



Appeal Decision

Site visit made on 19 February 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 April 2019

Appeal Ref: APP/M2325/W/18/3214544

4a Cyprus Avenue, LYTHAM ST ANNES FY8 1DY

- 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 Gordon Rowatt against the decision of Fylde Borough Council.
 - The application Ref 18/0121, dated 19 December 2017, was refused by notice dated 4 May 2018.
 - The development proposed is change of use of existing storage building to a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Whilst the address on the application form refers to 4 Cyprus Avenue, it is clear from the location plan that the appeal site relates to No 4a Cyprus Avenue. This is the address cited by the appellant on the appeal form. Moreover, the Council dealt with the proposal on this basis and so shall I.
3. The Council adopted the Fylde Local Plan to 2032 (Fylde LP) on 29 October 2018. As a result, Policy HL02 of the adopted Fylde Borough Local Plan that is cited in the Council's decision notice has been superseded, principally by Policies H3 and GD7 of the Fylde LP. Additionally, the Saint Anne's on the Sea Neighbourhood Plan (St Anne's NP) has been 'made' and forms part of the development plan. This is set out in the Council's Statement of Case, upon which the appellant has had the opportunity to comment.
4. The decision notice cites paragraphs 17, 58 and 64 of the 2012 National Planning Policy Framework. However, on 19 February 2019, the Government published an updated revised version (the Framework) following a previous revision in July 2018. In relation to the main issue in this appeal, Government policy has not materially changed. Accordingly, no parties have been prejudiced by my having regard to the updated revised version.

Main Issue

5. The main issue is the effect of the development on living conditions having regard to (a) those of existing and future occupiers in respect of privacy and (b) those of future occupiers in respect of amenity provision, light and outlook.

Reasons

(a) Privacy of existing and future occupiers

6. No 4 Cyprus Avenue is a substantial semi-detached property within an established residential area of spacious dwellings. It was subdivided into six flats circa 20 years ago. A hard-surfaced driveway runs to the left of No 4, in front of the side gable and a large rear outrigger.
7. With no functional link to No 4, the vacant appeal property at 4a Cyprus Avenue is a detached two-storey red brick building positioned along the full width of the rear boundary, at the end of the driveway. As a former coach house, it is a remnant of a previous age, although not, in the Council's view, of sufficient merit to warrant recognition as an undesignated heritage asset. A fireplace within the building may indicate a past domestic function on the upper floor but it has evidently been utilised for storage for many years.
8. The appeal proposal would preserve the building's present built form but change its use to a two-bedroom dwelling with a garage for car parking/cycle storage. It would involve some minor external alterations, such as the replacement of the vehicle doors with full height windows. Otherwise, existing window openings would be retained. There is a planning history of previous refusals and appeals on the site relating to its change of use to a dwelling, including three between 2001-2009¹, one of which was dismissed on appeal. A prior notification refusal in 2016 was also dismissed on appeal².
9. With regard to the issue of privacy, the Council refer to its 'Extending your Home' Supplementary Planning Document (SPD). I acknowledge that paragraph 126 of the Framework seeks to avoid applying guidance prescriptively, but this paragraph relates particularly to design expectations to create a framework for distinctive places. I appreciate that the SPD relates specifically to house extensions. Nevertheless, its provisions are consistent with guidance at paragraph 127 of the Framework, to ensure that development delivers a high standard of amenity for existing and future users. It is therefore material in so far as it provides guidance on appropriate relationships between windows to protect privacy and prevent overlooking, that can be applied generally to residential development.
10. The SPD advises that first floor windows to habitable rooms should be a minimum of 21 metres from any facing habitable room windows in neighbouring properties. There would be a distance of approximately 18.5m between such windows within the main rear elevation of No 4 and the front elevation of the appeal proposal, contrary to the SPD guidance. There would also be a direct line of sight between them. As a result, this relationship would, in my view, be harmful to the privacy of existing occupiers within No 4 and future occupiers of the proposal.
11. The SPD also indicates that ground level windows to habitable rooms should not enable or allow an unrestricted view into ground floor windows of any other property. The nearest existing residential unit to the appeal site is within the rear of the outrigger to No 4. The main entrance to this flat is within the side elevation of the outrigger, facing the driveway. Its main ground floor window is

¹ Council refs: 08/0988, 08/0435 and 01/0187 (dismissed on appeal – APP/M3235/A/01/1072621)

² Council ref: 16/0581 and appeal ref: APP/M2325/W/17/3172860

angled towards the appeal site, but I acknowledge this window is at an oblique angle that would avoid direct overlooking. However, there is a small glazed window at ground floor level within the rear elevation of the outrigger. Even if this window were not to a habitable room, it is clear glazed, and the kitchen window of the proposal would be positioned approximately 5 metres from it. At such close proximity, it would result in a loss of privacy and overlooking for both existing and future occupiers.

12. Furthermore, at first floor level, the main window to Bedroom 2 and a secondary window to Bedroom 1 would be respectively positioned on the northern and southern boundaries of the site, immediately overlooking the rear yards of the adjacent properties. I appreciate that these windows, and others within No 4a, are largely existing openings. Nevertheless, the proposal would change the character of the building to one that is residential, which would increase the frequency of use of the building and the occasions for looking out of the windows. This would be to the detriment of the privacy of neighbouring properties.

(b) Amenity provision, light and outlook for future occupiers

13. With the exception of the driveway access to Cyprus Avenue, the red line boundary to the appeal site is tightly drawn around the building. This would result in a dwelling that would have no external setting. Being constrained by the boundaries, it would appear cramped and have no capacity for external amenity provision for future occupiers for purposes such as outdoor rest, play or drying washing.
14. I acknowledge the appellant's contention that the lack of amenity space is similar to other smaller dwellings and most flats. However, I have no substantive evidence before me in this regard, thereby limiting the weight that I can give to this assertion. Furthermore, the appeal proposal would be a two-bedroom stand-alone dwelling so that I do not find standards relating to flats/apartments to be directly comparable. Even accepting that the size of the proposed dwelling may be sufficient to incorporate accommodation internally to dry clothes, there would still be no outside area to sit. The provision of parks and recreation space such as Fairhaven Lake close by would not, in my view, be a sufficient substitution for the lack of private amenity space.
15. In fact, the absence of any meaningful degree of separation between the appeal site and No 4, except for the driveway, results in the evident proximity between the two buildings. Additionally, the scale of No 4 is substantial in relation to the appeal site, which is a relatively small two-storey structure.
16. The cumulative effect is that No 4 would, in my view, appear dominant in the outlook from the appeal proposal. This would be exacerbated by the fact that with the exception of secondary windows to Bedroom 1 and the kitchen, and a main window to Bedroom 2, the proposed dwelling would effectively be single aspect with the outlook directed towards No 4 and the driveway. As a result, No 4 would appear prominent in most views from the appeal site and overbearing to future occupiers. From my observations on site, I also consider that there would be some loss of light to habitable rooms and to the kitchen of No 4a, in particular, which would be served by one narrow vertical window in close proximity to the rear elevation of the outrigger.

Findings

17. On both issues, for the reasons set out above, I conclude that the proposal would be harmful to the living conditions of existing and future occupiers. It would therefore conflict with Policies H3 and GD7 of the Fylde LP. These policies seek to safeguard the living conditions of nearby residents and ensure that amenity is not adversely affected. It would further conflict with the general objectives of HOU1 of the St Anne's NP, in pursuing well designed residential development. Additionally, it would be contrary to guidance within the Framework, to ensure that proposals deliver a high standard of amenity for existing and future users.

Other Matters

18. The Council highlight the building's structural condition and whether it would be physically capable of the change of use. However, I have no evidence to support this statement. Furthermore, I would accept that its re-use would provide the opportunity for repair and to improve its energy efficiency. The Council also suggest that access to the dwelling would require the use of land outside of the red line boundary, but issues of land ownership and access rights are civil matters that do not alter the planning merits of the proposal.
19. I also appreciate the appellant's view that storage is no longer suitable within the premises having regard to, not least, the sufficient provision of business accommodation within the local area, as well as proposed business and warehousing units. I have no detailed information to support this assertion, such as employment land supply data, but, in any event, I must, consider the appeal on the basis of the proposal before me.

Planning Balance

20. The appellant refers to paragraph 11(d) of the Framework. In this case, however, the Council have a recently adopted development plan and they advise that they can demonstrate a five-year supply of deliverable housing sites, including a buffer. Accordingly, paragraph 11(d), and specifically the matter of the tilted balance, is not engaged in this case.
21. Nevertheless, I acknowledge that the appeal site lies within an established and accessible housing area where residential development would be acceptable in principle and compatible with surrounding land uses. I also appreciate that it would involve the conversion, repair and re-use of a presently vacant building. However, the limited benefits that would arise from the scale of development proposed, resulting in one dwelling, would not, in my view, outweigh the harm that I have identified to the living conditions of both existing neighbouring occupiers and future occupiers of the proposal.

Conclusion

22. Taking all these matters into account, I conclude that the appeal should be dismissed.

Kate Mansell

INSPECTOR