



Appeal Decision

Site Visit made on 1 September 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/M4320/W/21/3275607

2A - 2D Curzon Road, Waterloo, Liverpool L22 0NL

- 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 Garry Abrams against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/00382, dated 10 February 2021, was refused by notice dated 20 April 2021.
 - The development proposed is the change of use of redundant commercial space on the first floor to a residential studio.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of redundant commercial space on the first floor to a residential studio at 2A - 2D Curzon Road, Waterloo, Liverpool L22 0NL in accordance with the terms of the application, Ref DC/2021/00382, dated 10 February 2021, subject to the conditions in the attached schedule.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.

Main Issue

3. The main issue is whether the proposed development would provide acceptable living conditions for future residents with particular regard to the provision of outdoor amenity space.

Reasons

4. The appeal relates to an empty first floor office room within a large three storey building that is in commercial use as a restaurant at ground floor level and is located within Waterloo District Centre. The first floor has been previously converted into three flats that are accessed via a private door and staircase, to the northern side of the building, off Curzon Road.
5. Policy HC4 of A Local Plan for Sefton 2017 (Local Plan) states that development involving the conversion of buildings to Houses in Multiple Occupation (HMO) or flats will be permitted where, amongst other things, it will not cause significant harm to the living conditions for either the occupiers of the property or for neighbouring properties.

6. The Council has confirmed that the size of the proposed flat would be acceptable. However, as no outdoor amenity space would be provided the proposal would not meet the requirement of 20m² of communal or private outdoor space per flat, which is set out in the 'Flats and Houses in Multiple Occupation' Supplementary Planning Document 2018 (SPD).
7. 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. 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.
8. I recognise that the SPD advises that under no circumstances will the Council accept the provision of no amenity space, or space that is significantly below the standard. Nonetheless, it does not follow that a proposal should stand or fall solely on the application of these standards and each proposal is required to be judged on its own merits.
9. The proposed development would be a conversion of an existing property where practical considerations of the limitations of the existing building come into play. On my site visit I saw that the limited yard space associated with the appeal building is utilised for parking, access and bin stores. In my opinion this area would not provide a high quality area of outdoor space. Given that the access to all of the existing flats in the appeal building is provided via the door and staircase in this yard area, its use for amenity space would also lack an acceptable level of privacy for the future occupiers of the proposal, due to the number of comings and goings from existing residents.
10. I am also mindful that the other existing flats within the appeal building have no external private amenity space associated with them. Whilst the Council state that a total of 100m² of outside amenity space would be required for all of the flats within the building, there is little evidence before me to indicate why the level of private amenity space was not considered at the time when planning permission was granted for the conversion of the first floor to three flats and an office (Ref S/2006/0594). I have therefore considered the appeal proposal on its own individual merits.
11. Notwithstanding the above, the appeal site's district centre location is clearly accessible with regard to services, facilities and public transport, and areas of public open space at Victoria Park and Crosby Coastal Park are also within walking distance. Whilst there would not be significant community or regeneration benefits associated with the re-use of a vacant office space within a building for one studio flat, there would nonetheless be some modest social benefits that would weigh in its favour.
12. Furthermore, as the appellant correctly points out, the Council has no adopted policy prescribing minimum outdoor space standards and I am mindful that it is common for flats above commercial premises in town centre locations to not be provided with any amenity space. The nature of the proposal in this case is also such that the occupants of this type of flat are likely to be attracted by the busy district centre location and not comprise families who may require access to private amenity space on a regular basis to play, garden or socialise.

13. I recognise that the proposed studio flat would be small, and that the non-habitable hallway and bathroom would take up around 4m² of the proposed floorspace. However, the submitted plans show the proposed floor layout to be capable of providing space for a tumble dryer and a clothes horse, which again, are not uncommon appliances for the occupiers of studio flats to use. The proposal would also exceed the minimum space standards for studio flats as set out in the SPD, which have been provided to ensure that self-contained flats are large enough to provide suitable accommodation for residents. In light of the above, I consider that the daily needs of the likely future occupiers would be met by the proposal.
14. Overall, I do not find that the lack of outdoor amenity space for the proposed studio flat would result in a substandard quality of accommodation to the detriment of future occupiers, particularly having regard to the site's context. No conflict with Local Plan Policy HC4 would therefore occur. It would also accord with the advice provided in paragraph 130 of the Framework which seeks to ensure a high standard of amenity for existing and future users.
15. Whilst I acknowledge that the proposal does conflict with some of the advice contained within the Council's SPD, this is to be applied with discretion, dependant on the circumstances and merits of each application. Given the particular circumstances of this case, I am satisfied that the overall aims of this guidance would not be undermined in this respect.

Other Matters

16. In support of their cases both the Council and the appellant have drawn my attention to previous planning applications and appeal decisions in the Borough where the lack of private amenity space has been an issue of contention. Whilst I have had regard to these in reaching my findings, each application and appeal must be determined on its own merits, and that is what I have done in this case.

Conditions

17. I have considered the conditions suggested by the Council against advice in the Planning Practice Guidance: *Use of planning conditions*. In addition to the statutory time limit condition, I agree that a condition specifying the relevant plans is necessary to provide certainty. I also agree that conditions to safeguard the living conditions of future occupiers in respect of noise, sound proofing and ventilation are also necessary. Nonetheless, the requirement for these details can be merged into one condition and I have reworded this for clarity and precision.

Conclusion

18. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed.

Mark Caine

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Existing Site Plan/Location Plan Job Number: 21.010 Drwg No: 001
Existing/Proposed First Floor Job Number: 21.010 Drwg No: 002
Existing/Proposed Elevations Job Number: 21.010 Drwg No: 003
- 3) The development hereby permitted shall not be occupied until a scheme of sound insulation to protect future residents from noise associated with the ground floor commercial use and adjacent first floor flats has been submitted to and approved in writing by the local planning authority. The scheme shall include details of noise attenuation measures required to meet the standard for internal noise levels defined in table 4 of BS8233:2014 (including glazing and ventilation details). The approved sound insulation works shall be completed before the development hereby permitted is occupied and be retained thereafter.