



Appeal Decision

Site visit 28 June 2024

by Mike Worden BA (Hons), Dip TP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th July 2024

APP/M4320/W/24/3338768

Land to the rear of 1-3 Aughton Road, Southport, Merseyside, PR8 3AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Kel Holding Ltd against the decision of Sefton Metropolitan Borough Council.
- The application Ref is DC/2023/01679.
- The application sought planning permission for the erection of a two storey block of 4 no. self-contained apartments with external alterations and associated car parking without complying with a condition attached to planning permission Ref DC/2019/1901, dated 21 May 2020.
- The condition in dispute is No 7 which states that: No development shall commence above slab level until a detailed scheme of highway works together with a programme for their completion has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the removal of an existing highway tree and the removal of the existing 'H' sign to the highway. No part of the development shall be brought into use until the required highway works have been constructed in accordance with the approved details.
- The reason given for the condition is: these details are required prior to commencement to ensure that acceptable access to the development is achieved and to ensure the safety of highway users.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey block of 4 no self-contained apartments with external alterations and associated car parking at land to the rear of 1-3 Aughton Road, Southport, Merseyside PR8 3AF in accordance with the application Ref DC/2023/01679 without compliance with condition numbers 1,2 and 7 previously imposed on planning permission Ref DC/2019/01901 dated 21 May 2020 and subject to the conditions on the attached schedule.

Preliminary Matters

2. The development to which the permission relates has commenced and appears to be either complete or substantially complete.
3. In my decision I have used the description of development as set out on the decision notice.
4. Condition 7 of the permission requires the submission of a detailed scheme of highway works and programme of completion prior to development. That

programme of works was required to include detail relating to the removal of a street tree and an existing sign. The application sought to delete condition 7 and replace it with a revised layout for access to the site.

5. It is not possible for condition 7 to be deleted and replaced with a revised layout. A revised layout can only be considered in relation to condition 2, which lists the plans to which the permission relates.

Main Issue

6. The main issue is the effect of removing the condition on highway safety.

Reasons

7. The appeal site lies in a residential road just to the south of Southport town centre. The development to which the condition in dispute relates, was to construct a block of four flats to the rear of no 1 Aughton Road, a large semi-detached house. Access would be via the side of the house down the existing drive. The approved plans showed two parking spaces to be located directly in front of no 1 Aughton Road to be accessed directly off the street. This would have required the removal of an existing street tree and wall.
8. I consider that the tree makes an important contribution to the street scene. It is one of a number of established street trees along Aughton Road and collectively these trees form part of the attractive character and appearance of the street.
9. The appellant proposes a revised layout with car parking spaces provided further into the site, adjacent to the new flats. This would mean that the existing street tree directly in front of 1 Aughton Road would not have to be removed and neither would the brick wall. I consider that this uniform wall, which is topped with coping stones and runs the full length of the frontage of 1 and 3 Aughton Road also makes an important contribution to the street scene. Removing part of it would make the semi-detached pair of houses look unbalanced and would appear incongruous in the street scene.
10. I have considered the views of the Council's highways officers in respect of their concerns about the revised scheme. However, having observed the now constructed parking spaces and turning arrangements on site, I do not consider that there would be any demonstrable evidence of any harmful impact on highway safety by the removal of the condition. In any event the revised scheme presents clear benefits in terms of its impact on the character and appearance of the area than the permitted scheme.

Conditions

11. The disputed condition, condition 7 of the original permission is not necessary. I will substitute the plans condition, condition 2, with a new condition including the revised access layout plan. I have not referenced the landscape masterplan or the arboricultural impact assessment as I have not been provided with a copy of either. In any case, tree planting details have already been agreed by the Council meaning that such references are not necessary.
12. Condition 1 is not necessary now that the development has commenced and neither are the conditions relating to construction management details. I have amended the wording of the other pre-commencement conditions. The details

required by conditions 5, 6 and 8 have now been submitted and approved by the Council and I have amended the wording of those and other remaining conditions as necessary. I have combined the tree conditions into one for clarity and effectiveness.

13. I have renumbered the conditions.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition, substituting the plans condition for a new condition, and restating, as amended for the reasons set out above, those undisputed conditions that are still subsisting and capable of taking effect.

Mike Worden

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with drawing nos : AR/ADA/01/A Revision I, AR/ADA/02/A Revision D, ARA/ADA/03/A Revision E.
- 2) The surface water drainage scheme must be implemented out in accordance with the approved details and retained in perpetuity.
- 3) The materials used in the development must accord with the approved details.
- 4) The scheme of tree planting on the site must accord with the approved details and must be undertaken within the first planting/seeding season following completion of the development. Any trees or plants which, within a period of 5 years from completion of the development, die, are removed or become damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 5) The development shall not be occupied until a minimum of 1 electric vehicle charging points have been installed and are made available for use within the development as permitted. The approved infrastructure shall be permanently retained thereafter.
- 6) No part of the development shall be occupied until space has been laid out within the curtilage for cars to be parked and those spaces shall thereafter be kept available for the parking of vehicles in perpetuity.
- 7) No dwelling shall be occupied until the access road has been constructed to the base course level to enable access to the dwellings.
- 8) The development shall not be occupied until facilities for the secure storage of cycles have been provided in accordance with the details shown on the approved plans and they shall be retained in perpetuity thereafter.
- 9) Foul and surface water shall be drained on separate systems. Surface water shall be drained in accordance with the hierarchy of drainage options in national planning practice guidance. In the event of surface water discharging to public sewer, the rate of discharge shall be restricted to the lowest possible rate, which shall be agreed with the statutory undertaker prior to connection to the public sewer.