

Appeal Decision

Site Visit made on 13 July 2021

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

an Inspector appointed by the Secretary of State

Decision date: 17 August 2021

Appeal Ref: APP/J2373/W/21/3272773

Rear of 39-41 Caroline Street, Blackpool FY1 5BU

- 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 Mohammed Miah against the decision of Blackpool Borough Council.
 - The application Ref 20/0634, dated 9 October 2020, was refused by notice dated 16 December 2020.
 - The development proposed is a conversion to a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence includes some discussion over the lawful use of the appeal building. However, a determination of such is beyond the scope of a Section 78 appeal. Should they wish, it is open for the appellant to apply to have this matter determined under Section 191 of the Town and Country Planning Act 1990. There is no dispute that planning permission is required for the proposed development.
3. As part of their submission, the appellant has put forward an alternative scheme that would provide a dwelling with one bedroom. However, I am mindful that it is not the purpose of the appeal process to evolve a scheme to overcome the Local Planning Authority's (LPA) reasons for refusal, and instead a fresh planning application should usually be made¹. I have therefore proceeded to determine the appeal on the basis of the plans as originally submitted.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. I have had regard to the revised Framework in my decision and I am satisfied that this has not prejudiced the main parties as they were provided with an opportunity to comment on this.

Main Issues

5. The main issues in this appeal are:
 - whether the development would provide satisfactory living conditions for future occupants, with regard to internal living space, outlook, daylight, privacy and private outdoor amenity space;
 - the effect of the development on the living conditions of neighbouring residents, with particular regard to privacy and the fear of crime;

¹ Annexe M of the *Procedural Guide Planning Appeals – England* advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

- whether the development would comply with development plan policies which seek to achieve balanced, healthy and sustainable communities; and,
- whether the development provides suitable arrangements for refuse storage and collection.

Reasons

Living conditions for future occupants

6. The appeal relates to a vacant two storey building to the rear of terraced properties along Caroline Street and Shannon Street. The proposal is to convert the existing building to a dwelling with two bedrooms and a bathroom to the first floor, along with a lounge, kitchen and WC to the ground floor. External amenity space would be provided in the form of a yard area to the front of the property and enclosed by a boundary wall to a height of approximately 1 metre.
7. The LPA has not directed me to any detailed housing standards within its development plan, instead it has advised that the standards set out in its 'New Homes from Old Places' Supplementary Planning Document (2011) have been superseded by the Government's Technical Housing Standards (2015)² (the THS). The Planning Practice Guidance (PPG) states that '*Where a local planning authority (or qualifying body) wishes to require an internal space standard, they should only do so by reference in their Local Plan to the nationally described space standard*'³. The THS are not incorporated within the Blackpool Local Plan Part 1: Core Strategy 2012-2027 (the Core Strategy) or the Blackpool Local Plan 2001-2016 (the BLP). Accordingly, those standards cannot be afforded full weight in this case. Nonetheless, they do provide a useful guide as to the standard of accommodation that would reasonably be expected for day-to-day living.
8. The proposal would create a two bedroom, three person dwelling over two stories and therefore the THS would require a minimum gross internal floor area (GIA) of 70m², with 2m² of built-in storage. The proposal would provide a GIA of 64m² and the appellant accepts that this is deficient by approximately 6m². I also note that no built-in storage is shown on the proposed floor plans. Accordingly, this would provide a small unit of accommodation with cramped living conditions for prospective occupants.
9. With regard to outlook, it is a well-founded principle that the planning system does not exist to protect private views and there is no requirement for new development to provide a view. Nonetheless, the Framework requires a high standard of amenity for existing and future users. This is echoed locally by Core Strategy policy CS7 and BLP saved policy BH3 which together require a suitable outlook and adequate levels of sunlight and daylight to be provided for existing and future occupants.
10. Obscure glazing to the kitchen window would maintain privacy for neighbouring residents and future occupants, but this would result in no outlook from this combined kitchen and dining area. Moreover, the proximity of adjacent buildings and a high boundary wall to the east of this window, coupled with its north-facing orientation, would severely restrict daylight entering this room. I am not convinced that a reduction in the opacity of the glazing would overcome this issue as the outlook would still be extremely limited and any reduction would

² Technical housing standards – nationally described space standard, March 2015, Department for Communities and Local Government

³ Planning Practice Guidance, Paragraph: 018 reference ID: 56-018-20150327

compromise privacy. This lack of outlook and limited daylight would result in a gloomy and oppressive internal environment for future occupants.

11. The proposed dwelling would be tightly enclosed by neighbouring boundary walls to the west and south. The appellant states that these walls rise to a height of approximately 3 metres. These high walls would dominate views from the lounge window and from the proposed outdoor amenity space where the surrounding built form would be constantly and unescapably apparent, thereby severely restricting any outlook. While these areas would not be permanently overshadowed, the arrangement of the surrounding buildings would mean that they would receive very little direct sunlight.
12. Furthermore, the distance between the first floor bedroom windows and the rear of dwellings along Caroline Street would not be sufficient to provide those rooms with an acceptable outlook and would provide the opportunity for direct window to window overlooking. This would compromise the privacy of future and existing occupants.
13. The proposed outdoor amenity space would extend to approximately 15m² to the front of the property. This small area would be limited further by the storage of refuse bins and would be dominated by the high boundary walls to the immediate south and west. Overlooking from the rear of properties along Caroline Street and the general comings and goings of neighbours accessing their rear yards would diminish any sense of privacy. This would further restrict the usefulness of this space as a place for leisure and relaxation and the more practical purpose of drying clothes. For these reasons, future occupants would not be provided with the quantity nor quality of private outdoor amenity space which they could reasonably expect to enjoy.
14. BLP saved policy BH3 allows for developments without private amenity spaces subject to certain criteria. However, the policy exception relates to the provision of new flats rather than, as in this case, a new dwelling. Furthermore, the lack of private amenity space at neighbouring properties does not justify a lack of quality provision in this case.
15. Taking all of these points together, the proposal would not provide satisfactory living conditions for future occupants in terms of internal living space, outlook, daylight, privacy and private outdoor amenity space. Because of this, it would conflict with Core Strategy policies CS7 and CS13, BLP saved policies BH3 and HN5 and the associated policies of the Framework which together seek to achieve high quality housing with high standards of amenity for future occupants.

Living conditions of neighbouring residents

16. The rear of properties along Caroline Street are not currently overlooked and therefore existing residents currently enjoy a good level of privacy. The proposal would introduce two first floor bedroom windows facing west, looking towards the rear of properties along Caroline Street. The limited distance between these proposed windows and the rear facing windows of properties along Caroline Street would give rise to direct window to window overlooking.
17. Furthermore, the height of the rear boundaries of these properties would not prohibit direct views of their rear private amenity spaces from the proposed bedroom windows. In combination, this would result in a harmful loss of privacy for these neighbouring residents.

18. The LPA is concerned that the proposal would increase the fear of crime for existing neighbouring residents because access to the proposal would be via one of two narrow alleys leading from Shannon Street and Caroline Street. However, I observed at my visit that the access from Caroline Street benefits from street lighting at its entrance and would be overlooked by the flats to the west. The access from Shannon Street would be overlooked by properties on the north side of Shannon Street and to a degree by the rear of properties at the end of Caroline Street. This would provide a degree of natural surveillance that would act as a deterrent. Furthermore, the alleys are gated and therefore benefit from this additional level of security.
19. Overall, the proposal would not increase the fear of crime for existing neighbouring residents, therefore, I find no conflict with BLP saved policy AS1 which requires convenient, safe and pleasant pedestrian access to be provided. However, I have found that the proposal would be harmful to the living conditions of neighbouring residents due to an unacceptable loss of privacy. This would be contrary to Core Strategy policies CS7 and CS13, BLP saved policies BH3 and HN5 and the associated policies of the Framework which together seek to achieve high standards of amenity for existing occupants/users.

Balanced, healthy and sustainable communities

20. The site falls within the Foxhall Inner Area, as defined by policy CS12 of the Core Strategy. For this area, the policy seeks to improve the quality and mix of housing stock in order to aid neighbourhood regeneration and improvement. The LPA submits that one and two bedroomed housing in this area accounts for 72% of the housing stock, significantly higher than the national average of 40%. The LPA therefore seeks to rebalance the local housing mix in the Foxhall Inner Area through the provision of family homes facilitated by Core Strategy policy CS12.
21. The proposal would provide a dwelling with two bedrooms and would therefore further skew the imbalance of one and two bedroomed housing in the area. Although it could accommodate a small family, the lack of private outdoor amenity space would reduce its suitability as a family home. Whilst I accept that there is no in principle policy objection to the provision of smaller housing within the Inner Areas, on the strength of the LPA's evidence, it is clear that the proposal would add to an existing over-concentration of smaller homes in the area.
22. Consequently, the proposal would undermine the LPA's efforts to achieve balanced, healthy and sustainable communities. This would therefore be contrary to Core Strategy Policy CS12, the relevant aims of which are set out above.
23. BLP saved policy HN5 seeks to restrict conversions within the Inner Areas where the development would involve extensions to the property, use of the roof space or which would further intensify existing over-concentrations of flat accommodation and conflict with wider efforts for the comprehensive improvement of the neighbourhood as a balanced and healthy community (my emphasis). The proposal does not involve an extension to the building, nor the use of its roof space for accommodation and it would not result in the provision of an additional flat. Accordingly, in this regard, there would be no conflict with BLP saved policy HN5.

Refuse storage and collection

24. The LPA is concerned that there is no access for refuse collection vehicles and therefore, in their view, rubbish would likely be deposited on the street and lead

to fly-tipping. However, part of the proposed yard area to the front of the property is identified for the storage of refuse bins, shown as two wheelie bins.

25. I observed during my visit that the access from both Caroline and Shannon Streets would facilitate the movement of a wheelie bin from the storage area to the street on collection days. This is a relatively short distance, and such arrangements are not unusual in dense urban areas. Furthermore, I have been presented with little evidence to support the LPA's concerns in this regard and, therefore, see no reason why this arrangement would be problematic or how it would attract fly-tipping.
26. For these reasons, I find that the development would provide suitable arrangements for refuse storage. As such, there would be no conflict with the development plan in this regard.

Other matters

27. In support of the proposal, the appellant highlights the Government's desire to boost housing supply and delivery across England. In this regard, the appellant submits that, as evidenced in the LPA's Housing Land Supply Statement⁴ and Annual Monitoring Report⁵, a significant proportion of the LPA's housing supply is reliant on windfall sites and in particular, conversions. Nonetheless, the proposal is for a single residential unit and there is little evidence before me to suggest that the LPA's housing supply would be compromised in the event that the appeal should not succeed. The proposal would contribute to the supply of local housing, reuse an existing vacant building, and bring about positive economic effects through construction and subsequent occupation. However, these benefits are limited by the scale of the proposal and would be outweighed by the significant harmful effects that I have found.
28. I acknowledge the lack of objection from the Highway Authority in relation to access, highway safety and parking and that the site is in an accessible location with access to a range of local services and public transport. The proposal would likely enhance and improve the appearance of the site, which is currently in a poor state of repair, and I note a letter of support from a neighbour in this regard. However, these matters do not outweigh the harm I have identified.

Conclusion

29. The proposal would provide suitable arrangements for refuse storage and collection and it would not increase the fear of crime for neighbouring residents. However, I have found that the proposal would not provide satisfactory living conditions for future occupants nor existing neighbouring residents. The proposal would also undermine the LPA's efforts to achieve balanced, healthy and sustainable communities.
30. Accordingly, the proposal is contrary to the policies of the development plan and no material considerations of sufficient weight have been advanced to outweigh that conflict. Therefore, I conclude that the appeal should not succeed.

J M Tweddle

INSPECTOR

⁴ Deliverable Five Year Housing Land Supply Statement (1 April 2019 – 31 March 2024), Blackpool Council

⁵ Authority Monitoring Report 2019/20, Published February 2021, Blackpool Council