



Appeal Decision

Site visit made on 13 October 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th October 2022

Appeal Ref: APP/Z4310/W/22/3292563

10 James Street, Liverpool, L2 7PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Mike Long (District and Urban) against Liverpool City Council.
 - The application Ref 21F/1816, is dated 21 May 2021.
 - The development proposed is change of use of existing office building and extension to create 21 residential apartments.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. Planning permission was granted in October 2017 for a very similar development on the site (application ref 16F/2466), but that permission has now lapsed. The current proposal seeks to reinstate the previous permission to convert and extend the building, with only minor changes to the internal layout to reflect changes to fire and building regulations.
3. Whilst the scheme itself is fundamentally unchanged, there has been a change in policy context since application 16F/2466 was approved. In particular, a revised version of the National Planning Policy Framework (the Framework) was issued in 2021, and the new Liverpool Local Plan was adopted in January 2022. The Local Plan now forms the adopted development plan for the area, and has replaced policies in the previously adopted Unitary Development Plan (UDP).
4. This appeal stems from the failure of the Council to make a decision on the application within the necessary timescales. The Council has provided an assessment of the proposal in light of relevant policies in the Local Plan, and has highlighted those areas in which the change in policy affects the consideration of the scheme. I have used that assessment to identify the main issues below.
5. I acknowledge that the policy context would have been different if an earlier decision had been made. However, s70(2) of the Town and Country Planning Act 1990 clearly defines that planning decisions should be made on the basis of the (adopted) development plan unless material considerations indicate otherwise. Planning Practice Guidance (Paragraph: 006 Reference ID: 21b-006-20190315) confirms that these provisions also apply to appeals. I am therefore required to decide the appeal on the basis of the recently adopted

Local Plan, regardless of the situation when the application was originally submitted.

Main Issues

6. Having regard to relevant planning policies, the main issues are:

- whether the proposed loss of office space is justified,
- whether the proposal would provide a suitable mix and type of dwelling types, including accessible and affordable housing, and
- whether the proposal would make appropriate provision for open space and trees.

Reasons

Loss of office space

7. Crown House is a vacant city centre office building dating from the 1950s. The proposed development involves the conversion and extension of the property to provide 21 residential apartments, with a Class E commercial unit of 55m² on the ground floor.
8. The site is identified on the Local Plan Policies Map as being within the Main Office Area. Within this area, Local Plan Policy CC1 supports the provision of new office uses, and protects vacant land for office development, unless certain criteria can be met. This approach reflects the findings of the Liverpool Employment Land Study 2017, updated in 2019, (ELS), which identified an undersupply of employment land across the city. In light of the ELS evidence, Policy CC1 requires proposals to use vacant land for non-office purposes to demonstrate that there is no reasonable prospect of the site being used for office development. This should include evidence of appropriate marketing across a range of media, over a 24 month period.
9. In this case, information provided by the appellant confirms that the building has been vacant for a considerable period of time, with the last tenants to have occupied it having moved out in June 2004. The submitted letter from a firm of property consultants explains that marketing activity has taken place since then. The premises have been advertised for office use, either for the building as a whole, or as individual floors/suites. Marketing has taken place via various online platforms as well as the agent's own website, with targeted enquiries to individuals with known requirements. A signboard was in place between 2004 and late 2020, indicating that the building was available to let.
10. The marketing information lacks detail, but I am satisfied that the building has been marketed across a range of media for at least 24 months. The property agents have confirmed that there has been a low level of demand for continued office use of the premises, with most of the enquiries received being for other uses.
11. The Council has directed my attention to the Liverpool Commercial Business District Spatial Regeneration Framework (SRF). This document sets out a strategy and overall vision for the area, with the aim of increasing the economic potential of this historic commercial area. The SRF is particularly concerned with the lack of good quality office accommodation in the area, and specifically identifies Crown House as providing an excellent redevelopment

opportunity for office renewal, close to James Street station and the Waterfront.

12. Whilst I note that finding, I am also conscious that the building has been vacant for a considerable length of time, and the outcomes of the marketing exercise indicate a lack of demand for its reuse for office purposes. Given these circumstances, I am satisfied that there is no reasonable prospect of the site being used for office development in the foreseeable future.
13. Furthermore, the proposed re-use of the building would bring wider benefits, as required by Policy CC1. As identified within the SRF, the inclusion of Class E floorspace on the ground floor would enable the building to provide complementary ancillary uses within the CBD, with the potential for some, albeit limited, employment opportunities.
14. In addition, the proposed reuse for residential purposes would contribute to the supply of housing in a highly accessible location, very close to the city centre. Subject to the provision of a satisfactory mix of dwelling types, the proposed use would bring social benefits.
15. The long vacant building is now looking tired and in need of renovation, but there seems little prospect of it being upgraded for an office use. Its proposed refurbishment would result in improvements to the physical environment of this part of James Street, which would contribute to the preservation of the Castle Street Conservation Area (CA), within which the site is located.
16. I acknowledge that the policy position has altered since application 16F/2466 was approved, and there is now a more restrictive approach towards proposals involving loss of office space. However, taking account of the long period of vacancy, the benefits of the proposed re-use of the building would outweigh the harm caused by the loss of office space.
17. I conclude that the proposed loss of office space is justified, and that the scheme meets the requirements of Local Plan Policies EC5 and CC1.

Mix and type of dwellings

18. Local Plan Policy CC24 aims to ensure a balanced housing mix, with a focus on larger dwellings. Specifically, the policy requires that planning permission for residential development in the city centre provides a greater proportion of units with two or more bedrooms, compared with smaller one-bed units. In order to provide a reasonable standard of accommodation, the Policy also requires that new dwellings meet the Nationally Described Space Standards (NDSS).
19. The proposal would provide 21 apartments, of which 17 would be studio apartments, with a further 3 one-bed and 1 two-bed units. Whilst the unit sizes would generally meet the NDSS requirements, the proposed mix of units fails to comply with the requirements of Policy CC24. The majority of the units would be studios or one bedroom units, with no explanation as to why larger units could not be provided.
20. Policy CC24 contains additional criteria to ensure a satisfactory standard of living for future occupiers. In this city centre location, there is a particular emphasis on noise standards. For the appeal proposal, further information is needed to show how the proposal could achieve the acoustic requirements of the policy.

21. The proposal provides for one unit, on the ground floor, to be wheelchair accessible. However, this would not be sufficient to meet the requirements of Local Plan policy H12, which requires that all new housing development complies with Part M4(2) of the Building Regulations, and that 10% of new homes in a development comply with Part M4(3). The Council has identified a number of alterations to the proposed layout which would be required to ensure compliance with this policy. Without appropriate revisions to the scheme, I agree that it is deficient in this regard.
22. Policy H3 requires that, in schemes of 10 or more dwellings, provision should be made for 20% of the homes to be affordable. As the scheme makes no provision for affordable housing, it fails to comply with this policy too.
23. Whilst the scheme was previously considered to be acceptable, as a result of changes to policy requirements, I am now unable to conclude that the proposal would provide a satisfactory mix and type of dwellings. For the reasons set out, it would fail to comply with the requirements contained in Local Plan Policies CC24, H12 and H3, which require a greater proportion of 2+ bed dwellings, increased provision for accessible and adaptable units, appropriate acoustic insulation and affordable housing.

Open space and trees

24. Through a signed planning obligation, the original permission for the redevelopment of Crown House did make provision for open space and trees, in accordance with the policy requirements in place at the time. However, in this case, no such provision has been made, with no signed legal agreement provided as part of the proposals.
25. To ensure that future occupiers have access to appropriate space for informal and formal recreation, Local Plan Policy H14 sets out requirements for open space in new residential developments of over 10 dwellings. In sites such as this, where provision cannot reasonably be made on site, a commuted sum towards the enhancement of existing facilities nearby would be required, in accordance with details set out in the Council's Advice Note – S106 Planning Obligations.
26. To improve the visual appearance of urban areas and take advantage of the many benefits of trees and landscaping, Local Plan Policy GI 8 requires that new development should make appropriate provision for the planting and successful growth of new trees and landscaping. Again, where on-site provision is not appropriate, a commuted sum would be required for the provision of new trees in the locality.
27. In the absence of a legal agreement, the proposed scheme makes no provision for open space or tree planting, and so fails to comply with the requirements set out in Local Plan Policies H14 and GI 8.

Other Matters

28. Crown House is located within the Castle Street Conservation Area (CA), and is close to the Grade II* listed building at 30 James Street. In accordance with Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving or enhancing the character of appearance of the CA, and the setting of the listed building.

29. The proposal would involve a three-storey roof top extension, which would be set back from the main front elevation with further tiered set backs. The external appearance of the scheme would be unaltered from that previously approved. Subject to appropriate conditions, the original scheme was found to be acceptable in terms of its impact on the CA and its relationship with the adjacent former bank building.
30. There is no change in policy or guidance which would alter the previous conclusion. I agree that the design of the proposal would preserve the character and appearance of the CA. Furthermore, by renovating the building and bringing it back into active use, the proposal would have a positive impact on the streetscene.
31. The appeal site is close to the Grade II* listed 30 James Street, which is further down the street, but between the two is a large modern office building. The intervening building, which houses a public house and the entrance to James Street Station, provides visual separation between the appeal site and the listed building. This, together with the unobtrusive form of the proposed extension, means that the proposal would have a neutral effect on the setting on the nearby listed building.
32. Overall, the proposal would comply with section 16 of the Framework and Local Plan Policy HD1, both of which area is concerned with the protection of heritage assets.

Planning Balance and Conclusion

33. I have found that the proposed loss of office space is justified, and the proposal is acceptable in design and heritage terms. However, these matters are not sufficient to overcome the deficiencies of the scheme, which result from the failure to provide a satisfactory mix and type of dwellings, with no provision for affordable housing. Provision for open space and trees is also lacking.
34. The proposal conflicts with the recently adopted development plan, and no material considerations outweigh this finding. The appeal is therefore dismissed.

R Morgan

INSPECTOR