



Appeal Decision

Site visit made on 14 February 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023

Appeal Ref: APP/V4305/W/22/3305537

Prospect House, Huyton Church Road, Huyton L36 5SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Oakley Asset Management Ltd against the decision of Knowsley Metropolitan Borough Council.
 - The application Ref 21/00800/OUT, dated 7 October 2021, was refused by notice dated 11 July 2022.
 - The development proposed is the demolition of existing structure and the erection of up to 54nr apartments (of C2 or C3 use) with associated landscaping and parking provision.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with the details of access, appearance, layout and scale included. The details of landscaping were reserved for consideration at a later time. I have determined the appeal on that basis.
3. The appeal property lies close to the Grade II Listed Buildings at Park Hall and 1 Victoria Road. There is no dispute between the main parties that the proposed development would not have an adverse effect on the setting of those heritage assets. Pursuant to the duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, having considered the proposal and visited the site, I concur with that view. This is due to the distance between the sites and intervening development. Accordingly, it is my view that the proposals would preserve the setting of the Listed Buildings and I shall make no further reference to this matter.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the locality and the Victoria Road and Huyton Church Road Conservation Area (the CA)
 - the living conditions of nearby residents with particular regard to outlook, light and privacy
 - the living conditions of prospective residents with regard to outlook and light
 - trees
 - highway safety.

Reasons

Character and appearance

5. The site is located within a primarily residential street of individually designed detached houses. The buildings arise from various phases of development resulting in an eclectic mix of architectural styling, sizes and types. The street lies within the Victoria Road and Huyton Church Road Conservation Area, the heritage significance of which stems from its layout as a planned Victorian suburb.
6. In the locality, examples of the original Victorian villas and early C20 houses remain within a regular plot pattern. On Huyton Church Road, the buildings benefit from spacious settings with established landscaping. Some front gardens include mature trees that, in conjunction with a treed area of public open space at the head of the road, provides a verdant streetscape to Huyton Church Road.
7. As the site is located within the CA, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing the character or appearance of the CA.
8. According to the main parties, the site covers an amalgamation of part of the garden of a demolished Victorian house and a formerly vacant plot. The existing building has a utilitarian design of limited height. As a building previously used for non-residential purposes and of little architectural merit, the building is not a positive feature of the area. However, its modest overall height and setting in the uncharacteristically wide plot adds to a sense of spaciousness permeating the CA. In conjunction with its contribution to tree cover, the existing site provides some positive benefit to the designated area.
9. The proposal would utilise the existing site without any change to its boundaries. Accordingly, there would be little effect on the historic plot pattern. However, whereas the existing building is recessive in the streetscene, a development of buildings providing 5 floors of accommodation would not be so innocuous.
10. The main building has been designed with a recessive central element of lighter construction. This approach could lend itself to reflecting the rhythm of the residential plots. However, despite the articulation across the building's frontage, any sense of 'space' between the flank elements would appear limited against the overall height of the building. It would visually read as a single block of development.
11. In conjunction with the considerable depth and flattened roof form of the side elevations, the building would give rise to a substantial and pronounced degree of massing. Despite existing trees, the contrasting visual bulk compared to other buildings in the CA would be clearly visible on the approaches.
12. The effect of the considerable size, forward position, and significant massing of the frontage building would contrast starkly with the predominant 2-storey scale of development in the locality. Even accounting for the level of the site below the adjacent road, the scale on this prominent plot would cause the building to impose and dominate the streetscene.

13. I note the appellant's assertion that buildings in the locality vary in their height. However, the domestic scale of development along the road does not generally exceed 2½ storeys above ground level. Elsewhere, non-residential buildings of greater height are set in the context of the commercial centre. They are not therefore an appropriate reference for a residential street.
14. Moreover, Block C to the rear of the site would contrast with the characteristic layout of development within the CA. Although there are examples of ancillary buildings set behind the principal road-fronting dwellings, these are predominantly single storey and of subordinate scale and limited footprint. Block C would be substantially larger in scale than the existing primary development on Hutyon Church Road.
15. Against the variety in the design and ages of buildings in the CA, the design principles and external materials of the proposals could assimilate with the surrounding development. However, they would not mitigate the effects of the imposing cumulative scale and massing of the proposed buildings. Accordingly, I find their over-scaled presence and arrangement would result in a significant adverse effect on the character and appearance of the locality and the CA.
16. Despite being individually assessed as of low or poor quality, the trees to the rear of the site have a group value in their continuous alignment with trees elsewhere along the north-western boundary of the CA. They provide a buffer between the garden plots within the designated area and the modern commercial and community uses beyond. The line forms part of the enclosing backdrop of greenery to the existing buildings that extends from the small park. As such, they contribute significantly to the character of the area.
17. To construct the buildings, their siting and scale would require the removal of the rear line of trees. In addition, trees of limited value close to the side boundaries would be felled. A tree classed as of moderate value which is located close to the frontage, would be removed to allow for an additional parking space. Their loss would result in a negative impact on the character of the area and interrupt the continuity of the treed edge to the CA.
18. Furthermore, for the reasons explained below, there would be some pressure to remove or reduce the frontage trees. As a positive aspect of the mature landscaping of the street and the leafy character of the CA, not only would that pressure also likely result in an adverse impact on the area's character and appearance, it would reduce any mitigating effect to the scale of development beyond.
19. I note some concern in relation to the potential effects of the development on the tranquil nature of the area. I have little doubt that the effects of the introduction of a relatively large number of new residents would result in a change to the pattern and extent of movement associated with the use of the site. However, against a fallback of a commercial use taking place on the site, there is little to suggest that a more dispersed profile of activity, or one extending in duration in comparison to normal business hours, would lead to a significant effect on this aspect of the character of the neighbourhood.
20. Nevertheless, for the reasons set out above, I conclude that the development would cause harm to the character and appearance of the locality and the CA. I note that the Council consider this to be 'substantial' by reference to Paragraph 201 of the National Planning Policy Framework (the Framework).

Whilst it is a judgement for the decision-maker, the Planning Practice Guidance¹ (PPG) advises that 'In general terms, substantial harm is a high test, so it may not arise in many cases...It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed.'

21. With this in mind, I find the harm would be no greater than less than substantial within the context of Paragraph 202 of the Framework. However, less than substantial harm does not equate to a less than substantial planning objection. Paragraph 202 identifies that where less than substantial harm would occur, this harm should be weighed against the public benefits of the proposal. I undertake this assessment within the overall conclusion of this decision.
22. Nonetheless, at this stage it is important to recognise that the proposal would be contrary to Policies CS2, CS19 and CS20 of the Knowsley Local Plan Core Strategy [2016] (the CS), saved Policy DQ4 of the Replacement Unitary Development Plan (the UDP), the Framework, the amended New Residential Development SPD (the RDSPD), and the Design Quality in New Development Supplementary Planning Document which, amongst other aims, seek to ensure that developments protect and enhance the character and appearance of the locality, the borough's heritage assets and their significance.

Living conditions of neighbouring residents

23. The site is flanked by a 2-storey house at 19 Huyton Church Road which lies beyond a high timber panel fence. A bungalow at No23 is largely screened by an established hedge along the common boundary. The arrangement of rooms in Block C means that the majority of habitable room windows would address the side boundaries of the site. At ground floor level, views of the private rear garden areas could be mitigated by the existing boundary treatments, if retained.
24. However, the building would provide 5 floors of accommodation. The elevated position of the windows and balconies on the upper floors would afford views over the neighbouring garden areas. Notwithstanding a secondary fence alongside the driveway behind No19, views across its rear amenity space would be particularly adversely affected given the proposed close proximity to the common boundary.
25. The proposal to remove 2 trees close to the hedge at No23 and relocate the parking area immediately adjacent to the boundary hedge could undermine its long-term value as a method of retaining privacy to that garden. However, even if it could be retained, the height and position of the windows and balconies in Block C would be an unwelcome imposition on the privacy of those neighbouring occupiers. This would be despite a degree of screening by outbuildings to the rear side of No23.
26. The scale of the buildings would be considerable. At No19 the effects of overshadowing would be limited to early morning hours. This would be for a limited period and only affect a modest part of the site beyond that resulting from No 19 itself. However, the effect on the outlook from the rear-facing windows and garden would be considerable. The height and bulk of the buildings alongside the removal of trees close to the boundary would introduce

¹ Paragraph 018 ID: 18a-018-20190723

a significant scale of development which would dominate and overbear on residential users of that property.

27. The scale and orientation of the development would also give rise to a considerable overshadowing effect on the external amenity space at No23. This would be experienced for long periods of the afternoon and evening throughout the year. This would include times when occupiers are most likely to seek to spend time in their garden.
28. For the above reasons, I find the proposals would constitute an unneighbourly form of development. It would cause significant harm to the living conditions of neighbouring residents through overshadowing and creation of poor outlook as an overbearing form of development. It would conflict with Policies CS2 and CS19 of the CS, saved Policy H7 of the UDP, the RDSPD and the Framework as they seek to avoid unacceptable impacts on existing residents including through loss of privacy, and meet minimum standard for sustainability.

Living conditions of prospective residents

29. The mature trees set just behind the site frontage are assessed by the appellant as being of high quality and are shown for retention. The detail on the site layout plan and arboricultural assessment indicate that the canopies of the trees would be at, or very close to, the line of some of the front-facing windows and balconies of the frontage block.
30. The trees were bare at the time of my site visit. However, the arboricultural assessment shows that they form a significant and relatively dense screen when in leaf. The size and proximity of the trees would govern the outlook and, despite the large depth of the glazed openings, would significantly reduce the amount of daylight and sunlight reaching a large number of the front-facing habitable rooms. As single aspect units of accommodation this would lead to a poor standard of living conditions. Even in the dormant period, they would dominate the outlook across several floors.
31. There is little to demonstrate that full consideration has been given to the effects of the trees on the living conditions of prospective occupiers of the frontage units. Therefore, on the basis of the evidence before me, and my observations on the ground, I find that the proposal would not secure a high standard of living conditions for some prospective residents by virtue of restricted outlook and poor levels of natural illumination in parts of the development.
32. It would conflict with Policies CS2 and CS19 of the CS, the RDSPD and the Framework as they seek to secure high standards amenity and healthy living conditions in new residential development.

Trees

33. The site benefits from a number of established trees. These predominantly lie close to the site boundaries. As they are within the CA they benefit from deemed protection under sections 211-214 of the Town and Country Planning Act 1990.
34. The proposal seeks to remove the trees close to the side and rear boundaries. Only trees assessed as high quality are shown for retention. These consist of the tree line close to the Huyton Church Road frontage.

35. In circumstances where trees of value would be removed, saved Policy DQ4 of the UDP and Policy CS21 of the CS require the replacement of lost trees on a 2 for 1 basis. Section 197 of the Town and Country Planning Act 1990 places a duty on LPAs to ensure, whenever it is appropriate, that in granting planning permission for any development, adequate provision is made, by the imposition of conditions, for the preservation and planting of trees. This applies equally to me at the appeal stage.
36. The detail of the landscaping of the site is reserved for consideration at a later date. However, the layout plan for the proposed siting of buildings, orientation of main openings and extent of hard surfacing indicates that, for all intents and purposes, there would not be sufficient space within the site to accommodate the necessary replacement planting. Nor are there proposals to offset losses elsewhere.
37. In addition, pursuant to my finding in relation to the effects of the frontage trees on the living standards of those who might occupy the south-east facing units, there would be considerable pressure to reduce or remove the high value trees on the frontage. Although the arboricultural assessment concludes that the trees would not be significantly affected by the construction of the development, it falls short of assessing the effects of the trees or, therefore, the extent of any attendant pressure for works to them.
38. For the above reasons, I find the scheme has failed to adequately provide for the retention of trees providing a positive contribution to the locality. Moreover, any losses would not be compensated for. The proposal would conflict with Policies CS2, CS19 and CS21 of the CS, saved Policy DQ4 of the UDP, the Framework, the Trees and Development SPD, and the RDSPD as they require due consideration of trees and their benefits in development proposals, and the compensation for any tree losses incurred.

Highway safety

39. Huyton Church Road is a 2-lane cul-de-sac serving residential properties and a children's nursery. It is subject to daytime on-street parking restrictions. The existing properties invariably benefit from side driveways or forecourts to provide for commensurate levels of off-street parking.
40. The proposal would provide some 25 spaces for the potential single or mixed use of the site as C2 and/or C3 type residential accommodation. According to the Council the proposed parking provision would amount to some 30% of parking levels anticipated in the Ensuring Choice of Travel Supplementary Planning Document (the Travel SPD). The guidance accounts both for the scale of development and its accessibility to other forms of transport. Despite being maximum standards, the proposed parking provision would be a significant shortfall.
41. The site is located close to services and facilities in the nearby Huyton town centre and benefits from good access to public transport facilities. This could limit reliance on the use of private motor vehicles by residents. However, there is little to demonstrate how this could be promoted, facilitated or imposed to avoid undue parking pressure on the site or nearby. For a C2 use, there is limited information as to staffing or additional servicing requirements that might be associated with it.

42. Opportunities for alternative off-site residential parking are limited in the locality. The area about the town centre is subject to various parking restrictions, including extensive double and single yellow lining, and resident parking permit schemes. Although this may deter some residents from car ownership, I have little doubt that the lack of on-site provision would result in an increased propensity for displaced parking, or in some instances, inconsiderate or hazardous parking. This could adversely affect neighbouring residential areas and/or lead to a reduction in highway safety.
43. The proposed layout arrangement would require service vehicles visiting the site to reverse into or out of it. The hazards associated with such manoeuvres would be compounded by the slope of the access road. Additionally, unloading would impede some parking spaces and potentially limit vehicular accessibility. The arrangement would not provide for the safe collection of waste whether by vehicles entering the site or residents/employees having to place bins roadside.
44. In the absence of justification or proposals to address the effects of the identified shortcomings, I find the limited parking and poor servicing arrangements would have an unduly high potential to result in unacceptable highway safety impacts. In this regard the scheme would conflict with Policies CS7 and CS19 of the CS, saved Policy H7 in the UDP, the Travel SPD and the Framework as collectively they seek development to provide parking and servicing to an adequate standard and thereby avoid unacceptable impacts on highway safety.

Other Matters

45. In support of the proposals, the appellant has provided a viability assessment. It is contended that the scheme provides the minimum amount of apartment development to facilitate the site's redevelopment in a viable manner. The appraisal concludes that margins would not be attractive to a developer if Block C was removed from the scheme.
46. Furthermore, the appellant asserts that obligations applicable to the development, as required by policies of the development plan, could not be provided. These include financial obligations with respect to public open space, a Social Value Contribution, and the provision of affordable units within the development. Accordingly, any benefits therein would not be accrued.
47. The report's findings are not contested by the Council. However, I have some reservation that the calculation of the benchmark land value includes a realistic assessment of the existing use value. Although the appraisal utilises evidence provided by a surveyor, it is limited. It compares the existing pre-1976 building with values arising from modern purpose-built office buildings mainly constructed in the last 20 years. Even if I were to accept that the number of apartments was the minimum to deliver the site's redevelopment, I am not persuaded that it provides a sound basis for establishing whether some, if not all, of the development plan obligations could not be met.
48. Furthermore, in only seeking to justify a quantum of development, there is little to suggest that an alternative design, layout, type or mix of accommodation could not be viably delivered on the site. I therefore consider the appraisal a matter of limited weight.

49. I note the appellant's contention that the Council's decision was inconsistent with other development proposals. However, little evidence is provided in that respect. I am therefore unable to draw comparisons, or otherwise, to those decisions.
50. I also acknowledge the appellant's concerns relating to the opportunities offered by the Council to seek to amend the proposals to address their concerns. However, this is not a matter for the appeal.

Planning Balance and Conclusion

51. The proposal would harm the character and appearance of the locality and the designated CA; it would adversely affect neighbours' living conditions and have a high propensity for delivering poor living conditions for future occupiers. It would also elevate risks to highway safety.
52. The scheme would deliver up to 54 new units of accommodation in a location with good access to services and facilities. It would provide opportunities for travel by various modes, including public transport.
53. It could include housing aimed at meeting an identified need and supported living for the elderly. However, whilst this could deliver some benefit, there is little to demonstrate the final format of the development, and therefore the extent of contribution to older persons housing and/or any care function. In the face of the Council's healthy housing land supply, the weight to the public benefit of housing delivery, is therefore limited to only moderate.
54. The proposal would make effective use of a brownfield site. The Framework is clear that substantial weight should be given to using suitable brownfield land within settlements for homes. However, this is subject to safeguarding and improving the environment, and ensuring safe and healthy living conditions. As I have identified harm in those respects, this is a matter of limited weight in the particular circumstances of the case.
55. The restricted architectural and visual contribution of the existing building on the site would be replaced. However, for the reasons provided above, the harm arising from the proposal would be considerably greater. Claims that the site might become derelict are not qualified by evidence of active marketing for the site's re-use. Those arguments are therefore also matters of limited weight.
56. Taking all of the above together, I consider that the balance of benefits would not outweigh the totality of the harm that would arise from the development. It would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not be allowed.

R Hitchcock

INSPECTOR