
Appeal Decision

Site visit made on 4 June 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2024

Appeal Ref: APP/Z4310/W/24/3337065

118-120, Breck Road, Liverpool L4 2RD

- 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 Lee Johnston against the decision of Liverpool City Council.
 - The application Ref is 23F/1678.
 - The development proposed is to use upper floors as a 17 bedroom hotel (Use Class C1) ground floor to restaurant (Use Class E) and basement to bar (Sui Generis) erect single storey extensions at rear and install dormer extension to rear, to install 4no. rooflights at front with alterations to fenestration at front and rear.
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Decision

1. The appeal is allowed and planning permission is granted to use upper floors as a 17 bedroom hotel (Use Class C1) ground floor to restaurant (Use Class E) and basement to bar (Sui Generis) erect single storey extensions at rear and install dormer extension to rear, to install 4no. rooflights at front with alterations to fenestration at front and rear at 118-120 Breck Road, Liverpool L4 2RD in accordance with the terms of the application, Ref 23F/1678, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Lee Johnson against Liverpool City Council. This application is subject to a separate decision.

Preliminary Matters

3. The description of the proposed development has been amended from the description given in the application form. This was agreed between the Council and the appellant. I have therefore determined the appeal based on the description provided in the decision notice.
4. The Council raise no concern with the proposed rear dormer, single storey rear extension, the rooflights to the front elevation and alterations to the fenestration. I find no reason to disagree. Following the reason for refusal, the appeal therefore relates to the proposed change of use of the appeal building.

Main Issue

5. Therefore, the main issue is the effect of the proposal on the living conditions of neighbouring occupiers, with particular reference to the potential for noise and disturbance.

Reasons

6. The appeal site is a three storey mid-terrace building located within the Breck Road District Centre. The district centre comprises a wide range of retail and service uses, typically located to the ground floor. These uses include shops, late night convenience stores, takeaways and beauty salons, amongst other uses. Breck Road is a busy location of both vehicular and pedestrian traffic. Overall, Breck Road has a strong commercial feel due to the presence of business premises and location within an area of busy traffic. Properties within the adjacent streets appear more residential and feature both terraced and semi-detached buildings.
7. The nearest residential properties would be adjacent to the proposed development. The proposal would contain 17 bed spaces. This would be set across three floors of accommodation. The plans before me suggest that with the exception of the third floor, each room is of a limited size and there is a lack of a communal space. As such, interactions between guests would be limited. Their opportunity to create harmful noise and disturbance would be mostly constrained to the ground floor and basement.
8. In such a case, it is possible that the proposed ground floor and basement uses would also attract additional restaurant and bar customers. If left unregulated, the general creation of noise and the comings and goings of both hotel guests and the restaurant and bar customers would collectively have the potential to cause disturbance during late hours. Furthermore, adjacent properties at the ground floor level include a late-night convenience store and takeaway premises where the comings and goings are unplanned.
9. Given the mixture of nearby uses on the ground floor, including those operating late at night, there is a similarity and compatibility of the uses within the immediate locality. Provided that the hours of operation are restricted as suggested by the Council, this would not cause unacceptable disturbance to neighbouring occupiers. Therefore, I am satisfied that the proposal would not cause undue disturbance to the adjoining neighbouring residential occupiers through the number of comings and goings.
10. Some noise from the management of waste and kitchen extraction systems associated with the proposal would likely be experienced by neighbouring residential occupiers. The Council's Environmental Health Officer has suggested several conditions in relation to waste storage, the provision of a kitchen extraction system and the sorting of bottles. These conditions are suggested to protect the living conditions of neighbouring occupiers. Given the nature of the ground floor and basement uses, these conditions are considered as appropriate in the management of noise which would arise from waste disposal or from the use of a kitchen extraction system and thus there would be no harm to the living conditions of neighbouring occupiers.
11. No specific management details of the hotel are proposed. In addition to guests of the hotel, it can be expected that cleaners and a member of staff to provide access would be on site. However, these additional personnel would be unlikely to be on site for a significant period of time and taking into account the overall size of the premises, their numbers are likely to be limited. As such, given the limited size of the premises and small numbers of staff, the provision of specific hotel management details are not necessary.

12. To conclude, I find that the location of the appeal site within a mixed commercial area would not lead to an overt increase in noise or disturbance beyond that which is already generally experienced in the Breck Road locality. The proposal would not therefore give rise to unacceptable harm to the living conditions of neighbouring residents with regard to noise and disturbance. As such, it would not conflict with Policies SP2, UD2 and UD7 of the Liverpool Local Plan 2022 (LLP). It would also not conflict with the guidance found within the SPG regarding the effects of new development on the living conditions of neighbours. These policies and guidance require proposals to avoid adverse impact on residential amenity through their layout and form, with particular regard to minimising the effects of noise.
13. Policy H7 is quoted in the decision notice presented by the Council. This policy refers to Primary Residential Areas. The site is located within a District Centre and is therefore not relevant in the assessment of this appeal.

Other Matters

14. I am aware of a previous appeal decision for a similar development at 49 Breck Road (APP/Z4310/W/21/3289793). There are differences which can be drawn from this example. This site is located at the other end of Breck Road where there is a change in site context. Furthermore, the scale and possible effects between the two proposals would be different, with this proposal being substantially larger. For the avoidance of doubt, I judged the appeal before me on its own merits. This previous appeal decision had no bearing upon my decision.
15. The effect of the proposal on car parking has been raised by an interested party. As noted in the comments made by the Highway Development Control team, the site lies within a sustainable location and although no off-street parking is available, this is in keeping with neighbouring businesses which rely on nearby streets for short term parking. Restrictions are also in place through the use of permits. As such, the Highway Development Control team have no objection to the proposal on these grounds and I have no reason to disagree.
16. Any effects on the living conditions of nearby residents during construction are not likely to be significant, would be temporary and unlikely to cause long standing harm to living conditions. With regard to the placement of skips, this is outside of the scope of this appeal. There are other means by which obstructions to the pavement can be dealt with.

Conditions

17. The Council supplied a specific list of conditions in their statement for my consideration in the event that the appeal was allowed. I have considered these conditions, having regard to the six tests set out in the National Planning Policy Framework (the Framework) and amended these as appropriate. The parties were then reconsulted on the use of these amended conditions.
18. In addition to the statutory time condition [1], a condition specifying the approved plans [2] are justified in the interest of certainty.
19. Several conditions are required to protect the living conditions of the occupants of neighbouring properties. Firstly, the submission and implementation of a scheme to control the emission of fumes and smells from the kitchen premises, including details of its acoustic insulation is required [3]. I have amended the

Council's suggested condition as this overly prescriptive about the nature of any extraction system. I have instead required the Council to approve the details of any system prior to the use coming into effect. Secondly, a condition which prevents the sorting of bottles has been included [4]. This is necessary in the interests of protecting the living conditions of neighbouring occupiers. The suggested wording included the storage of bottles and crates outside the building. However, this is not necessary as such activity would not give rise to unacceptable harm in relation to noise and disturbance. I have therefore removed these references from the condition. A condition controlling the hours of operation of the site is justified to prevent unacceptable disturbance [5].

20. A condition was suggested by the Council which required any waste to be kept within the curtilage of the premises and should only be placed outside on trade refuse collection days. This appears to be a condition to prevent obstruction of the highway. However, this is covered by separate legislation and therefore is not necessary.
21. The Council also listed an informative in their decision notice which appears to seek to control the timing of any works. However, given the nature of the construction work which would be undertaken and the context of the premises, this is not necessary.

Conclusion

22. For the reasons given above, the proposal complies with the development plan and there are no considerations which suggest that a decision should be taken other than in accordance with it. I therefore conclude that the appeal should be allowed.

J Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan (Dated 04/06/2023)
 - Site Plans (DWG 5, REV D)
 - Elevations (DWG 3, REV B)
 - Design and Access Statement (Dated 03/06/2023)
- 3) Before the commencement of the restaurant use, a scheme which controls the emission of fumes and smell from the kitchen premises shall be submitted to and approved by the local planning authority. This shall include details of acoustic insulation. All equipment installed shall thereafter be operated and maintained in accordance with the approved scheme and retained for so long as the use continues.
- 4) No sorting of bottles shall take place outside of the building at any time.
- 5) The restaurant and bar shall only be open for customers between the following hours:
 - 0900 – 2300 on all days, including Sundays and Bank Holidays.

End of Schedule