
Appeal Decision

Site visit made on 2 June 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2020

Appeal Ref: APP/M43200/W/20/3244822

43 Bath Street, Southport, Merseyside PR9 0DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Renterfix Ltd against the decision of Sefton Council.
 - The application Ref DC/2019/01816, dated 22 October 2019, was refused by notice dated 6 January 2020.
 - The application sought planning permission for the change of use from a hotel to a house in multiple occupation (12 bedsits) involving alterations to the elevations including raising the height of the single storey outrigger (DC/2015/02081) – Variation of conditions 3a; 6; and 8 without complying with a condition attached to planning permission Ref DC/2015/02081, dated 11 March 2016.
 - The condition in dispute is No 8 which states that: a) Prior to the commencement of the development details of the siting and screening of a bin store shall be submitted to, and approved in writing by, the Local Planning Authority; b) The approved bin store and screen shall be installed prior to the first occupation of the bedsits and maintained as such thereafter.
 - The reason given for the condition is: In the interest of visual amenity and to accord with Policies HC1 of the Unitary Development Plan.
-

Decision

1. The appeal is dismissed.

Background and Procedural Matters

2. Planning permission was granted by the Council for change of use of the appeal property from a hotel to a house in multiple occupation (12 bedsits) in 2016 subject to conditions including No 8. This required that prior to occupation of the approved development the Appellant submit to and have approved in writing by the Council a plan for the siting and screening of a bin store. For the avoidance of doubt, Condition No 8 did not specify whether the bin store should be located to the front or to the rear of the approved development.
3. Planning permission was granted by the Council in its decision 6 January 2020 for the removal of condition No 3a (concerning sliding sash windows) and for the discharge of condition No 6 (concerning the erection of a wall to the front and a wooden gate to the rear). Permission was refused, however, for the removal of Condition No 8.
4. The Appellant has installed some large plastic bins to the front of the property behind the newly constructed red brick wall.

Main Issues

5. The main issue is whether Condition No 8 is necessary to ensure that the approved development preserves or enhances the character and appearance of the Promenade Conservation Area and meets the general tests concerning relevance, precision, enforceability and reasonableness laid down in Paragraph 55 of the National Planning Policy Framework (the Framework).

Reasons

6. The appeal property is a large, 3-storey semi-detached building which forms part of a row of similar properties in Bath Street. The properties on both sides are set well back from the road with many of the front areas being used for car parking. Bath Street falls within the Promenade Conservation Area.
7. Paragraph 55 of the Framework stipulates that conditions should be necessary, relevant to planning, relevant to the approved development, enforceable, precise and reasonable in all other respects.
8. The Council imposed Condition No 8 in order to protect the character and appearance of the Promenade Conservation Area and to accord with Policy HC1 of the Unitary Development Plan (UDP). The UDP has now been superseded by Sefton 2030: A Local Plan for Sefton 2017 (LP).
9. Policy NH12 of the LP states that development proposals in Conservation Areas should only be approved where they are of a high-quality design and where they preserve or enhance the character and appearance of the Conservation Area and its setting.
10. Condition No 8 is necessary to ensure that the bin storage arrangement for the approved development preserves or enhances the character and appearance of the Promenade Conservation Area. Large plastic bins can be unsightly and so a condition requiring approval of details over their siting and screening is necessary to secure that objective.
11. Condition No 8 is relevant to planning since it relates to the use and management of land. It is relevant to the approved development since it relates to the location and screening of bin storage within the grounds of the approved development and has not been imposed to serve an ulterior purpose.
12. Condition No 8 is enforceable because it contains an implementation clause. Moreover, the condition is precise since its terms are clear and unambiguous. Finally, the condition is reasonable in all other respects.
13. Thus, the condition subject to this appeal is necessary to help preserve or enhance the character and appearance of the Promenade Conservation Area as set out in Policy NH12 of the LP. Furthermore, as well as being necessary to meet the intended objective Condition 8 would also meet the other 5 requirements laid down in Paragraph 55 of the Framework.

Conclusion

14. For the reasons set out above the appeal is dismissed.

William Walton

INSPECTOR