



Appeal Decision

Site visit made on 10 May 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th June 2023

Appeal Ref: APP/B4215/W/23/3314753

32 Montcliffe Crescent, Manchester M16 8GR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Shakil Ahmed against the decision of Manchester City Council.
 - The application Ref 135281/FO/2022, dated 25 October 2022, was refused by notice dated 16 December 2022.
 - The development proposed is described as “retrospective planning application for the creation of a self-contained flat dwelling house (Class C3) in response to a breach of condition 4 attached to planning permission - ref no ENF/15475/22”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development applied for has already been carried out and is occupied. The application is retrospective, and I have therefore considered the appeal on that basis.
3. A revised drawing has been submitted as part of this appeal, drawing no. M168GR/PA03 Rev A dated January 2023, to amend the internal layout of the property and reduce the number of bedrooms from three to two. As the Council and third parties have not had the opportunity to comment on the revised drawing, I cannot be certain that their interests would not be prejudiced if I were to accept them. Therefore, I have determined the appeal based on the plans submitted with the application to the Council and upon which the views of interested parties were sought.
4. A building with similar siting, scale and massing to the appeal development has previously been granted permission by the Council under references 119550/LP/2018 and 120363/FH/2018. I understand however that the permissions relate to an ancillary building, for use in connection with the host property, no. 32 Montcliffe Crescent. Given its ancillary use, the previous permissions are not directly relevant to the matters being considered as part of this appeal. I have therefore dealt with the appeal development on its own merits and in the context of its surroundings.

Main Issues

5. The main issues are:
 - The effect of the development on the character and appearance of the area;

- The effect of the development on the living conditions of existing occupiers of neighbouring properties, particularly no. 32 Montcliffe Crescent, with regard to privacy, outdoor space, noise and disturbance;
- The effect of the development on the living conditions of future occupiers, with regard to internal space standards and outdoor space;
- The effect of the development on highway safety, with regard to parking provision; and,
- Whether there are other material considerations sufficient to outweigh any harm identified in respect of the above issues.

Reasons

Character and appearance

6. The site lies within a predominately residential area, within a relatively modern housing estate. Properties in the area a mix of single storey and two storey detached and semi-detached properties. They are sited in narrow plots, set back from the highway, with modest, open front gardens and relatively spacious rear gardens. Insofar as relates to this appeal, it is the layout, open frontages and ample plot sizes that contribute to the character of the area.
7. 32 Montcliffe Crescent is a two storey detached property, sited at a right angle to the highway. The frontage of this property faces onto a footpath that leads from Montcliffe Crescent to Stoneyfield Close. The layout of no. 32 mirrors that of nos. 5 and 7 Stoneyfield Close. No. 32 has a modest, open frontage with, prior to the development, a relatively spacious rear garden. Although the orientation of no. 32 differs to the majority of properties in the wider estate, it contributes to the character of the area, by virtue of its layout, open frontage and plot size.
8. This appeal relates to a single storey, detached property, which is sited within a section of the rear garden that previously served the host property, no. 32. The site is partially screened by the existing brick boundary wall along the site frontage. The garden has been sub-divided through the erection of fencing, in order to separate the development from no. 32 and its remaining garden. The sub-division has materially reduced the size of the plot associated with no. 32 to a size which is at odds with the prevailing character of the area.
9. Due to the limited size of the appeal site, the appeal property is sited within close proximity to two of the site boundaries. The appeal property has no rear garden, a very shallow front garden, which is enclosed by the brick boundary wall, and narrow side garden. The plot size and layout of the appeal development, including the enclosed front garden, are therefore at odds with the prevailing character of the area.
10. The appellant has stated that there are similar properties in the area that should have been refused. I have no information before me relating to these properties, their location or planning history. I have therefore dealt with this case on its own merits.
11. For the reasons above, the appeal development has a harmful effect on the character and appearance of the area, contrary to Policies SP1, EN1 and DM1 of the Manchester Core Strategy Development Plan Document 2012 (CS) and

guidance within the National Planning Policy Framework (the Framework). Collectively, these policies and guidance seek, amongst other things, to ensure development creates well designed places, has regard to the character of the surrounding area and is sympathetic to local character.

Living conditions existing occupiers

12. No. 32 is a two storey detached property that has previously been extended. As a result of the development, the garden space associated with no. 32 has been reduced. The remaining outdoor space for no. 32 lies largely to the side of the property, as the rear garden depth has been substantially reduced.
13. Having regards to the size of the property, there is little evidence that the remaining outdoor space meets the basic needs of the occupiers. There is not adequate space to accommodate a range of garden activities including leisure activities, drying of laundry, outdoor storage or planting areas.
14. The development comprises a modest, single residential unit and, as a result, any noise or disturbance arising from its use is likely to be limited and similar to impacts commonly experienced within residential areas. In addition, the appeal property is already occupied and there is no substantial evidence before me which demonstrates that neighbouring occupiers are experiencing unacceptable levels of noise and disturbance as a result of its use. Having regards to this, I am satisfied that the living conditions of the occupiers of neighbouring properties are not materially affected by the development, through noise and disturbance.
15. The appeal property is single storey, with no accommodation in the roofspace, and all windows are at first floor level and face onto the outdoor space associated with it. The side and rear elevations of the appeal property immediately adjoin two of the site boundaries and are blank, with the exception of an obscure glazed bathroom window. A close boarded timber boundary fence and brick wall are located along the site boundaries. Any loss of privacy, as a result of overlooking from the appeal property and its outdoor space, is mitigated through the provision of the existing boundary treatments.
16. For the reasons above, the appeal development has a harmful effect on the living conditions of existing occupiers of neighbouring properties, particularly no. 32 Montcliffe Crescent, with regard to the provision of outdoor space. This is contrary to Policies SP1 and DM1 of the CS and guidance within the Framework. Collectively, these policies and guidance document seek, amongst other things, to ensure development makes a positive contribution to the health, safety and wellbeing of residents, have regard to effects on amenity, including noise, disturbance and privacy, and adequacy of external amenity space and provide a high standard of amenity for existing users.

Living conditions future occupiers

17. Policy DM1 of the CS states, amongst other things, that development should have regard to the adequacy of internal accommodation. It further states that more detailed guidance may be given within a supplementary planning document.
18. Manchester Residential Quality Guidance 2017 (MRQG) outlines the considerations, qualities and opportunities that will help to deliver high quality residential development. The MRQG highlights, amongst other things, that the

quality of space has a profound impact on a resident's experience and enjoyment of their home. To ensure developments are designed with sufficient space, the MRQG's approach is to achieve and exceed the National Described Space Standards (NDSS). The MRQG seeks to encourage developers to deliver residential units that exceed Manchester's emerging space standards, which combine the NDSS and the London Housing Design Guide space standards.

19. The MRQG advises a single storey, three bedroom property for four people should have a minimum gross internal area (GIA) of 74 sqm. The Council state that the development is provided with an approximate GIA of 61sqm. The appellant does not disagree with this assessment. The development is therefore significantly below the minimum space standards, which the MRQG seeks to achieve and, where possible, exceed. As a result, the development provides a poor level of accommodation for the occupiers of the property.
20. The revised plan sought to amend the internal layout of the property and reduce the number of bedrooms from three to two. The MRQG advises that a single storey, two bedroom property for four people should have a minimum GIA of 70 sqm. Even if I were to consider the revised plan as part of this appeal, the layout still falls notably short of the minimum requirements for a two bedroom property.
21. The MRQG does not preclude the consideration of approaches that do not meet the standards, providing it is demonstrated that development will be appropriate to user demands and of the highest quality and benefit the community. There is no information before me which demonstrates that the development meets these objectives.
22. The appeal property has limited outdoor space, which is split between the front and side of the property. The area is further constrained by the provision of an off-street parking space and storage of waste and recycling bins. Having regards to the size of the appeal property and the number of occupants, there is little evidence that the remaining garden space meets the basic needs of the occupiers. There is not adequate space to accommodate a range of garden activities including leisure activities, drying of laundry, outdoor storage or planting areas.
23. The appellant has stated that the size of the outdoor space could be revised, by asking the occupier of no. 32 to create extra space. No details have been submitted which outline how any additional space could be created to serve the appeal property. In any case, I have already found harm to the living conditions of the occupiers of no. 32, with regard to the provision of outdoor space.
24. For the reasons above, the appeal development has a harmful effect on the living conditions of future occupiers, with regard to internal space standards and outdoor space. This is contrary to Policies SP1 and DM1 of the CS and guidance within the MRQG and the Framework. Collectively, these policies and guidance documents seek, amongst other things, to ensure development makes a positive contribution to the health, safety and wellbeing of residents, have regard to the adequacy of internal accommodation and external amenity space and provide a high standard of amenity for future users.

Parking provision

25. Montcliffe Crescent is located within a predominately residential area, on a relatively modern housing estate. It has a 30mph speed limit and no parking restrictions. Within the estate, off-street parking provision is typically located to the frontage of each property. Whilst only a snapshot in time, during a quieter part of the day, I observed on-street parking along Montcliffe Crescent and within the wider estate. This is likely to increase during busier periods, including evenings and weekends.
26. The submitted plans show a single off-street parking space within the site. The Council have concerns that the parking space is restricted, having regard to the driveway dimensions required by Highway Services, size of the site and location of the ramped access to the property. Based on the information before me, access into and out of a vehicle utilising the parking space would be restricted due to the proximity of the boundary fence and ramp.
27. The appellant has stated that the occupier of the appeal property has no intentions to drive a car, would consider cycle storage and would encourage the family to utilise public transport. Although the current occupiers may not have need for a car, any future occupants of the property may do.
28. Based on the information before me, the appellant has failed to demonstrate that there is sufficient space within the site to provide a single parking space of sufficient size to accommodate an average sized car and allow space for the occupiers of any such vehicle to enter and leave the vehicle.
29. Limited evidence has been submitted which demonstrates that there is sufficient capacity to safely accommodate the additional demand for on-street parking that would result from the appeal development. In the absence of such evidence and having regard to existing on-street parking within the estate, the appeal development is likely to increase on-street parking pressure along Montcliffe Crescent.
30. The provision of cycle storage could be dealt with by way of a suitably worded condition, should I find the development is otherwise acceptable.
31. For the reasons given above, I conclude that the appeal development would have a harmful effect on highway safety, with regard to parking provision. This is contrary to Policy DM1 of the CS and guidance within the Framework. Collectively this policy and guidance document seek, amongst other things, to ensure development has regard to road safety and car parking and avoids unacceptable impacts on highway safety.

Other material considerations

32. I recognise that the failure of this appeal could affect the living arrangements for the current occupants of the property, including children and an individual registered as disabled. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Disability and age are relevant protected characteristic to which the PSED applies. Article 8 of the HRA requires that decisions ensure respect for private and family life and the home. Where the Article 8 rights are those of children, they must be seen in the context of Article 3 of the of the United Nations Convention on the Rights of the Child, which requires a child's best interests to be a primary consideration. These rights are engaged in reaching my decision

and I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.

33. The appellant states that there is no alternative accommodation for the family, that there is a long waiting list for social housing in Manchester and, due to funds, the occupants are unable to rent a house within the area of Whalley Range. Third party comments state that the family would be homeless if the appeal does not succeed.
34. I have been provided with limited evidence in relation to alternative, available accommodation options, the extent of the waiting list for social housing in Manchester and whether the family would be homeless should they need to vacate the property. I also have limited information before me which outlines why the occupants need to remain in the Whalley Range area, although the appellant refers to difficulties associated with transferring schools and cited the lack of support services and advice for the family. Whether the family would need to vacate the property as a result of this appeal would be a decision for the Council, when considering any such enforcement action, as would any timescale for doing so.
35. In any event, the present internal layout of the development, combined with the limited garden space, does not provide an acceptable standard of accommodation. Therefore, to allow the appeal would not be in the best interests of the children nor would it eliminate discrimination or promote equality of opportunity. I have had regard to the development plan policies and the Framework, which aim to provide a suitable standard of accommodation and avoid congestion in the public interest. I afford the conflict with the relevant policies substantial weight.
36. In this instance, given the substandard nature of the accommodation and outdoor space, the circumstances of the occupants of the appeal property do not outweigh the harm identified above. Dismissal of the appeal is therefore necessary and proportionate and would not unacceptably violate family rights under Articles 1 and 8. I have given consideration as to whether any conditions could be imposed to mitigate the harm identified but the protection of public interest cannot be achieved by means that are less interfering of the human rights of property occupants. Nonetheless, even with additional weight applied to this effect, whilst I sympathise with the position the family finds itself in, there is no over-riding reason to allow a permanent dwelling to address the occupants and their dependants' personal circumstances. As such, this does not amount to a material consideration of sufficient magnitude to outweigh the primacy of, and conflict found with, the development plan.

Other Matters

37. A large number of third party comments state they are in general support of the proposal. In addition, these comments also include reference to the development bringing additional revenue for the Council, help with road repairs, is of good design, would bring a derelict site back into positive use, would increase natural surveillance, deter anti-social behaviour and highlight that several properties have been extended to accommodate extended households due to the cost of living.

38. The Council have not raised any concerns with regards to design, natural surveillance and anti-social behaviour. These matters accord with the Development Plan and are neutral considerations in my determination. The additional matters would result in minor benefits, but these carry very limited weight, having regards to the modest amount of development being considered. When combined, these matters do not carry sufficient weight to overcome the harm I have identified.
39. The appellant states they should have been given additional time by the Council to submit a revised scheme. In determining the appeal, I am required to have regard to the planning merits of the development and this is therefore a matter between the appellant and the Council.

Conclusion

40. For the above reasons, the appeal proposal would conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with it. Consequently, the appeal is dismissed.

S Pearce

INSPECTOR