



Appeal Decision

Site visit made on 4 April 2023

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2023

Appeal Ref: APP/M4320/W/22/3312674

149 Eastbank Street, Sefton, Southport PR8 1EE

- 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 Dan Balmer against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2022/01432, dated 4 May 2022, was refused by notice dated 24 October 2022.
 - The development proposed is existing ground floor retail unit and ground floor storage to be split to form smaller retail unit and two studio flats
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effects of the appeal proposal on the living conditions of:
 - Its future occupiers with particular reference to the provision of amenity space and outlook;
 - The occupiers of 24 Bridge Street with particular reference to privacy.

Reasons

Site, surroundings and proposed development

3. Situated in Southport's town centre (as defined in the Sefton Local Plan (adopted April 2017) (the Local Plan)), the property to which this appeal relates incorporates a commercial element at its ground floor, which fronts Eastbank Street, with a residential use present on its topmost floor. Its location on a sloping site, means that the basement level of the front expresses itself as a lower ground floor in the rear elevation. A flat-roofed two-storey projection to the rear of the appeal property relates to its lower ground and ground floors. The rear elevation of this flat roofed element incorporates a garage door, with two obscure glazed windows above that. This rear elevation faces onto an access and parking area, and the boundary fence of 24 Bridge Street.
4. The proposed development would retain retail use to the front at the ground floor, but would convert the rear elements of this to provide a studio flat (annotated as Flat 1 on the submitted plans). In addition, the appeal scheme seeks to replace the garage door at the rear of the lower ground floor with

windows and doors to facilitate the use of this level for a further studio flat (annotated as Flat 2 on the submitted plans).

Living Conditions – future occupiers of the proposed development

5. The proposed development would provide no private external amenity space for the flats, and in this way would clearly fall short of the expectations of the Council's Flats and Houses in Multiple Occupation Supplementary Planning Document (adopted June 2018) (the SPD), for 20SqM of such space to be provided for each new flat. Whilst the appellant cites nearby public spaces including Marine Lake, Princes Park, Kings Gardens and Hesketh Park all within what they consider to be a convenient walking distance, such areas do not provide private amenity space. They would not therefore accommodate many of the functions concomitant with such private spaces which include the facilitation of informal social gatherings, the opportunity to undertake gardening activities, and the ability to dry washing. It is common ground that the Council's minimum internal space standards would be met by the proposed dwellings. Nevertheless, it is clear from the plans, once fittings and furniture are in place, that the proposed flats would not be of a size which would conveniently accommodate some of the functions (for example, clothes drying and socialising) that external private amenity space would usually facilitate.
6. Furthermore, whilst the SPD anticipates that only limited exceptional circumstances may justify situations where lower amounts of private amenity space may be contemplated, it makes it clear that a failure to provide any such space would not normally be acceptable. Consequently, the appeal site's town centre location would not, in and of itself, count in its favour insofar as the considerations set out in the SPD are concerned. Neither has the appellant suggested that the proposed development would result in the re-use of an otherwise vacant building with wider significant community or regeneration benefits, another of the limited exceptional circumstances cited by the SPD. For these reasons, the proposed development's lack of private amenity space is not expressly justified by any perceived 'flexibilities' set out in the SPD or development plan in this sense. Accordingly, taking these considerations together leads me to the view that the proposed development would fail to secure acceptable living conditions for its future occupants insofar as the provision of private amenity space is concerned.
7. According to the appellant, the boundary fence of 24 Bridge Street would be around 11m from the proposed rear window of Flat 2, which would fall below the 12m minimum distance set out in the SPD insofar as the availability of outlook is concerned. However, the SPD points out that the 12m separation distance would not always be achievable in the urban context. Nevertheless, the SPD advocates that in such circumstances outlook available to the accommodation is to be considered 'as a whole'.
8. Flat 2 would be single aspect, and rather than providing a view over amenity space, the entirety of the outlook available from its only window would be orientated toward the shared access/servicing area and the private parking spaces associated with other properties in the appeal site's vicinity. This area's surface treatment of patchy hardstanding, the metal gates and posts associated with the parking areas, and the presence of parked cars impart a functional and unattractive character to the available view - one that is not softened by the single tree within the area, which is closely bounded by

hardstanding, and in the midst of the parking spaces. Consequently, the quality of outlook that would be provided to the occupiers of Flat 2 would be poor, a situation that would be exacerbated by the very limited separation distance between the proposed window and the servicing area. Accordingly, the proposed development would fall far short of providing the reasonable outlook and prospect advocated by the SPD. I consider that Flat 2's clear shortcomings in this respect would not be justified by a perceived lack of outlook available to other properties in the surroundings, which the appellant cites in support of this aspect of the proposed development.

9. Accordingly, for the above reasons, the proposed development's failure to provide private amenity space, coupled with the poor quality outlook that would be provided to Flat 2 lead me to the conclusion on this main issue that significant harm would be caused to the living conditions of the appeal scheme's future occupiers, contrary to Policy HC4 of the Local Plan.

Living conditions – occupiers of 24 Bridge Street

10. The windows which would be used by Flat 1 are orientated towards the back yards and gardens of the properties fronting Bridge Street. The rearmost part of the back garden of No 24 would be visible from the appeal property's upper ground floor windows. However, I saw that this part of No 24's garden is an area already substantially overlooked by the rear windows of No 22. Consequently, the proposed development would not erode the privacy available to the occupants of No 24 to any material degree. For these reasons, I conclude on this main issue that the proposed development would not cause harm to the living conditions of the occupiers of No 24, and would not therefore conflict with Policy HC4 of the Local Plan insofar as it requires flat conversions to avoid significant harm to the living conditions of the occupiers of neighbouring properties.

Other Matters

11. The principle of residential development at the appeal site's location is not a matter of disagreement between the parties. In these terms, the appellant cites the National Planning Policy Framework (the Framework) (including paragraphs 86, 88 and 92) and the Local Plan's support for development, including residential uses, in town centres. The appeal site is close to services and employment opportunities, including the business park identified as an important source of employment in the Local Plan. These aspects of the proposed development weigh in its favour but do so only to a modest degree. In arriving at this view, I have also taken into account that the Framework expects (at paragraph 130(f)) a high standard of amenity to be provided for future users of places, which the proposed development would clearly fail to do.
12. Provision of housing as a result of the proposed development could release pressure to subdivide larger family properties to provide flats or houses in multiple occupation. The proposal could also facilitate down-sizing and thus release family housing onto the market, but the likelihood of this happening has not been substantively evidenced by the appellant. I concur that provision of housing in town centres could reduce the need to release Green Belt land for development. Whilst these are all matters that weigh in favour of the proposed development, they only do so to a limited degree given the modest housing output anticipated.

13. The appellant points out that the Council has not found that harm to the character and appearance of the building or its surroundings would occur as a result of the proposed development. However, absence of harm is not a positive benefit of the scheme, and accordingly, this consideration weighs neither in favour of nor against the proposed development. In a similar vein, I consider the lack of neighbour representations on the appeal scheme to have only a neutral effect on the overall planning balance.
14. The appellant references a number of other planning permissions¹ for residential conversions in the surroundings of the appeal property which they claim do not provide the residential amenity standards expected by the SPD and the Local Plan. However, beyond their reference numbers and their locations, no substantive evidence of the material considerations that were taken into account (such as whether or not they related to proposals for single-aspect dwellings) in the determination of the planning applications relating to them has been provided. Moreover, the dates of the relevant decisions have not been supplied and thus it is unclear whether these pre-dated the adoptions of the Local Plan and the related SPD, both of which are material considerations particularly pertinent to this case. In any event, each proposal is to be considered on its own individual merits. For these reasons, the other planning permissions cited by the appellant do not weigh in favour of the proposed development to any material degree.

Conclusion

15. The proposed development's lack of harm to the living conditions of the occupiers of No 24 is not a positive benefit of the proposal, but rather a factor that has only a neutral effect on the overall planning balance. Moreover, none of the other considerations advanced in favour of the proposed development, taken either individually or together, are of a sufficient weight to justify a decision other than in accordance with the development plan, with which, in terms of the above-cited policy insofar as it relates to the living conditions of future occupants, the appeal scheme would clearly conflict.
16. Accordingly, for the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR

¹ Council References: N/2005/0255; N/2008/0384; N/2008/0425; N/2006/0496; DC/2018/01595; N/2008/0570