



Appeal Decision

Site visit made on 30 August 2022

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2022

Appeal Ref: APP/G4240/W/22/3297030

Unit 1 Bank Mill, Manchester Road, Mossley OL5 9BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Goddard against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 21/00558/FUL, dated 21 April 2021, was refused by notice dated 18 February 2022.
 - The development proposed is the conversion of business/storage unit into two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that development comprises the erection of a first floor extension and conversion of existing business/storage unit into two dwellings. The Council dealt with the proposal on this basis and so shall I.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the host building and the area;
 - whether appropriate living conditions would be provided for future occupiers of the proposal with particular regard to outlook, privacy, noise and disturbance; and
 - the effect of the proposal on the operation of the nearby businesses.

Reasons

Character and appearance

4. The appeal relates to a single storey brick building with a stone faced front elevation. It is one of a group of single storey commercial/industrial buildings located between the rear of, predominantly residential, terraced properties on Manchester Road and the Huddersfield Narrow Canal. It is relatively well screened from Manchester Road but is visible in views from the Canal and the residential properties on either side of it.

5. The proposed first-floor extension on one end of the building would be substantial, equal to a little more than one-third of the footprint of the existing building. It would create an unbalanced and asymmetric appearance at odds with the current modest scale of the building. The residential design and proportions of the extension would give the building a degree of domestication that would be a marked contrast with the character of the host building and that of the utilitarian commercial/industrial buildings adjacent. The bulk and massing of the proposal would result in it being dominant and prominent, particularly when viewed from the Canal.
6. It is proposed to use materials that are reflective of those used in the existing building, which is currently in a poor state of repair and subject to graffiti. The proposal also provides an opportunity to improve the appearance of the land to its rear. Nonetheless, the effect of the scheme would be to unacceptably diminish the character, appearance, and integrity of the host building for the reasons set out above. In addition, it would appear incongruous and uncomfortable within its setting, that includes the commercial buildings it is closely associated with.
7. Therefore, the proposal would cause unacceptable harm to the character and appearance of the host building and the area, contrary to the design aims of Policy C1 of the Tameside Unitary Development Plan 2004(UDP) and the National Planning Policy Framework (the Framework).

Living conditions

8. The rear elevation of several terraced properties on Manchester Road face towards the rear gardens of the proposed dwellings. Whilst overlooking of rear gardens is typical and accepted within most residential areas, in this case the first-floor windows of the terraced properties would look over the entire garden area of the proposed dwellings at very close range. Such a high level of overlooking would be detrimental to the enjoyment of the gardens by the occupiers resulting in a significant loss of privacy, thereby unacceptably harming their living conditions.
9. This relationship is not comparable to the degree of overlooking experienced by the occupants of the terraced properties where their gardens are to either side of, and not opposite, the windows thereby restricting the extent of the garden that is viewable. Whilst landscaping along the boundary nearest the terraced properties could be secured by condition, it would at best only filter views into the proposed gardens and would not reduce overlooking to an acceptable level.
10. The appeal site is very close to the adjoining businesses and would share an access with them. It is particularly close to a car body-shop which I noted on my visit undertake bodywork and paint spraying. It is therefore reasonable to anticipate that such a business will generate noise, dust, and fumes which will have an adverse impact on the living conditions of the occupiers of the proposed development. Such an impact will occur irrespective of the hours of opening of the businesses. In addition, a significant impact can occur at lower levels of disturbance than that which would constitute statutory nuisance and as such the enforcement powers available would not be sufficient to protect the living conditions of the occupants of the proposal.
11. The principal windows of plot 2 are on the rear elevation and side elevation facing the canal. Due to the open aspect, the outlook and level of light is

acceptable from such windows. The kitchen window of the proposed dwelling on plot 1, however, faces towards the side elevation of the adjoining car body-shop and the shared access and circulation space to the front of that building. The proximity of the building and the activity associated with the business would result in the outlook from that window being unacceptably poor. Whilst adequate light and outlook would be achieved for the rooms given the large windows in the rear elevation this is not sufficient to suitably compensate for the poor outlook at the front. Consequently, the relationship with the business would unacceptably compromise the living conditions of the occupiers of plot 1.

12. Accordingly, the proposal would not provide appropriate living conditions for future occupiers of the proposed dwellings. This would be contrary to Policy H10 of the Tameside Unitary Development Plan 2004 (UDP) which seeks to, amongst other things, ensure that development is designed to meet the needs of the potential occupiers. It would also be contrary to aims of the Tameside Residential Design Supplementary Planning Document and the Framework to secure suitable living conditions for all.

Effect on nearby businesses

13. Given the close relationship and lack of any boundary treatment that separate the front of the proposed dwellings from the existing businesses it is reasonable to conclude that they could generate complaint from the occupiers of the proposal. The introduction of a sensitive use could therefore unreasonably restrict their development. As such the proposal could be prejudicial to the future of the established employment uses adjoining the site.
14. I note that the businesses already operate to the rear of existing residential properties on Manchester Road and opposite residential properties on the other side of the Canal. Whilst there is no apparent conflict between the operation of the businesses and the existing residents that does not lead to the conclusion that further residential properties are appropriate in this location. The appeal building is closer to the businesses, in particular the car body-shop, than any of the existing dwellings and as such will experience greater disturbance.
15. I therefore conclude that the proposal would have an unacceptable effect on the operation of the adjoining business and would therefore be contrary to Policy 1.12 of the UDP, which seeks to avoid conflict between industrial or commercial operations and residential environments.
16. I note that the Council have referred to Policy H10 in the reason for refusal. However, that policy relates to the detailed design of housing development and seeks, amongst other things, to ensure that no unacceptable impact on the amenity of neighbouring properties arises from new development. It cannot be said that the proposal will affect the amenity of the business or its operators and as such the policy is not relevant to this main issue.

Planning Balance

17. The Council is currently unable to demonstrate a five-year housing land supply. Consequently, para 11d) of the Framework is engaged. Therefore, according to para 11d) ii) of the Framework consideration must be had as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

18. The proposal would make a very modest contribution of two units, in an accessible location, to the supply of housing. Benefits to the local economy would also be small given the scale of the scheme.
19. As set out above, I have found harm to the character and appearance of the area and the living conditions of future occupiers. I have also found that the development would unacceptably affect the operation of nearby businesses.
20. Overall, I find that the harm I have identified would significantly and demonstrably outweigh the benefits.

Other Matters

21. The appeal site lies next to the Huddersfield Narrow Canal Site of Special Scientific Interest. However, there is no need for me to consider the implications of the proposal upon it because the scheme is unacceptable for other reasons.

Conclusion

22. The development conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
23. I hereby dismiss this appeal.

Elaine Moulton

INSPECTOR