The Planning Inspectorate

Appeal Decision

Site visit made on 7 December 2021

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2022

Appeal Ref: APP/Z4310/W/21/3280818
101-103 Bold Street, Liverpool L1 4HL

- 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 Zahar Albukai against Liverpool City Council.
- The application Ref 21F/1479, is dated 22 May 2021.
- The development proposed is described on the application form as 'change of use of the ground floor from office to two restaurants'.

Decision

1. The appeal is dismissed and planning permission for the change of use of the ground floor from office to two restaurants is refused.

Applications for costs

2. An application for costs was made by Mr Zahar Albukai against Liverpool City Council. This application is the subject of a separate decision.

Preliminary Matter

3. At the time the appeal application was submitted and considered by the Council, the Development Plan included The City of Liverpool Unitary Development Plan (UDP). The Council has subsequently adopted the Liverpool Local Plan 2013-2033 (Local Plan), superseding the policies of the UDP. The Development Plan now comprises of the Local Plan which I have taken into account in making this appeal determination.

Background and Main Issue

4. The description of the development refers to a change of use and the submitted plans also show a number of alterations, including new doors and an extraction system. The Council failed to determine the planning application within the statutory timescale. They have provided an Appeal Statement, and this sets out further detail on why the Council would have refused planning permission had it been able to do so. Having regard to the evidence before me, although some concern has been raised on the proposal to create two separate units on the ground floor, it is evident that the Council's concerns primarily relate to the installation of the new front entrance door and not other aspects of the appeal scheme.

5. There is a difference between the main parties on whether the formation of a front doorway forms part of this appeal proposal, with the appellant referencing

a previous planning permission[1] which included for this. The plans before me however include for the insertion of a front doorway which was in place at the time of my site visit. As such, it forms part of the development before me, and I have dealt with the appeal on this basis.

6. Given the above, the main issue in this appeal is whether the proposal preserves or enhances the character or appearance of the Duke Street Conservation Area (Conservation Area).

Reasons

7. The appeal property comprises of a former Midland Bank, a two storey building with further accommodation in the attic rooms. It is situated on Bold Street in a part of the City Centre which contains a mix of uses that contribute to the area's vibrancy. There is considerable diversity in the built form which reflects the historical development of the area and its proximity to the docks. The generally consistent building heights and traditional architectural detailing, particularly on the front elevations, contributes to the significance of the Conservation Area.

8. The ground floor frontage of the appeal property comprised of an entrance doorway and three tall window openings with semi-circular tops. It is within one of these window openings that a doorway has been inserted. Although the development has retained the upper semi-circular section of the window and has not altered the stonework that surrounds it, the window sill and the area of masonry under the window have been crudely cut away leaving the side faces of the lower section of stonework exposed. The irregular finish, with cracks and other holes contrasts with the slightly rusticated but smoother dressed stone of the front elevation. Furthermore, at the time of my visit, there was a dark coloured marble effect tiling forming a step which failed to reflect the buff stonework on the host property. The works to form the doorway have disrupted the visual coherence of the regular detailing around this opening and more generally of the regularly proportioned stonework on the front elevation.

9. The other door that forms part of the appeal proposal and the extraction system would be to the rear. These elements would not be seen from Bold Street and would therefore not result in harm to the character and appearance of the Conservation Area.

10. The change of use, aside from the proposed front doorway that would provide access to one of the ground floor units, would not otherwise give rise to any other adverse visual effects. I note the Council's concerns that the change of use could lead to subsequent pressure for a further entrance door that enables access to the other ground floor unit. However, the scheme before me shows separate entrance doors internally that would provide separation between the ground floor unit and the first floor. I have no substantive evidence before me on why this arrangement is not workable and, in any event, a further separate external doorway would require planning permission and that application would be considered on its own merits. On this basis, I consider the change of use element of the proposal would preserve the character and appearance of the Conservation Area.

[1] The appellant has given the Ref: 13F 1902, but from the available information, the correct reference no is: 17F/1902

11. Nevertheless, I conclude that the proposal overall would fail to preserve the character and appearance of the Conservation Area. It would thereby conflict with Policies HD1, SP3 and UD7 of the Local Plan which seek, amongst other matters, high standards of design and for proposals affecting designated heritage assets, to conserve its significance.

12. Nonetheless, the harm caused to the character and appearance of the Conservation Area would be less than substantial. Where any harm to the significance of a designated asset would be less than substantial, paragraph 202 of the National Planning Policy Framework (Framework) states that this harm should be weighed against any public benefits of the proposal. Whilst the appeal building is currently vacant and the proposal will bring investment and generate employment, this is not considered to be of such public benefit to outweigh the harm caused to the character and appearance of the Conservation Area.

Other Matters

13. Planning permission (Ref: 17F/1902) was previously granted on the appeal site that included a new ground floor entrance. The appellant has inferred that they implemented the doorway as part of that permission and have stated that there are no external alterations proposed to the main front elevation on the current appeal application. The Council has stated that this previous permission has expired and that the door, although inserted in the same window opening as this previous permission, was not in accordance with the approved design and nor was a condition discharged requiring further details to be agreed. The appellant has not refuted the Council's assessment or provided details on why they consider this permission is extant.

14. Whether the referenced permission has been implemented in accordance with the terms of that permission is a matter for the main parties. Based on the evidence before me, I cannot be sure that the previous permission remains extant and represents a fallback position. I therefore give little weight to this as a fallback option.

15. The Council has raised concerns on the doorway not being suitable for disabled access. Although the new opening has double doors, their combined width would exceed the 900mm width the Council say is required for disabled access. I was also able to see that the doors do not provide level access, but there is a difference between the external street level and the internal floor level. I note that Local Plan Policy UD4 seeks to provide inclusive design, including the highest standards of accessibility, but the appellant has set out reasonable means to enable persons with a mobility or other impairment to access the site and I do not therefore consider that this aspect of the development is harmful.

16. The Council have stated that the rear flue is acceptable in conservation terms but have referenced its proposed position just outside the rear facing upper floor windows as a concern as it would be visible from the residential conversion on the upper floors. Whilst there may be alternative, better locations for the siting of the flue such as its position shown on a previous application, the Council has stated that the permission with the residential use has expired. Given the number of windows on the rear elevation, I do not consider that the siting of the flue would prevent the upper floors being brought into use for residential purposes. In relation to the shared main entrance door, the plans identify further internal doors separating the upper

floors from one of the proposed ground floor units. As such, this would provide a separation of these spaces and any future application for the use of the upper floors would be considered on its own merits.

17. The appellant has made a number of references to the appeal application not being determined by the Council and the reference to a request for a heritage statement not being justified. These are matters that I have dealt with in the accompanying costs decision, and they do not alter my conclusion in relation to the main issue.

18. Although reference has been made to the Liverpool World Heritage Site buffer zone, I am aware that it was resolved to remove world heritage status for the Liverpool Docklands area in July 2021. This does not however change my conclusion on this appeal.

19. The proposal would be acceptable in relation to living conditions, transport and accessibility matters, refuse storage, and in other respects including security and ventilation. These are however neutral matters.

Planning Balance and Conclusion

20. The proposal would bring investment and a vacant building into use, generating a number of jobs. Given the scale of the appeal development, these matters attract moderate weight in its favour. A number of other matters where the proposal is acceptable have been raised and the scheme would also be acceptable in relation to inclusive design. These are however neutral considerations and not matters which weigh in favour of the development.

21. I have however found harm to the significance of the heritage asset. Paragraph 199 of the Framework states that great weight should be given to an asset's conservation. As such, the public benefits would not outweigh the great weight to be given to the less than substantial harm that I have identified.

22. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed and planning permission is refused.

F Rafiq

INSPECTOR