



Appeal Decision

Site visit made on 11 June 2019

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2019

Appeal Ref: APP/M4320/W/19/3225642

The Claremont Hotel, 59 Sandy Road, Seaforth, Liverpool L21 1AD

- 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 Mohammad Gohari against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2018/02256, dated 12 December 2018, was refused by notice dated 22 March 2019.
 - The development proposed is described as to convert upper floors of hotel into a HMO (7 beds).
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Procedural Matters

1. I have noted the appellant's acceptance of the Council's request to refer to the use of the premises as A4 and to amend the description of development accordingly. I have therefore used the agreed amended description of development. Hence, the development proposed is change of use of part of the ground floor, the first and second floors from a Public House (A4) to a House in Multiple Occupation (7 units) after the demolition of the existing single storey buildings to the rear.

Decision

2. The appeal is allowed. Planning permission is granted for change of use of part of the ground floor, the first and second floors from a Public House (A4) to a House in Multiple Occupation (7 units) after the demolition of the existing single storey buildings to the rear at The Claremont Hotel, 59 Sandy Road, Liverpool L21 1AD, in accordance with the terms of the application, Ref: DC/2018/02256, dated 12 December 2018, subject to the schedule of conditions attached.

Application for Costs

1. An application for costs was made by Mr Mohammad Gohari against Sefton Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

2. An appeal decision related to a refusal for a similar proposal has been referred to by both parties and a copy of the decision was submitted by the appellant, APP/M4320/W/18/3194739. This is a material consideration that led me to request from the Council copies of the plans associated with that appeal.

Main Issue

3. The main issue relates to the living conditions of future occupiers of the proposed House in Multiple Occupation (HMO) in respect of the bathroom/toilet facilities, outdoor space and refuse storage facilities provided, given that part of the building would retain a lawful use as a public house.

Reasons

4. The appeal site comprises a three-storey former hotel with basement. The site is located within a residential area, where the principle of residential development is acceptable, with access to a range of community services and facilities and public transport.
5. The proposal consists of providing 7 separate bedsit rooms with shared kitchen, living and bathroom/wc facilities. The second floor has 4 bedsit rooms, a kitchen, a bathroom/wc and a separate wc; the first floor has 3 bedsit rooms, an open-plan kitchen/living area and a bathroom; and part of the ground floor provides a living room and a bathroom/wc. Existing extensions to the rear of the building are to be demolished to provide an outdoor space for future occupants, including cycle and refuse storage facilities. Access to the HMO would be provided at both the front and rear of the building, with the rear access being accessible from what would be the rear outdoor space.
6. The Council's main concerns stem from the fact that part of the building, an area of the ground-floor and the basement, would retain a lawful use as a public house. As such the Council considers that the proposed toilet facilities on the ground-floor and outdoor space would not be for the sole use of occupants of the HMO but would be facilities shared with users of the public house.
7. A Planning Inspector (PI) concluded on appeal APP/M4320/W/18/3194739 that the living conditions of future occupants of the HMO would not be of an acceptable standard, due to the lounge space not being located close enough to bedsit rooms and the number of WCs provided being insufficient. Occupants of some of the bedsit rooms would have had to go to a different floor level to access a lounge/living room and only 2 toilets were provided associated with 8 bedsit rooms.
8. The differences between the current proposal and the previous one are that 1 of the bedsit rooms would be removed, resulting in 7 bedsit rooms rather than 8. This would be replaced with an open-plan living/kitchen area. Another bathroom/wc would be provided on the ground-floor and a separate wc would be provided on the second-floor. The additional living space that would be provided would ensure that all occupants have suitable access to a living area and the 2 extra WCs would result in the provision of 4 WCs associated with 7 bedsit rooms. Having considered the previous appeal, I conclude that the current proposal would provide living room and bathroom/toilet facilities that would meet the needs of future occupants. Hence, the 2 reasons that the PI dismissed appeal APP/M4320/W/18/3194739 appear to have been overcome.
9. However, since the determination of appeal ref APP/M4320/W/18/3194739 the Council has adopted a new Supplementary Planning Document (SPD) – Flats and Houses in Multiple Occupation, June 2018, which seeks to avoid poor quality HMO accommodation with inadequate facilities, which can cause or contribute to health, welfare and safety problems for occupants. The SPD

- provides details of the range of facilities that should be provided, space standards, interface distances, etc. The SPD is consistent with Policy HC4 of A Local Plan for Sefton (LP), which states, amongst other things, that development involving the conversion of a building to an HMO or flats will be permitted where it will not cause significant harm to the living conditions of future occupiers or those of existing neighbouring properties.
10. The Council has concluded that all the rooms meet the required space and outlook standards of the new SPD, that the required interface distances are also adhered to and no concerns are raised regarding privacy levels. I concur with these conclusions.
 11. However, as noted above, the Council has concerns about the bathroom/wc and outdoor space provisions. It contends that, as the public house would have no toilet facilities (which are currently located in the rear extensions that are to be demolished), and a door is to be inserted from the retained public house area to the proposed outdoor space, then the proposed ground-floor bathroom/wc facilities, and outdoor space, are likely to be used by users of the public house. The Council conclude, therefore, that neither the bathroom/wc facilities nor the outdoor space proposed would be for the sole use of occupiers of the HMO. As such, the Council considers the provision of bathroom/wc facilities and outdoor space to be inadequate to meet the needs of the occupants of the HMO.
 12. The Council also suggests that, although there is 1 bedsit room less in the current proposal than the previous scheme, given the increased and improved shared facilities proposed, the Council's licencing department would potentially provide a licence permitting 12 occupants of the proposed HMO, as opposed to recommending a licence permitting 10 occupants on the previous proposal. Consequently, the Council considers the proposed bathroom/wc facilities and outdoor space would be for an increased number of occupants than the previous scheme and therefore such living conditions would be worse than the previous proposal. However, I note that the PI on the previous appeal referred to the number of bedsit rooms being provided, ie 8, and the associated facilities, and not the number of occupants that the Council may have considered providing a licence for. I have made my decision on the same basis, the number of bedsit rooms provided, ie 7, and the associated range of facilities. The licencing regime is separate to the planning system and my decision is based on the planning merits of the case.
 13. Although a lawful planning use would be retained for part of the ground-floor and basement to be used as a public house, the appellant has stated that the public house use has ceased and could not be used without toilet facilities for customers. I note the comments of the Senior Licensing Officer (SLO) of the Council, which confirm that the licence for the premises was surrendered on 04/09/2014. The SLO also advises that, should the premises be used as a public house without toilets for employees this would contravene employment law; and should the premises not provide toilets and hand wash facilities for patrons this would contravene Health & Safety legislation. Notwithstanding these factors, the SLO also confirms that not having toilets does not procedurally preclude someone from applying for an alcohol licence.
 14. I acknowledge that someone could, therefore, apply for an alcohol licence for the premises. However, not being precluded from applying does not mean that

a licence would be granted, if one was applied for. Although I am not able to conclude what the outcome of such an application would be, I consider it highly unlikely that any Council would grant an alcohol licence for premises without toilets, bearing in mind other legislation, such as employment and health and safety law, which Councils are aware of. Furthermore, in respect of the premises of concern here, it seems reasonable to assume that the Council would also consider the relationship with the HMO.

15. I acknowledge that occupants/users of the retained public house would, should the use be re-enacted, have access to the proposed outdoor space, as a door is proposed on the plans to enable this to occur. However, it seems highly likely to me that occupants of the proposed HMO, and/or the landlord of the premises, would wish to secure both the front and rear access points to the HMO for security reasons. Consequently, I consider it highly unlikely that in the also highly unlikely event that an alcohol licence is granted for the premises, that the door from the HMO into the outdoor space would not be secured to prevent anyone other than occupants of the HMO entering the property.
16. In light of my views regarding the retained lawful use, the unlikely issuing of a alcohol licence and security measures that would likely prevent access into the property for anyone other than occupants of the HMO and their visitors, I consider it extremely unlikely that future occupants/users of the retained public house premises would readily have access to, and therefore be able to use, the bathroom/wc facilities in the HMO.
17. The PI on the previous appeal concluded that, even though the outdoor space would be used by users of the retained public house as a bin store, and the extent of outdoor space provided was below the standard required by the previous SPD, as the proposal was a conversion of an existing building, meeting the standard was not achievable or realistic and the proposal made best use of the existing space.
18. As noted above, there is 1 bedsit room less in the current proposal than the previously dismissed appeal scheme. The new SPD requires a minimum of 20 sqm per 3 bedsits, compared with 20 sqm per flat in the previous SPD, and an additional 10 sqm for each additional bedsit room. Hence, 70 sqm is required, whereas 54 sqm is proposed. The Council considers that should the space be for the sole use of the occupants of the HMO, then the provision would be adequate.
19. Notwithstanding this, with regards to the current proposal, I have no justifiable grounds for reaching a different conclusion on the matter of outdoor space to that reached by the PI on the previous appeal. Even if the area of the building that retains a lawful use as a public house was to be used as a public house, and the outdoor space was used for associated refuse storage, the proposal is a conversion; meeting the standard of the new SPD is not achievable or realistic, and the proposal makes the best use of existing space.
20. With respect to the provision of refuse storage, I consider that the proposed outdoor space could accommodate adequate refuse storage facilities for both the HMO and future occupants of the retained premises.
21. Bearing in mind all the above, I conclude that the living conditions of future occupiers of the HMO, with particular regard to bathroom/wc facilities, outdoor space and refuse storage facilities, would be of an acceptable standard and

quality. As such, the proposed development would accord with Policy HC4 of the LP, the requirements of the new SPD and paragraph 127 of the national Planning Policy Framework, all of which seek to ensure appropriate living conditions for future occupiers.

Other Matters

22. The Council has concluded that the proposal would not significantly harm the amenities of the occupants of neighbouring properties and would not result in any highway safety issues. I concur with these conclusions; the proposal would not significantly alter the relationship with neighbouring properties and the development is unlikely to generate significant levels of traffic or require on-site parking as sufficient on-street parking would be available in the area to meet such need. In addition, modes of transport other than the private motor car are available in the area and encouraged as part of the application, with cycle parking facilities being provided.

Conditions

23. The Council did not initially submit any suggested conditions should the appeal be allowed; therefore, a list was requested. The Council's response proposed one condition, requiring development to be carried out in accordance with the plans. However, the comments of the parties were sought on further conditions that might be capable of making an otherwise unacceptable proposal acceptable in planning terms. Both parties responded with the Council setting out, without prejudice, the conditions it wished to see attached to any grant of planning permission and the appellant confirming his view on the conditions.
24. Against this background, I have attached a condition specifying the plans to ensure confirmation of the scheme approved. In addition, I consider conditions necessary in respect of shared internal facilities, demolition of rear extensions, provision of outdoor space, cycle parking facilities and approval of refuse storage facilities to be provided prior to occupation, in the interests of ensuring the living conditions of future occupiers are provided as approved, that suitable refuse provision is provided and that such facilities are retained thereafter.

Conclusion

25. In light of all matters outlined above, the appeal is allowed, subject to the conditions outlined in the attached schedule of conditions.

J Williamson
INSPECTOR

Schedule of Conditions

- i) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- ii) The development hereby permitted shall be carried out in accordance with the following approved plans: 16.022.PL01, 16.022.PL03, 16.022.PL06 & 16.022.SK01 B.
- iii) No part of the premises shall be occupied until all the bathroom/toilet, kitchen and communal rooms/facilities shown on the approved plans have been provided and are available for use. These facilities shall be retained throughout the lifetime of the development.
- iv) Prior to the approved HMO being occupied the extensions to the rear of the property that are shown as being demolished on the approved plans shall be removed and the outdoor space shown on the plans shall be made available for its designated use. The space shall be retained for such purpose throughout the lifetime of the development.
- v) Prior to the approved development being brought into use adequate refuse storage facilities shall be provided and available for use, details of which are to be first submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented and retained throughout the lifetime of the development.
- vi) Prior to the approved development being brought into use the cycle parking facilities shown on the approved plan 16.022.SK01 B shall be provided and available for use. These facilities shall be retained throughout the lifetime of the development.