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# Appeal Decision

Site visit made on 2 July 2024

**by A Berry MTCP (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 July 2024**

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**Appeal Ref: APP/Z4310/W/24/3339954**

**72 Kings Drive, Liverpool L25 8RH**

- 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 R Prayle against the decision of Liverpool City Council.
  - The application Ref is 22F/2957.
  - The development proposed is for 1no two-storey 3-bed house with a new dropped kerb and associated landscaping.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - (a) the effect of the proposal on renewable energy provision;
  - (b) whether a replacement tree could be accommodated within the plot without affecting its long-term growth;
  - (c) the effect of the proposal on the character and appearance of the surrounding area; and
  - (d) the living conditions of future occupiers, with particular reference to private amenity space.

## Reasons

### *Renewable Energy Provision*

3. Policy UD5 of the Liverpool Local Plan 2013-2033, adopted 2022 (LP) requires design proposals for new dwellings to demonstrate the building design is resource and energy efficient, and includes features such as renewable energy generation, green infrastructure and low carbon materials. The submitted drawings do not include any of these features. The appellant suggests that it could be dealt with by a pre-commencement condition should I be minded to allow the appeal.
4. The roof of the proposed dwelling would seem to be of a sufficient scale and orientation to incorporate solar panels, while the proposal could use low carbon materials. Consequently, it is likely that the proposal could incorporate some of the features detailed within LP Policy UD5.
5. Many renewable energy generation features can be installed without planning permission. Furthermore, it is not unusual for details to be decided between the

main parties by condition with no input from interested parties, while statutory consultees could be consulted. Consequently, in this regard, I do not consider that interested parties or statutory consultees would be prejudiced if the provision of renewable energy generation features was dealt with by condition.

6. In reference to the first main issue, providing a condition is attached should I be minded to allow the appeal, the proposal would not have a harmful effect on renewable energy provision. Therefore, the proposal would comply with LP Policy UD5, the content of which I have described above.

#### *Replacement Tree*

7. At the time of my site visit, there was one tree within the appeal site adjacent to Out Lane and the submitted drawings do not show this tree to be retained. LP Policy GI8 requires replacement planting to be provided as compensation for the loss of existing trees due to a development and that the new planting must be sustainable for the long term.
8. The submitted drawing indicates a tree (species unknown) would be planted on the corner of Out Lane and Kings Drive, within the proposed dwelling's front garden. Condition 4 of the Council's list of suggested conditions requires the planting of a Liquidambar styraciflua tree no closer than 2m from any boundary to avoid future impact. The front garden of the proposal is of a size that would allow a tree to be planted no closer than 2m from any boundary, it would be positioned away from the proposed dwelling's windows and would not affect its private amenity space. This suggests that a replacement tree could be planted without affecting its long-term wellbeing. Consequently, the Council's suggested condition could overcome this reason for refusal.
9. In reference to the second main issue, a replacement tree could be accommodated within the plot without affecting its long-term growth. It would therefore comply with LP Policy GI8, the content of which I have described above.

#### *Character and Appearance*

10. The western side of Kings Drive on which the appeal site is located comprises predominantly semi-detached, two-storey dwellings that are set back a similar distance from the road by off-street parking/front gardens. Some of the dwellings along this side of the road have previously been extended and altered, however, bay windows are a feature of their front elevations. Plots are similar in size and are rectangular with a long, spacious rear garden.
11. In contrast, the appeal site would be triangular-shaped and would have a significantly smaller plot. The proposal's rear garden would also be triangular-shaped and would have a substantially reduced depth. Furthermore, the proposed dwelling would be positioned close to the boundaries and therefore, it would appear cramped. Consequently, the proposal would appear overdeveloped with its plot and out-of-character with the dwellings along the western side of Kings Drive.
12. The appellant asserts that the proposal would comply with LP Policy H13 as it requires proposals for new residential development to optimise the dwelling's capacity of the site. However, the policy goes on to state that in doing so, the proposal must have regard to the existing density and character of the

surrounding area, particularly the space around buildings. A matter which I have found the proposal would not accord.

13. I have been provided with examples of dwellings in the surrounding area that the appellant asserts have a smaller plot size than the appeal site. However, these examples are on roads in the vicinity of the appeal site which have a different character and appearance and are therefore, not directly comparable to the appeal proposal. Notwithstanding this, I must determine each case on its own individual merits.
14. The proposal would incorporate a large floor-to-ceiling ground floor window that would be flush with the front elevation. While it would not be a bay window, its large expanse of glazing would create a similar feature. Consequently, I do not find that the window would overly detract from the character or appearance of the surrounding area or appear incongruous to the design of the proposed dwelling.
15. While I do not find harm with the inclusion of the floor-to-ceiling window in the front elevation of the proposed dwelling, the proposal would adversely affect the character and appearance of the surrounding area. Accordingly, in reference to the third main issue, the proposal would conflict with Policies UD1, H7 and H13 of the LP which, amongst other things, seek to grant planning permission for new housing developments providing the residential character of the area is protected.

#### *Living Conditions – Future Occupiers*

16. The Council's Supplementary Planning Guidance Note 10: New Residential Development (SPG) states that to ensure all houses within new development have adequate private amenity space, and to enable permitted development rights to be exercised without detriment to any future garden space, rear gardens of two-storey dwellings should normally be a minimum of 11.5m in depth. Furthermore, the supporting text to LP Policy H13 states that the design of residential proposals should ensure that future residents of a development enjoy high standards of privacy and outdoor amenity, can undertake physical activity and have a safe and attractive living environment.
17. The proposal's private amenity space would be limited to a triangular-shaped piece of land to the rear of the dwelling. The Council state it would have a maximum depth of between 9m-9.5m and a minimum depth of 1m due to the rear boundary being angled. This has not been disputed by the appellant. The proposed dwelling would have three bedrooms and therefore, it is likely to be occupied by a family whereby outdoor space would be required for children to play. It would also need to accommodate the usual leisure and household activities associated with a dwelling, such as the drying of clothes or the siting of a table and chairs. The proposed private amenity space would be considerably smaller than the minimum rear garden depth detailed within the SPG, and in my opinion, it would not be of a sufficient size or shape to meet the reasonable expectations of future occupiers of the proposed dwelling.
18. The appellant asserts that it would be for future occupiers to determine whether the level of private amenity space would accommodate their needs. However, insufficient evidence has been provided to demonstrate that there would be demand for a 3-bedroom, two-storey dwelling with limited private amenity space. Notwithstanding this, the size of the private amenity space

would not comply with the requirements of the LP or the SPG. The appellant states that the private amenity space would receive direct sunlight from the afternoon onwards. However, this would not compensate for a lack of space.

19. In reference to the fourth main issue, the proposal would adversely affect the living conditions of future occupiers, with particular reference to private amenity space. It would conflict with Policy H13 of the LP which, amongst other things, seeks to ensure new residential development provides adequate garden space.

### **Conclusion**

20. 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