



Appeal Decision

Site visit made on 4 August 2020

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2020

Appeal Ref: APP/M4320/W/20/3248160

98-102 King Street, Southport PR8 1LQ

- 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 R Byrne against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2019/02132, dated 12 November 2019, was refused by notice dated 29 January 2020.
 - The development proposed is described as "change of use and renovation of the existing building to provide 6 new residential apartments".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the site address from the Council's decision notice as this appears to be a more accurate reflection of the appeal site's location.
3. In an attempt to address the Council's concerns and prior to the determination of the planning application, the appellant submitted an amended 'Location & Site Plan'¹. This increased the red line application boundary to take in the rear alleyway and an area of land to the rear of properties along Wellington Street, abutting a number of rear yard gates. However, such a substantial change to the application boundary would usually warrant the submission of a new planning application as this could affect planning fees, constraints and the scope of statutory consultation. It may also invalidate the Ownership Certificate and subsequent statutory declaration² that was made when the planning application was originally submitted, and in doing so could prejudice those with an interest in the land.
4. Furthermore, in considering whether to accept this amended plan I have had regard to the 'Wheatcroft Principles'³. That is to say, if I were to accept the amended plan, would my doing so deprive those who should have been consulted over the changed development the opportunity of such consultation. In this case, given the extent of the change to the application boundary and the location of the land that it would encompass, it is my view that to accept the amended plan would prejudice the interests of third parties who have not had the opportunity to comment on the revised site boundary. I have therefore proceeded to determine the appeal on the basis of the red line application

¹ Drawing No. 221-01 REV B dated 01/03/2019

² As required by Sections 13 and 14 of The Town and Country Planning (Development Management Procedure)(England) Order

³ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

boundary as originally submitted⁴, and upon which the Council made its determination. The merits of any revised scheme would, if necessary, be a matter for the main parties to consider as part of a fresh proposal away from this appeal.

Main Issue

5. The main issue in the appeal is whether the proposed development would provide adequate living conditions for the future occupiers of the apartments, with particular regard to private outdoor amenity space.

Reasons

6. The appeal relates to a former hotel/bed and breakfast located in a residential area to the south and west of Southport town centre. The appeal site forms the middle and end of a short terrace, occupying a corner plot, fronting both King Street and Wellington Street. The property is currently vacant and at the time of my visit was undergoing internal refurbishment. The appeal proposal involves the conversion of the property into six residential apartments over three floors.
7. The Council's 'Flats and Houses in Multiple Occupation' Supplementary Planning Document 2018 (the SPD) states that the minimum standard for outdoor amenity space is 20m² per flat. The space should be private, accessible to all residents and be of a high quality to enable occupiers the opportunity for informal recreation, gardening, drying clothes and socialising. Accordingly, 120m² of private outdoor amenity space would be required to serve the development.
8. The SPD goes on to state that areas to the front of a building that are not private and areas intended for parking and bin stores will not be included in the calculation of outdoor amenity space. It also advises that long narrow spaces will not be included as they are not considered to provide usable space.
9. The proposal includes an area of 44m² of private outdoor amenity space within the enclosed yard to the immediate rear of the property, with a further 11m² to the property's frontage along Wellington Street. However, the latter is a small narrow space that fronts the highway with no substantial boundary. As such, the space would be impractical as an area of outdoor amenity space and it would not offer sufficient privacy. While there is some suggestion that a 1.8m high fence could be erected to enclose the space, these details are not before me. Despite the presence of a higher boundary to the front of 15 Wellington Street, a fence to achieve sufficient privacy would likely be harmful to the character and appearance of the surrounding area which is predominantly characterised by low boundary walls. For these reasons, the proposed 11m² space would not be of a sufficient standard and is therefore discounted.
10. Accordingly, the proposal would offer up to 44m² of private outdoor amenity space for future occupiers of the development. This is a significant shortfall against the SPD's requirement of 120m². The shortfall is compounded by the fact that the proposed floor plans indicate that of the six proposed apartments, only the occupiers of the two ground floor apartments would have direct access to the proposed outdoor amenity space. Therefore, it has not been demonstrated that the space would be accessible to all future residents.

⁴ Drawing No. 221-01 REV A dated 01/03/2019

11. Paragraph 33 of the SPD explains that, in limited exceptional circumstances, a lower amount of amenity space may be accepted if it is not possible to meet these standards. The guidance is clear that under no circumstances will the Council accept the provision of no amenity space or space that is significantly below the standard. Relevant factors in considering whether to accept a lower standard include the proposal being within easy walking distance of a local centre and the re-use of an otherwise vacant building which has wider significant community or regeneration benefits.
12. The appeal property is located within walking distance of the town centre and is therefore within easy reach of several areas of open space within public parks and gardens. The proposal would also bring a vacant building back into use. However, public open space is not directly comparable to the provision of private outdoor amenity space as it lacks privacy, the opportunity to hang washing out to dry and the ability for more intimate social gatherings and recreational activities. Moreover, I have no evidence to suggest that a less intensive scale of development would not be a viable alternative for the re-use of the building. Furthermore, I acknowledge that the appellant is proposing the demolition of two outbuildings to maximise the amenity space within the proposal and that the site is constrained by its existing parameters. However, these matters do not outweigh the significant shortfall in the provision of private outdoor amenity space and the lack of access by all residents to the limited space that would be provided, the result of which would harm the living conditions of future residents.
13. Consequently, I find that the proposed development would not provide adequate living conditions for the future occupiers of the apartments, with particular regard to private outdoor amenity space. It would therefore conflict with Policy HC4 of the Local Plan for Sefton (adopted 2017) and would fail to meet the amenity standards set out in the SPD. Together this policy and the SPD guidance supports the conversion of buildings to flats where it will not cause significant harm to the living conditions of the occupiers of the property by seeking an appropriate amount of private outdoor amenity space. The proposal would also be contrary to the policies of the National Planning Policy Framework which require high standards of amenity for existing and future users.

Other Matters

14. In support of the appeal, my attention has been drawn to a recent grant of planning permission⁵ for conversion of a building to 10 self-contained apartments and an appeal decision⁶ for a change of use to provide a six-unit house of multiple occupation (HMO). In both cases a reduction in private outdoor amenity space was found to be acceptable.
15. However, other than some short extracts from the Council Officer's report and the Inspector's Decision Letter, I have not been provided with the full details of these other developments nor the full extent of the circumstances in which they were found to be acceptable. As such, I am unable to conclude with any certainty that they offer a direct comparison to the appeal proposal, including in respect of their location or whether the Council has been consistent in its approach. In fact, I note that the cited appeal decision relates to a proposal for

⁵ Ref. DC/2019/01602

⁶ Ref. DC/2019/00132

a HMO and is therefore a different type of development with differing standards for private outdoor amenity space. Nonetheless, I have considered the appeal on its own individual merits and drawn my own conclusions on the evidence before me.

16. The appellant argues that he would likely be successful in achieving planning permission to convert the building to a HMO, but in his view flats would be preferable. However, an alternative proposal would be subject to an application for planning permission and I have no evidence to suggest that this presents a realistic or probable alternative. I do not therefore consider this to be a legitimate fallback and consequently it does not provide a justification for allowing the appeal.
17. I accept that the proposed development would be located in close proximity to the town centre and would therefore meet sustainable transport aims to promote walking, cycling and the use of public transport. It would also reuse existing resources by converting an existing building to provide six residential units that would contribute to local housing supply. This would also lead to some limited economic benefits with future occupiers contributing to the local economy. I also note the support for the proposal from interested third parties who consider the development to be a welcome improvement to the area. However, these matters do not outweigh the harm I have found in this case and the resulting conflict with the development plan.

Conclusion

18. For the reasons I have set out and having regard to all matters that have been raised, the appeal is dismissed.

Jeff Tweddle

INSPECTOR