with regard to internal living space. However, the provision of outdoor amenity space, including bin storage arrangements within the site, for the future occupiers of the proposed development would not be acceptable and would not accord with policies H10 and H13 of the LLP.

Accessible housing development

26. LLP Policy H12 seeks for development proposals to provide quality living environments for residents both now and in the future and includes a requirement that at least 10% of dwellings meet Building Regulation requirement M4(3) 'wheelchair user dwellings'. All other dwellings should meet M4(2) 'accessible and adaptable dwellings', which would include step-free access. Site-specific factors will also be considered and where evidence is submitted to demonstrate that step-free access is not viable, there will be no

¹ Department for Communities and Local Government Technical Housing Standards – Nationally Described Space Standards (2015)

requirement for adaptable and accessible housing (building regulations M4(2) or M4(3)).

27. The Council's Inclusive Design Officer suggests that there are a number of factors which result in the proposed development not complying with Building Regulations Part M4. In particular, a vertical lift is required in residential buildings containing flats where there are two or more units on the upper floors that are accessed via communal entrance and communal stairs.
28. The appellant highlights that due to the limited size of the building it is not feasible in this instance to provide a lift along with the necessary extended landings to the building. I am also mindful of the examples provided by the appellant and that a building of this age and internal configuration would make it difficult to adapt, such that a lift can be installed. I am satisfied that these factors demonstrate that step-free access is not viable.
29. Consequently, for the reasons given above, and on the evidence before me, I conclude on this main issue that the proposed development would create an accessible housing scheme with regard to the relevant policies of the development plan. Therefore, the proposed development would not conflict with the accessibility aims of LLP policy H12 and the Accessible Housing Planning Practice Note (2022).

Other Matters

30. I acknowledge the appellants comments with regard to the Council's handling of the planning application, particularly, feedback and updates during the application process. However, I confirm that I have considered the proposed development on its planning merits.

Planning Balance and Conclusion

31. The provision of residential development and the redevelopment of the site and existing building, within an accessible urban residential area, would add to the mix of dwelling types in the area. It would also bring an older building back into use and help to deter vandalism and improve crime and safety. The proposal would also contribute to boosting the supply of housing, utilising an existing building and a small site that could be delivered relatively quickly and provide smaller two bedroom units. The proposal would provide social and economic benefits to local services during the construction and occupancy phases without conflict with neighbouring land uses. The works to the existing building, including a new shop front at ground floor, would result in some visual improvements. However, the benefits above would be limited by virtue of the modest scale of the proposal.
32. Reference is also made to the proposed development being energy efficient, with good acoustic insulation; good thermal standards; good light and ventilation. There are no identified highway and parking concerns and cycling provision can be encouraged. However, these are requirements of good design and planning policy, and they carry limited neutral weight.
33. The scheme would harm the character and appearance of the area, the living conditions of nearby residential occupiers and the future occupiers of the proposed development. This harm, taken together, draws the scheme into conflict with the development plan read as a whole. I attach substantial weight to that harm.

34. Consequently, I conclude that the proposed development would conflict with the development plan as a whole and there are no material considerations, including the Framework, that indicate that the development should be determined otherwise than in accordance with it. For these reasons, the appeal is dismissed.

N Bromley

INSPECTOR