

Recommendation:

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Application documents and plans available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OFZ17DNW01A00>

Site Location Plan



The Site

The application site relates to a plot of land located south of no.5 Chapelhouse Walk. The site has an irregular shape, created through the severing of land from no.7 Flaxfield Road and No.5 Chapelhouse Walk. The site is now occupied by an incomplete two storey dwelling located relatively central to the site and two outbuildings located in the far east corner of the site (land previously within the rear garden of no.7 Flaxfield Road). The site is relatively flat, however, there is a gentle downward sloping gradient from north to south and west to east.

The site is surrounded on all sides by a variety of two storey semi detached residential properties. Properties on Flaxfield Road and Altcar Road are positioned on a lower ground level to the application site than those properties on Chapelhouse Walk. There is a distinct difference in land levels between the application site and the rear gardens of no's 25 and 27 Altcar Road, this change in level is less obvious with properties on Flaxfield Road due to the gentle slope which graduates from the application site and continues down the rear gardens of the neighbouring properties.

A mature tree is located adjacent to the eastern boundary of the application site within the rear garden of no.9 Flaxfield Road.

The site is secured on all sides by timber fencing set between concrete posts, the height of which varies around the site.

Access to the site is taken from Chapelhouse Walk between no.5 and 6.

History

Planning permission was granted on the site in January 2016 (application ref: DC/2015/02006) for the erection of a detached two storey dwellinghouse with accommodation in the roofspace.

Following the granting of planning permission development commenced on site. In addition, two applications were submitted to discharge various planning conditions attached to the consent (application ref: DC/2016/00205 and DC/2016/00210).

Following a number of complaints regarding the commencement of the development and the lack of compliance with the original consent, extensive investigations were carried out by the Local Planning Authority including an independent survey of the site. The investigations concluded that the development had not been constructed in accordance with the approved plans (under planning ref: DC/2015/02006) and as such was in breach of planning condition. The breaches identified included the incorrect positioning of the building (most noticeably the positioning of the building further south towards properties on Altcar Road), variations in the door and window locations, replacement of a chimney with a stainless steel flue, alterations to the roof pitch (in relation to the eaves height), removal of roof lights in the single storey outrigger and the lack of installation of solar panels. In addition, it was witnessed that land levels across the site had risen and an outbuilding erected to the east of the site. A smaller second outbuilding was witnessed on the site, but this had been constructed prior to the severance of the land with no.7 Flaxfield Road and as such was permitted development.

Having informed the applicant of the breaches, a fresh application which seeks to regularise the current development has been submitted, now the subject of consideration. It must be noted that originally the application only included the dwellinghouse house, however, the application has since been amended to include the larger outbuilding which does not benefit from planning permission. This application, therefore, seeks to retain the dwellinghouse as built, and the larger outbuilding and should be assessed as such. Although the applicant has identified the smaller outbuilding on the site plan, this is not subject to assessment for the reasons stated above.

Consultations

Community Fire Protection Department

Consider that the premises would not present an unacceptable hazard to neighbouring premises and make observations relating to access for fire appliances and water supplies for fire fighting purposes.

Environmental Health

No objections.

Highway Safety

No objections.

Neighbour Representations

Neighbouring residents were initially consulted on the application on 5th December 2016. A further consultation was carried out on 24th February 2017 following receipt of further information relating to the retention of an existing outbuilding.

Representations have been received following both consultations and includes residents from Flaxfield Road, Altcar Road and Chapelhouse Walk. The representations object to the proposal on the following grounds:

Residential amenity – Impact on light into the garden; direct overlooking as a result of scale of the building and elevated position; loss of view and privacy; introduction of decking would cause further overlooking; overbearing property; overwhelming; raising of existing boundary fences and impact on amenity; outbuilding is too high and close to the boundary; a condition should be required to ensure no further increase in land levels; the side door overlooks neighbouring gardens and should not be glazed; new fence should extend along all boundaries shared with the plot due to overlooking.

Visual amenity and local character - Dwelling house is realistically a 3 storey house, the ridge height is approximately 2m higher than any other house in the surrounding area; House is overbearing and out of character from the properties in the vicinity; commercial looking eyesore is far higher than surrounding domestic houses; property is over twice the size of any nearby properties; the largest development has been built to maximise any monetary gain; scheme should be amended to reduce the overbearing nature of the property and soften the impact on the amenity; building is commercial or even military in appearance, has large areas of featureless brickwork and small out-of-scale upper windows further emphasised by a steep roof and stainless steel flue; ugly building dominates the landscape, bears no characteristics with surrounding properties and is a blot of the landscape.

Flooding - high water table, risk of local flooding; application has not incorporated a SUD scheme as initially required under the previous consent; land has been raised raising significant concerns regarding flooding onto neighbouring properties; drainage was laid above ground with land raised to cover this which is a ridiculous solution to an engineering problem.

Trees and Landscaping – property was supposed to be built further away from the existing tree; plans have been misrepresented to show the location of the tree; house has caused further harm on horse chestnut tree at the bottom of the neighbouring garden, this tree has been butchered to accommodate the house position; neighbours will not be held accountable if the roots of the tree are damaged and the tree dies; If the applicant had provided accurate information, the development would not have fitted on the site and maintained a 5m distance as stated on the original plan; original scheme was approved with a requirement to have landscaping; excavations for the foundations were carried out by machine without any regard for root protection measures, this action has most likely damaged the tree; do not want to see the loss of existing trees which provide some protection; structural integrity of the house due to proximity to the tree.

Other matters – Application was put in previously with the intention to build something completely different to what was planned; plans were not followed to deliberately mislead the planning department and those neighbouring the proposed development; applicant has total disregard for the amenity of neighbours and local policies; applicant's decision to go ahead and continue building is unfair on anyone else in the borough who works within

planning policy and best practice; large outbuilding erected in the garden without consent with little being done about it, appears to have been ignored; increase in land levels was not included on the application; dangerous retaining wall has been installed; people are prepared to flout the rules; scheme will set a precedent; raising of land raises risk of damage to boundary fences; original scheme was approved with a requirement to have sustainable drainage system, solar panels and landscaping, none of which are now being proposed; dispute the validity of the ownership certificate; impact on value of property; drawings are inaccurate; original scheme included the development of an eco-friendly butterfly farm which now appears to have been removed; lack of enforcement action by the Council; plans are not to scale; lies and deceit of the applicants; boundary misrepresentation which has been used to justify the incorrect location of the building; no right to increase the existing boundary fence which does not belong to the applicant; raising the boundary fence with additional concrete plinths and trellis would be a cheap, weak and shoddy amateur solution; new fence would result in existing fence becoming a retaining wall; land levels carried out by the Council did not tie into any ordnance survey reference points and are therefore useless as a means to determine predevelopment ground levels, LIDAR survey shows significant raising of levels has taken place.

Policy Context

The application site is situated in an area designated as residential on the Council's Adopted Unitary Development Plan.

The policies in the emerging Local Plan (June 2016) were subject to discussion at the recent Local Plan Examination and where appropriate have been given weight in coming to a recommendation on this application.

Those policies to which there was no objection or to which no modifications have been proposed may be regarded to carry significant weight. They will be referred to where appropriate in the assessment of this proposal.

Assessment of the Proposal

The key issues for consideration are the principle of the development, the impact on residential and visual amenity, and the impact on highway safety. Impacts on drainage and an existing tree are also subject to consideration.

Principle

The development is located within a primarily residential area where residential development is considered acceptable in principle under policy H10 of the Unitary Development and policy HC3 of the emerging local plan, which carries significant weight.

Furthermore, the principle of a residential development on the site has already been established through the granting of planning permission DC/2015/02006.

The principle of the development is considered acceptable, subject to all other matters being acceptable.

Impact on Residential Amenity

A number of objections have been raised from neighbouring residents with regards to the impact of the development onto their living conditions, this includes loss of light, impact on views and overlooking.

Policy DQ1 of the Unitary Development Plan seeks, amongst other things, to protect the amenity of those within and adjacent to a site. This is mirrored in policy EQ2 of the emerging Local Plan and which carries significant weight.

Overshadowing

It is recognised that the dwelling is surrounded by residential properties on all boundaries and having regard to the two storey nature of the dwelling has the potential to create a degree of overshadowing.

The dwelling projects further beyond the rear elevation of no.6 Chapelhouse Walk than the original approval, but is set away from the side elevation of this property. The dwelling is located to the east of no.6 and whilst there would be some loss of early to mid-morning light the development would not unduly intrude on light throughout the remainder of the day. Similarly, properties on Flaxfield Road (mainly no.5 to 9) would be affected by some loss of mid to late afternoon sunlight, being located east of the development. However, they would not be unduly affected by loss of morning to early afternoon sun. Furthermore, properties on Flaxfield Road have extensive gardens, most in excess of 30m and as such any loss of light would be restricted to the rear portion of the gardens. Properties on Altcar Road are located south of the dwelling, and whilst the house has been positioned closer to properties on Altcar Road, this does not create any greater effect in relation to overshadowing.

It is acknowledged that the re-positioning and re-design of the building differs from that originally approved. However, it is considered that the degree of overshadowing would not be unacceptable and would not be materially greater than that which would have occurred from the original approval.

The outbuilding is of a scale and location that does not present any overshadowing concerns.

Impact on Views/Outlook

It is well established in planning law that the loss of a view is not a material consideration, however, the impact on a resident's outlook is.

It is acknowledged that the two storey dwelling is highly visible from a number of surrounding properties. In relation to properties on Flaxfield Road, the side gable of the dwelling is located in excess of 35m from the rear elevations of these properties. This is considerably greater than the 12m recommended by the Councils Supplementary Planning Document (SPD) for New Housing, and greater than the distance between of other properties in the surrounding area. Whilst the dwelling is located close to the shared boundary with properties on Flaxfield Road, their extensive garden lengths restrict the impact the dwelling has on the living conditions of these neighbouring properties. This was a consideration of the original approval, where it was concluded that the dwelling would not impact significantly on the outlook of the residents on Flaxfield Road. The re-siting of the building does not materially change this view.

In relation to the properties on Altcar Road, the impact of the dwelling on the outlook of these properties is greater than that on the Flaxfield Road properties. That said, the interface distance to the single storey outrigger from the rear windows of the nearest property is in excess of 27m, and a further 4m to the two storey gable. Again, this is in excess of the recommended 21m as set out in the New Housing SPD, a matter that was considered in the assessment of the original permission and which remains the case even as a result of the re-positioning of the building. It is noted that there is a variation in land levels, which was not particularly evident when assessing the original permission. However, the level differences are apparent on site when viewing the development as constructed. Even with the variation in land levels, the interface distances are still in excess of the standards recommended within the New Housing SPD. It is therefore considered that the dwelling, in its current position, does not cause significant harm to the outlook of the residents on Altcar Road.

The outbuilding is relatively small in scale and characteristic of the surrounding area. It does not cause significant harm to the outlook of neighbouring properties.

Overlooking

The dwelling has a number of windows in the front and rear elevations at ground and first floor, with the addition of two small dormer windows in the roof space to the front elevation. Two windows and a single door are located at ground floor with a first floor window in the western elevation, whilst a patio door is located in the eastern elevation of the single storey element of the dwelling. At the time of visiting the site a number of windows and doors had yet to be installed, albeit the openings existed.

The windows to the front present no overlooking concerns. They are distanced approximately 11m from the shared boundary with no.5 Chapelhouse Walk(an increase from the original permission) and face the side gable of this property. Although there are windows in the neighbours side gable, they are obscure.

Similarly, there are no overlooking concerns from the ground floor windows and door to the western elevation when having regard to the boundary treatment and vegetation along the boundary with no.6 Chapel House Walk. The first floor window to the western elevation, will serve a bathroom and subject to this window being obscurely glazed and top hung, would not look into the neighbouring property or garden. A planning condition can secure this.

The door in the eastern elevation would look directly into the portion of garden that has been severed from no.7 Flaxfield Road, distanced some 11m away from the boundary with no.7 Flaxfield Road and 35m from rear windows. This is similar to that considered under the original permission. It is acknowledged that due to the changes in levels, the positioning of the side door is marginally higher than that originally approved. In this instance, it is accepted there is potential for some overlooking into the rear gardens of no's 5 and 9 Flaxfield Road. However any overlooking from the door would be at an angle and partially obstructed by existing outbuildings and vegetation within the application site and the rear gardens of the neighbouring properties.

The dwelling is closer to properties on Altcar Road and windows to the rear elevation would look directly towards the rear of no.27 Altcar Road. As constructed, the upper floor windows are distanced in excess of 14m and 30m from the rear boundary and rear windows of the neighbouring property, respectively. The ground floor windows are distanced between 10.5m and 11.5m from the rear boundary and a minimum of 27m from the rear windows of the neighbouring property. It is acknowledged that the rear windows are in an elevated position due to the variation in land levels, which is different from that assessed in the original permission. Nevertheless, it is considered that there is sufficient distance between the dwelling and the neighbouring boundary as to not cause an unreasonable level of overlooking into the rear garden. Furthermore, it is recognised that an extensive portion of the rear garden is screened from both ground and first floor by the neighbour's outbuilding.

There are differences in land levels between the application site and the rear garden area of no.27 Altcar. Whilst the level differences vary between the application site and properties on Flaxfield Road, this is less obvious as the ground gradually falls into the rear gardens of these properties. There are differing views between the applicant and the neighbours in relation to the raising of land around the building and the extent to which the land has been raised. The original permission did not propose any raising of land, but having investigated the matter it is evident that there has been some raising of land, particularly to the rear of the site adjacent to no.27 Altcar Road. Observations from the neighbouring property and from within the site show that overlooking does occur into the neighbouring garden of no.27 Altcar and into the neighbouring garden of no.5 Flaxfield Road. This would to some extent be further exacerbated through final landscaping, laying of paving stones and decking, etc, which would increase the levels further. To overcome this, the applicant has agreed to install a 2m fence from within the site, adjacent to the boundary with the two affected neighbours, these being No's 27 Altcar and No.5 Flaxfield Road. This would be an acceptable approach and whilst the new fence would extend above the existing boundary fences, would not raise any further concerns having regard to the garden lengths and presence of similar boundary treatments (in design terms) in the area. Residents have suggested that any new fencing within the site should be located on all boundaries, however, this is not considered reasonable as the harm from overlooking is not the same along all boundaries. A condition is recommended to ensure the specific details are agreed with the local planning authority.

The outbuilding, once completed, would incorporate patio doors in the south facing elevation. This would look directly towards the existing boundary fence of no.5 Flaxfield and would not present any overlooking concerns.

Impact on Visual Amenity – Design and Appearance

The dwelling is similar in scale and design to that proposed under the previous approval. In this instance, the building is a detached property, incorporating a dual pitch roof with two small dormer windows located to the front slope, and a single story outrigger to the rear. There are a number of changes to the design of the dwelling as identified above in the planning history.

Unitary Development Plan policy CS3 states that development would not be permitted if it would cause significant harm to amenity or the character or appearance of the surrounding area and Unitary Development Plan policy DQ1 states that development will not be permitted unless the proposal responds positively to the character and form of its surroundings. Emerging Local Plan policy EQ2 (which carries significant weight) states that development will only be permitted where the proposal responds positively to the character, local distinctiveness and form of its surroundings.

Paragraph 60 of the National Planning Policy Framework states that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles but it is proper to seek to promote or reinforce local distinctiveness.

The detached design of the dwelling differs from the semi-detached houses immediately adjacent to the application site. The difference is further expressed by the introduction of small dormer windows to the front and an increase in ridge height, particularly with properties on Chapelhouse Walk. However, a mix of house types, designs and scales do exist in the wider area (including detached properties), as do dormer windows, whilst the building is constructed of traditional materials found elsewhere in the surrounding locality.

The dwelling is noticeable from Chapelhouse Walk, however, it does not particularly contribute to the overall street scene due to its back land position. Views of the building can be obtained through the gaps between existing properties on Flaxfield Road and Altcar, but these are limited and do not contribute significantly to the overall street scene. Consequently, the visual impact of the house type and scale is to a great extent localised to views from the immediate neighbouring properties, the impact of which has been addressed above.

It is accepted that the dwelling differs from neighbouring properties, but it is considered that it does not detract from the character and distinctiveness of the wider area and is therefore acceptable.

Outbuildings of various design and scale are evident in the local area, including in the rear gardens of a number of neighbouring properties and as such are acceptable in design terms.

Impact on Highway Safety

Once complete the development would provide off road parking provision for a minimum of 1 car, although it is more likely to be two cars. Access would be taken from Chapelhouse Walk via the existing access that originally served no.5.

There were no objections to the original proposal on highway safety grounds, and this remains the case. Furthermore, the site is close to good public transport links.

The development does not presents any highway safety concerns and is therefore compliant with policy AD2 of the Unitary Development Plan and EQ3 of the emerging Local Plan, which carries significant weight.

Impact of Drainage

A number of objections have been raised relating to the drainage of the site and potential risk to flooding.

The NPPF (para.103) seeks to prevent the increase in flood risk and only accept developments in areas at risk of flooding where the relevant tests (sequential and exception) have been addressed. This is reflected in policy EP8 of the UDP and EQ8 of the emerging local plan.

The application site is not recognised as being at risk of flooding. It is accepted that the development could increase the amount of surface water run-off in and around the site and as such appropriate drainage is required. This was recognised in the original permission which attached a condition seeking details of surface water drainage.

In this instance, surface water has been directed to a combined sewer, as approved by United Utilities. This is not the preferred option, however, it is understood from the Councils Building Control Manager that due to a high water table in the area the use of a soak away is not practicable, whilst there is no watercourse or surface water sewer to connect into.

In this regard, it is considered the method of drainage is acceptable and would not give rise to flooding concerns. As the works have been completed, there is no need to attach a condition.

Impact on an Existing Tree and Landscaping

Objections have been received regarding the proximity of the development to an existing tree located within the rear garden of no.9 Flaxfield Road, but adjacent to the boundary with the application site. The positioning/identification of the tree on the plans has also disputed, with residents maintaining the view that the tree has never been correctly plotted on the plans and that previous reference to the tree being located 5m away from the dwelling has been misleading.

The proximity of the tree to the dwelling is apparent when viewed on site. The tree does not lie within a designated Conservation Area, whilst the Planning Department's Tree Officer does not consider the tree to be worthy of protecting by a Tree Preservation Order, having regard to its intrinsic value and general health and condition (it was witnessed by the Tree Officer prior to the development commencing that the tree exhibited indicators relating to infection by Phytophthora Bleeding Canker and at some point has had some previous limb removal, but it is unknown as to when and by whom).

It is recognised that the development is within what would be defined as the root protection area (RPA) of the tree. It is however feasible to construct within the RPA of a tree providing suitable duty of care is exercised. It is understood that a Building Control Officer inspected the foundation trenches and advised that no tree roots were present or observed within the foundation trench adjacent to the tree. Therefore it is reasonable to conclude that the foundation construction has not caused harm or damage to the tree's rooting area immediately within the building plot. Any grievance against an action by the applicant during the construction process is therefore a civil matter.

Under the Unitary Development Plan, Policy DQ3 requires the planting of three trees per residential unit. This was reflected in the original permission, which proposed the planting of a number of trees in the rear garden area of the development. However, since the granting of the original permission, the emerging Local Plan has advanced, and the weight to be attached to the equivalent policy, in this instance policy EQ9, has significantly increased. In essence, the requirements of policy EQ9 have superseded those required under UDP policy DQ3. Consequently, there would no longer be a requirement to plant three new trees.

The application does include a mix of hard and soft landscaping consisting of a mix of grass, gravel, concrete flagstones and timber decking, which have yet to be implemented on site. In addition, a number of young trees have already been planted along the boundary shared with no.5 Flaxfield Road. Concern has been raised regarding the use of existing flagstones (which have been positioned on their side) adjacent to the boundary with no.6 Chapelhouse Walk to form a retaining wall. However, it is understood that the flagstones would be removed and used as part of the hard landscaping. Overall, the landscaping scheme is considered to be acceptable.

Other Matters

As recognised above, the development has been the subject of an extensive enforcement investigation. Whilst it is recognised that the development has not been built in accordance with the previous approved plans, the current application has been submitted to seek to regularise the development that has been built. This is a common approach that an applicant/developer will seek to take in response to enforcement investigations, and breaches of planning legislation. Although the applicant has chosen to continue to work on the property, all unauthorised works have been done at the applicant's risk.

It is acknowledged there are differing views regarding the land ownership and legal boundaries. The applicant has provided a number of documents, including land registry plans, to support the application and the relevant ownership certificate has been signed. Any further dispute regarding land ownership and legal boundaries is a civil matter, dealt with under separate legislation, and therefore not a material consideration.

It has also been suggested that the boundaries have been misrepresented on the drawings in order to justify the development. In this instance, it is accepted that the drawings on the previous application failed to provide a true reflection of the boundaries as erected on site. Nevertheless, the location of the boundary treatment does not affect the understanding of the impacts of the development and whether it can be constructed on the site. It has been proven that the development is in breach of the original planning permission and the current application seeks to regularise the development as built. An assessment, therefore, has to be made as to whether the development as built is acceptable or not.

The need for a development of this scale and the impact on property/land values are not material considerations.

The applicant, during the course of the application, had suggested the raising of existing boundary fences but has since removed reference to the raising of the existing boundary fences. The raising of the existing boundary fence therefore does not form part of this planning application.

Conclusions

This application has been submitted following an extensive enforcement investigation into the erection of a single dwelling, associated outbuilding and the raising of land levels, and seeks to retain the development as built. Despite the difference in opinions on a number of factors between the applicant and neighbours, this does not prevent a decision being made as to the acceptability of the development as built, having regard to all material considerations.

In this instance, the dwelling is located within a primarily residential area where residential development is acceptable in principle and which was already established by the original permission. It is recognised that the development does cause some harm to the living conditions of neighbouring properties but this harm is not significant and can be made acceptable via planning conditions. The development does differ in design and scale from other neighbouring properties, however, it is considered acceptable in this instance and not too dissimilar to the original permission. The development is acceptable on highway safety grounds and is acceptable in all other respects. Consequently it is recommended that on balance planning permission be approved.

Recommendation – Approve with Conditions

Conditions

This application has been recommended for approval subject to the following conditions and associated reasons:

- 1) The development hereby granted shall be carried out strictly in accordance with the following details and plans :- Proposed Block Plan received 13.02.17; Proposed Front, Right Side, Left Side and Rear Elevations received 01.11.16; Proposed Ground, First and Loftspace Floor Plans Received 13.02.17; Additional Information Sheet received 07.03.17.

Reason: To ensure a satisfactory development.

- 2) The first floor window in the west facing elevation shall not be glazed otherwise than with obscured glass and top hung; and thereafter be permanently retained as such.

Reason: To safeguard the amenities of occupiers of adjoining properties.

- 3) Within 1 months of the date of this permission, details of a new boundary fence to be located within the application site and along the rear boundary of no's 25 and 27 Altcar, and the rear boundary of no. 5 Flaxfield Road shall be submitted to the local planning authority. The agreed fence shall be erected in accordance with the agreed details and to the satisfaction of the local planning authority, prior to occupation of the development.

Reason: To safeguard the amenities of occupiers of adjoining properties.

- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no garages, outbuildings, windows, dormer windows or other extensions to a dwelling shall be erected unless expressly authorised.

Reason: In order to protect residential amenities of nearby occupants.

Informative

- 1) The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Highways Development Control Team on Tel: 0151 934 4175 to apply for a new street name/property number.