



Appeal Decision

Site visit made on 14 November 2023

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/M4320/W/23/3321968

97 Linacre Road, Litherland, Sefton L21 8NS

- 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 Steve Hyland against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2023/00167, dated 29 January 2023, was refused by notice dated 31 March 2023.
 - The development proposed is change of use of vacant shop to a one bedroom dwelling house. To install new windows to the side and rear of property.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the application was determined, the Flats and Houses in Multiple Occupation Supplementary Planning Document 2018 has been superseded by the Conversion to Flats and Houses in Multiple Occupation Supplementary Planning Document 2023 (SPD). The minimum standard for outdoor amenity space remains the same. Consequently, I have referred to the most up to date version of the SPD in my decision.
3. The appellant has submitted an amended plan with their appeal. This plan includes alterations to the shared outdoor amenity space and the inclusion of privacy film to the rear window.
4. The 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application (Annexe M.1.1). If an appeal is made, 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 (Annexe M.2.1).
5. I have considered the revised drawing under the principles established by the Courts in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin). Interested parties would not be aware of the amended scheme and, for that reason, I consider that they would be prejudiced if I determined this appeal on the basis of those plans. Accordingly, I have determined this appeal on the basis of the plans originally submitted with the planning application, on which the Council made its decision.

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

Main Issue

6. The main issue is the whether the appeal scheme would secure acceptable living conditions for future occupiers of the development with particular regard to outdoor amenity space and privacy.

Reasons

7. The host property is the ground floor of a mixed use building with a vacant retail unit to the ground floor and residential above. It is an end terrace with access to the rear amenity area via a gate in the fence to the side elevation. This rear yard includes a stairway to the upper floor.
8. The rear window of the proposal would be the only window to serve the bedroom of the proposed flat. It is close to the gated access which would be used by occupiers of both the ground floor and upper floor flats. It would harm the privacy of the occupiers of this flat with non-residents passing close to the window to access the stairway for the upper floor flat. Consequently, a poor standard of living accommodation would be provided for the intended occupiers of this flat.
9. The guidance in the SPD requires 20 square metres of outdoor amenity space for each flat. The rear yard is approximately 32 metres square, although there is the existing stairway to the upper floor which limits the available space. It does not therefore meet the size required in the SPD. Whilst there are areas of green space within walking distance of the appeal site, these do not provide private space for the occupiers for activities such as drying washing and immediate access to outdoor areas. This lack of outdoor space would therefore fail to secure acceptable living conditions of future occupiers.
10. I conclude that the proposal would fail to secure acceptable living conditions for future occupiers with particular regard to outdoor amenity space and privacy. It would conflict with Policy HC4 of the Sefton Local Plan 2017 which seeks to ensure that development does not cause significant harm to the living conditions of the occupiers of the property. It would also conflict with the guidance in the SPD and the National Planning Policy Framework which have similar aims.

Other Matters

11. My attention has been drawn to similar developments that have been approved at other properties locally. However, the specific details of these cases are not before me, particularly with regard to the position of the windows and access to the upper floors, so I cannot be certain that they are directly comparable to this appeal scheme. In any event, I have determined this appeal on the site-specific circumstances of this case.

Conclusion

12. The proposed development conflicts with the development plan as a whole and there are no other considerations that outweigh this conflict. I therefore conclude that the appeal is dismissed.

H Senior

INSPECTOR