

# Appeal Decision

Site visit made on 25 October 2024

**by P Eggleton BSc(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 November 2024**

---

**Appeal Ref: APP/M4320/W/24/3345419**

**41 Durham Road, Seaforth, Sefton L21 1EF**

- 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 Gary Fleet against the decision of Sefton Council.
  - The application reference is DC/2024/00442.
  - The development proposed is a change of use from retail unit and maisonette to two flats.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect on the living conditions of future residents with regard to noise, privacy and the suitability of the outdoor amenity space.

## Reasons

3. The property has residential accommodation and a shop. The proposal would convert the area associated with the former shop to residential accommodation and would result in two flats. The floor layout proposed would result in a bedroom in the new ground floor unit within the former shop area. The bedroom would have windows directly onto the pavement in this prominent corner position.
  4. The council's Supplementary Planning Document: Conversions to Flats and Houses in Multiple Occupation 2023 (SPD) deals with the situation proposed specifically. It advises that where there is no front garden, a front room used as a living room, dining room or home office, does not cause an issue. However, if the room is used as a bedroom, it can result in unsatisfactory living accommodation due to noise from the street from passing pedestrians and traffic. To protect the residential amenity of future residents, the SPD seeks to prevent such a room being used as a bedroom, unless there is a front garden space of at least three metres that separates it from the highway.
  5. The proposal would result in the potential for disturbance from pedestrian passers-by and from the road. It would also result in a lack of privacy unless the outlook from that room was severely restricted. As a ground floor flat could be achieved without a bedroom in the exposed former shop area position,
-

albeit possibly resulting in only a one-bed unit, this arrangement represents poor design. The proposed layout conflicts with policy HC 4(2b) of the Sefton Local Plan 2017 (LP), the SPD and the *National Planning Policy Framework 2023*, which all seek a high standard of amenity.

6. As the other ground floor windows are set just under three metres from the pavement, there would inevitably be some conflict with the SPD. However, they are set back beyond the front forecourt and the boundary wall and hedge. A revised layout that would avoid the use of the most exposed room as a bedroom room would clearly be more satisfactory and would represent improved design.
7. The council are also concerned with regard to the outdoor amenity space proposed. At present there is an enclosed private amenity area to the rear which is of a reasonable size. The arrangement proposed allows for the space to the rear to be used for the first floor flat but the space would be subdivided to provide more space for the ground floor flat. This would result in a poor entrance arrangement, an enclosed narrow area to accommodate the access and the bin store and then a relatively small remaining area that would offer very limited amenity to the residents of the first floor flat. It would also adjoin the kitchen window of the ground floor flat and although this is shown as a high-level window, this arrangement would not be ideal and would reduce the quality of both the kitchen and the outdoor space.
8. The proposal for the downstairs unit would utilise the extended forecourt area which would offer only limited amenity. The extension of the forecourt into the rear enclosed area would not materially improve the outdoor accommodation for the ground floor flat but would significantly reduce the quality of the rear outdoor space for the first floor flat. The proposed layout results in poor outdoor amenity space for both units and this represents poor design.
9. Given the nature of this property, without harming the appearance of the street scene, it is inevitable that suitably private and functional outdoor space could only be provided for one of the units. In these particular circumstances, given the lack of private outdoor space available, the benefits of the additional unit would outweigh the harm from having only limited outdoor space for one of the units and the conflict with the SPD. Whilst some conflict with the SPD is inevitable with regard to outdoor space, the layout proposed does not represent a satisfactory compromise and would also conflict with the amenity requirements of LP policy HC 4(2b).
10. The proposal results in a number of further design shortcomings. This terrace, along with the neighbouring terrace and the public house opposite, have very distinctive detailing to their brickwork; door and window surrounds; and eaves. The loss of the existing front door and some of the ornate brickwork would be to the detriment of the appearance and character of this property. The two new entrance arrangements would also represent poor design. These matters add to my overall concerns.
11. Although the appellant makes reference to permitted development rights, as this is a unit with a display window, I am not certain what is being suggested as being a lawful alternative. A plan or a lawful proposed development certificate have not been provided.

12. There would be significant benefits to returning this property to a full and efficient use; and the addition of a further unit of accommodation would benefit local housing provision and provide both economic and social benefits. I have had regard also to the personal circumstances of the appellant, the nature of surrounding properties and the other conversions referred to. However, as the layout proposed could be significantly improved so as to avoid many of the shortcomings identified, the weight in favour of the proposal is not sufficient to outweigh the concerns. I therefore dismiss the appeal.

*Peter Eggleton*

**INSPECTOR**