



Appeal Decision

Site visit made on 21 January 2025

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29th January 2025

Appeal Ref: APP/Z4310/W/24/3352037

9 Hartington Road, Toxteth, Liverpool L8 0SD

- 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 Miss Jess Taylor of Hawksmoor Properties Ltd. against the decision of Liverpool City Council.
 - The application Ref is 24F/1344.
 - The development proposed is to change use from 4no. self-contained flats (Use Class C3) to 8 bed HMO (Sui Generis), erect single storey extension and dormer to rear and 2 no. windows to side following demolition of existing side extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the 12 December 2024 the Government published a revised National Planning Policy Framework (The Framework). The revised Framework is a material consideration which should be taken into account from the day of publication. Insofar as it is relevant, its content has not been materially altered in respect of the main issue before me, and therefore it has not been necessary to go back to the parties in this regard.
3. I have taken the description of development from the decision notice and the appeal form, as this more accurately describes the development.
4. The appellant has submitted amended plans with the appeal documentation. I have carefully considered the implications of accepting these amendments in the light of the Procedural Guide, Planning Appeals, England and case law. The Procedural Guide advises that the appeal process should not be used to evolve a scheme. With regards to case law, it must be considered whether the proposed amendment involves a substantial difference or fundamental change to the application, and if any proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
5. The proposed revisions are seeking to retain the chimney to the front of the proposed dwelling. The amendments would not lead to the scheme being substantially different to that considered at the application stage. The description of the development remains the same. Interested parties and the Council have had the opportunity to submit comments on the amended plans at the appeal stage. In these circumstances, I am satisfied that the proposed amendments would cause no injustice to any party were I to consider them as part of the appeal documentation.

Main Issue

6. The main issue is whether the proposal would preserve or enhance the character or appearance of the Toxteth Park and Avenues Conservation Area (CA).

Reasons

7. 9 Hartington Road (No 9) is a semi-detached property located within the CA. The significance of the CA, as it relates to this appeal, derives from the historic cemetery which is bordered by a strong concentration of properties in terraced rows, or larger semi-detached dwellings, which were constructed after the opening of Sefton Park. Buildings were originally constructed from brick with slate roofs, chimneys and sash windows. The street layout and architectural design features collectively contribute to the significance of the CA.
8. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
9. There have been some unsympathetic changes to No 9. The roof has lost its original Welsh slate, the bay window on the side elevation has been filled in and none of the windows are original. Whilst No 9 has retained its red brick, with chimney stacks and a bay window feature to its front elevation, it makes a limited contribution to the significance of the CA.
10. The Article 4 Direction in place within the CA restricts alterations to the front elevation of properties. However, this does not imply that rear elevations hold little significance to the CA.
11. The proposed rear dormer would project almost to the side of the roof. Due to it only having a very limited set in from the gable of the property, it would not appear as subservient to the rear roof plane, but rather as a bulky and disproportionate addition. Consequently, it would be an incongruous and prominent feature, unsympathetic in form and scale to the existing roof form, which would detract from the original cat slip roof style of the host property.
12. Whilst modern and contrasting materials can be appropriate within a CA, the traditionally built properties, their detailing and materials make an important contribution to its significance. The supporting text to the Liverpool Local Plan 2013-2033 (2022) (LP) Policy HD1 highlights that when alterations are proposed in a CA, they should be undertaken in a material of a similar appearance to the original.
13. The proposed single storey rear extension would have a render finish which, rather than complimenting the host property or allowing it to be read in its original form, would appear as discordant. The proposed extension would starkly contrast with the traditional brick of the host property and other dwellings within the CA, which are largely characterised by their brick facades. This impact would detract from, rather than enhance the architectural detailing of the host property, and would be at odds with the Victorian character and appearance of the area. The proposed single storey rear extension would project out from the side elevation of No 9. It would therefore be visible within the street scene as well as from neighbouring properties.

14. Although there is no specific mention of chimneys within the information regarding the CA, chimneys are an attractive architectural feature of its buildings and as such contribute to its significance. One of the chimneys, towards the rear of the side elevation, would be removed as a result of the proposed development. The removal of the chimney, which is an original architectural feature of No 9, would erode the contribution which the property makes to the street scene and the CA.
15. The appellant has referenced the significant erosion to the original character of the CA. However, the designation of the CA is intended to provide protection against further unsympathetic changes. The materials, roofscape and architectural features are significant positive contributors to the character and appearance of the CA. As such, the proposed loss of the chimney, disproportionate addition to the roof and the use of unsympathetic materials would have a harmful effect on the significance of the CA.
16. My attention has been specifically drawn to extensions which have been undertaken at No 7 Hartington Road (No 7), No 1 Hartington Road (No 1), No 23 Hartington Road (No 23) and No 27 Hartington Road (No 27). No 7 has a dormer similar to that which is proposed. However, the evidence before me indicates that this was approved in a different policy context, prior to the new Local Plan being adopted and prior to the introduction of the Framework. It does not, therefore, set a precedent for this proposal. Moreover, the presence of this dormer, and examples of properties which have been rendered or had their chimneys removed, does not justify a further erosion of the CA or provide support for the proposal.
17. The dormer extensions at No 1, No 23 and No 27 are set in from the side of the roof and therefore are more subservient to the host properties and less incongruous than the proposed rear dormer at No 9. The windows at No 27 are sympathetic to the property, and its rear extension was also approved in matching brickwork, rather than render. As such, the developments do not have the same impact on the character or appearance the CA as the appeal proposal, and they are not directly comparable to that which is before me.
18. The monumental masons yard, gateway and boundary wall of Toxteth Park Cemetery lie in proximity to the appeal property. These are Grade II Listed Buildings. Due to intervening built form, I consider that the proposal would be unlikely to have an unacceptable effect on the setting of these heritage assets.
19. The proposed single storey rear extension would cover a large amount of the rear yard, leaving a small space remaining as an outdoor amenity area. However, extensions have been granted nearby, such as those at No 23 and No 27 which cover a similar proportion of the rear yard as the proposed rear extension at No 9, and which were found to be acceptable. I therefore consider that the proposal would leave an adequate amount of outdoor space.
20. However, for the reasons set out above, the proposed development would neither preserve nor enhance the character or appearance of the CA, although the harm would be less than substantial.
21. The Framework states that less than substantial harm to the significance of a designated heritage asset (in this case the CA) should be weighed against the public benefits of the proposed development. The proposal would see investment into the property and the CA, with economic benefits from the construction phase and spend from future occupiers. There would be social benefits through the

provision of high-quality accommodation which would replace lower standard accommodation and exceed the space standards for Houses in Multiple Occupancy. However, given the scale of the proposal, these limited public benefits do not outweigh the great weight to be given to the heritage asset's conservation.

22. The proposed development would not preserve or enhance the character or appearance of the CA, thus failing to satisfy the requirements of the Act and the Framework. Furthermore, the proposed development would conflict with Policy HD1 of the LP which seeks to ensure that proposals affecting a CA preserve or enhance those elements which contribute to its character and appearance.

Other Matters

23. The consideration of a fallback position, including what could be erected under permitted development, is a well-established principle. The appellant has indicated that a realistic fallback option, should the appeal be dismissed, would be to erect a single storey rear extension which would not be rendered, and would be of a smaller scale so as not to extend beyond the wall forming the side elevation of the original dwelling. For significant weight to be afforded to a fallback position it would need to be equally or more harmful than the appeal scheme. The fallback scheme would be of a more appropriate scale and materials, and as such would be less harmful to the character and appearance of the CA than the appeal proposal. As such, I afford it no weight.

Conclusion

24. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
25. For the reasons given above the appeal should be dismissed.

L C Hughes

INSPECTOR