

Appeals Received and Decisions Made

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Appeals received and decisions made between 18 December 2018 and 20 January 2019

Appeal Decisions

Embassy Building 51A Piercefield Road Formby Liverpool L37 7DG

Reference: DC/2017/02361 (APP/M4320/W/18/3210853)

Replacement of existing first floor windows, new high level vent, re-decoration of existing facade.

Procedure: Written Representations

Start Date: 04/10/2018

Decision: Part Allow/Dismissed

Decision Date: 08/01/2019

36 Winstanley Road Waterloo Liverpool L22 4QW

Reference: DC/2017/01892 (APP/M4320/W/18/3208450)

Change of Use of the existing attached garage to the side of the property to a Beauty Salon.

Procedure: Written Representations

Start Date: 07/09/2018

Decision: Dismissed

Decision Date: 21/12/2018

Site Of Churchill House Kings Park Seaforth

Reference: DC/2018/00198 (APP/M4320/W/18/3207103)

Erection of 30 dwellings with associated car parking spaces and public open space

Procedure: Written Representations

Start Date: 22/08/2018

Decision: Dismissed

Decision Date: 21/12/2018

108 Churchgate Southport PR9 7JE

Reference: DC/2018/01183 (APP/M4320/D/18/3210019)

Erection of single storey extension to the rear of the dwellinghouse following demolition of existing single storey extension. (Retrospective Application)

Procedure: Householder Appeal

Start Date: 30/10/2018

Decision: Dismissed

Decision Date: 19/12/2018

New Appeals

72 Seaforth Road Seaforth Liverpool L21 4LF

Reference: DC/2018/00995 (APP/M4320/W/18/3212354)

Change of use of part of the ground floor from a public house to a hot food takeaway including associated works to the basement and yard area and erection of an extraction flue to the rear elevation

Procedure: Written Representations

Start Date: 20/12/2018

Decision:

Decision Date:

39 - 41 South Road Waterloo L22 5PE

Appeals received and decisions made between [18 December 2018](#) and [20 January 2019](#)

Reference: DC/2018/01649 (APP/M4320/W/18/3217070)

Installation of extraction ductwork from the kitchen on first floor level, installation of door and glazing to provide access to the roof (retrospective) and erection of new timber faced beer store to roof.

Procedure: Written Representations

Start Date: 15/01/2019

Decision:

Decision Date:

[33-35 Botanic Road And 23 Manor Road Southport PR9 7NE](#)

Reference: DC/2018/00194 (APP/M4320/W/18/3214164)

Variation of condition 7 pursuant to planning permission DC/2016/01319 approved 30/09/2016 to allow an outdoor seating area to the side of 23 Manor Road, Southport.

Procedure: Written Representations

Start Date: 24/12/2018

Decision:

Decision Date:



Appeal Decision

Site visit made on 3 December 2018

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th January 2019

Appeal Ref: APP/M4320/W/18/3210853

51A Embassy Building, Piercefield Road, Formby L37 7DG

- 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 Phillips on behalf of Tatton Property Investments against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2017/02361, dated 29 November 2017, was refused by notice dated 9 March 2018.
 - The development proposed is the replacement of existing first floor windows, new high level vent, re-decoration of existing facade.
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Procedural Matters

1. Notwithstanding the description of development set out above, the proposal involves three distinct, and severable, elements. The first is the replacement first floor windows; the second is the high level vent; and, the third is the re-decoration of the existing façade.

Decision

2. The appeal is dismissed insofar as it relates to the replacement first floor windows.
3. The appeal is allowed insofar as it relates to the high level vent and redecoration of the façade at 51A Embassy Building, Piercefield Road, Formby L37 7DG in accordance with the terms of the application, Ref DC/2017/02361, dated 29 November 2017, so far as relevant to that part of the development hereby permitted, and subject to the following conditions.
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby granted shall be carried out strictly in accordance with the following drawings: 100 Rev 3, 101 Rev 1, 102 Rev 1, 104 Rev 2 and 105 Rev 1 so far as relevant to that part of the development hereby permitted.

Main Issue

4. The main issue is whether the proposal preserves or enhances the character or appearance of the Green Lane Conservation Area.

Reasons

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving

- or enhancing the character or appearance of Conservation Areas. This is reflected in paragraph 132 of the National Planning Policy Framework (the Framework), which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
6. The appeal building is located within the Green Lane Conservation Area (the CA). The CA is relatively small in size with much of it occupied by open space, notably the cricket pitch and church yard, with very few buildings. Buildings within it vary in size and architectural style. The relationship between the buildings and open space makes an important contribution to the significance of the CA.
 7. The appeal property sits on the crossroads of Piercefield Road and Green Lane. Due to its size and siting, the building is a prominent feature within the CA. Although it is of a different scale to the residential properties lining Green Lane to the north, it is of a similar scale to The Grapes Hotel on the opposite side of the Lane. Together, these buildings create a gateway to the CA. Although not a statutory listed building, the appeal property is distinctive in the streetscene with its art deco façade enhancing its prominence and dominance. Whilst the ground floor displays modern shop frontages, the first floor is largely unaltered, retaining the original finely detailed timber windows, which are in a poor condition. The north elevation of the building is less attractive, with the fenestration expressing little consistency. However, this elevation is only readily seen on exiting the CA and is not the main elevation fronting the Lane. Overall, the detailing, scale and rhythm of the windows makes an important contribution to the character and appearance of the building, which itself is a non-designated heritage asset, and the significance of the wider CA. I acknowledge that there is no Conservation Area Appraisal and the Advisory Leaflet does not refer to the building. However, I do not consider that this reduces the building's important contribution to the CA.
 8. The Council raise no objection to the high level vent or the redecoration of the existing façade. Based on the evidence before me, I find no reason to conclude otherwise. I therefore intend to allow these parts of the appeal.
 9. The Council's objection to the proposal is with regard to the replacement windows. There are 10 existing first floor windows which are identical in their detailing, scale and rhythm. The windows have very delicate detailing with coloured and textured glass and projecting glazing bars, stile and rail which provide depth and interest.
 10. The proposed replacement windows would be in the same position and be of the same size as the existing. Therefore the scale and rhythm of the fenestration would not be altered. The windows would be constructed of aluminium rather than timber, which by itself is not strictly harmful, providing the detailing is appropriate. However, the proposed glazing bars would be inserted between the glazing, thus providing no projection or depth. Moreover the frames, mullions and casements would have flat edges and therefore would appear heavy and inappropriately crude in their design. Overall, the replacement windows would significantly detract from the appearance of the property and the significance of the CA.
 11. Paragraph 196 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated

heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use. The proposed replacement windows would have less than substantial harm to the significant of the CA. The proposed windows would likely be cheaper than like-for-like replacement timber windows and would not likely require as frequent maintenance work. I also note that the current condition of the windows creates drafts and pose a risk to safety with regard to potential falling glass. However, I do not consider that this amounts to a public benefit that would outweigh the harm to the CA.

12. I conclude therefore that the replacement windows would fail to preserve or enhance the character of the CA. As such, it is contrary to Policies NH9 and NH12 of the Local Plan for Sefton 2017, which seek to ensure that development protects the significance of Seftons’s heritage assets and preserves or enhances the character or appearance of Conservation Areas. Furthermore, it would fail to accord with the heritage objectives of the Framework.

Conditions

13. In relation to the parts of the proposal I find acceptable, a condition setting a time limit for the commencement of development is necessary in the interests of proper planning. For the avoidance of doubt and in the interests of proper planning a condition is attached clarifying the approved plans, so far as they are relevant to the part of the proposal that is permitted.

Conclusion

14. For the reasons given above, having regard to all matters raised, the appeal is allowed in relation of the high level vent and the re-decoration of the existing façade. However, in relation to the replacement windows, the appeal is dismissed.

Alexander Walker

INSPECTOR



Appeal Decision

Site visit made on 18 December 2018

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2018

Appeal Ref: APP/M4320/W/18/3208450
36 Winstanley Road, Waterloo L22 4QW

- 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 Carl Roberts against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2017/01892, dated 12 October 2017, was refused by notice dated 12 February 2018.
 - The development proposed is change of use of existing garage (B8) to beauty salon.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on: (i) the living conditions of 36 and 36a Winstanley Road, with regards to noise, odour and privacy; and (ii) highway safety, with regard to the proposed access and parking arrangements.

Reasons

Living conditions

3. The appeal site is on corner of Winstanley Road, Stuart Road and Back Winstanley Road. Flats occupy the first floor of the property (No 36a), while the ground floor is occupied as a two bedroom property (No 36). The nearby area is predominantly characterised by residential dwellings. Two storey terraced properties line Winstanley Road and Stuart Road. Commercial premises line Crosby Road North to the west. A handful of commercial premises line Stuart Road, while a motor vehicle garage is on Back Winstanley Road.
4. Policy HC3 of A Local Plan for Sefton (Local Plan) explains that non-residential development will be permitted in Primarily Residential Areas provided that it can be demonstrated that the proposal will not have an unacceptable impact on the living conditions of neighbouring properties.
5. The proposed salon would occupy the existing garage which is between the main body of the building and the footway on Back Winstanley Road. The appellant submits that the salon would open between the hours of 09:00 to 17:00 on Tuesday and Wednesday, 09:00 to 19:00 on Thursday and Friday and 09:00 to 18:00 on Saturday. The salon would offer four treatment chairs. Two would be used to wash hair and two for treatment. The appellant states that a maximum of two staff (full-time or part-time) would work in the salon depending on business needs.

6. While the hours would be during the daytime, there are no details of the services that would be offered at the salon. Based on the number of treatment chairs and the plans that are before me, the salon could potentially be used by four customers and four members of staff. This is likely to be the worst case scenario, but there is a bedroom next to the proposed salon in No 36. I note the proposed acoustic treatment of the salon, but in the absence of firm details about the salon's services, I cannot be certain that a planning condition would be relevant to the development to be permitted, and as such the proposed use would not cause an unacceptable impact on their living conditions.
7. A separate pedestrian access is proposed in the Back Winstanley Road elevation. This would provide a convenient entry and exit for some customers and staff who may travel to and from the proposed salon on foot. Although people using this route would not cross in front of No 36, people would still be likely to use the existing access from Winstanley Road for ease. Moreover, the use of the existing off-street parking provision would mean that comings and goings by vehicles and pedestrians would result in noticeable and harmful effects to the living conditions of occupants of Nos 36 and 36a who have several window openings at ground and first floors facing into the parking area. The effect would occur during the proposed opening times.
8. Concerns are raised about a loss of privacy in No 36, but the existing car parking area is used by residents of No 36a, and the people using footways in the area do already pass close to residential properties. While odour is also a concern of the Council, I do not consider that the proposed salon would lead to an unacceptable impact given its scale.
9. The proposal has not demonstrated that it will not have unacceptable impacts on the living conditions of Nos 36 and 36a. Thus, I conclude, on this issue, that significant harm would be caused to their living conditions, with regards to noise. The proposal would conflict with Local Plan Policy HC3 and paragraph 127 f) of the National Planning Policy Framework (the Framework) which seeks a high standard of amenity for existing and future users.

Highway safety

10. At most the appeal site offers four off street parking spaces. This provision serves the residential properties on the site and it includes the garage that the proposed salon would occupy. It is the appellant's intention to share the use of the remaining parking spaces between the residential properties and the proposed salon. The proposed pedestrian access would lead onto a narrow section of footway which is not suitable for all due to its width. Pedestrians could, however, use the existing access from Winstanley Road. Notwithstanding my findings on living conditions, the proposal would therefore facilitate the safe and easy movement into, out of, and within the site for pedestrians, cyclists and those with limited mobility.
11. Winstanley Road and Stuart Road are used for on-street car parking as properties on these roads do not offer much, if any, off-street parking provision. The Council and the occupant of No 36 explain that on-street parking provision in the area is at a premium, with people struggling to find a space and there being a history of parking problems in the area. Although the appellant suggests that any parking issues are caused by nearby residents owning multiple vehicles due to the number of families living there, I must assess the proposal based on the circumstances as I find them.

12. Although there were numerous spaces available on Winstanley Road and no vehicles were parked on the appeal site at the time of my morning site visit, this represents a snap shot in time when less residents are less likely to be at home. There is also no substantive evidence which indicates to me that I ought to disagree with the evidence of the Council and the resident of No 36.
13. While there are bus services on Crosby Road North and not everyone travelling to and from the site may use a car, the appeal scheme would increase the demand for the limited amount of car parking on the site. Consequently, vehicles associated with Nos 36 and 36a together with the proposed salon would be reliant on the on-street provision which is said to be at a premium. Parking on Stuart Road and Back Winstanley Road is also subject to Traffic Regulation Orders which prevent parking at particular times of the day. Given this, there would be an increased chance that vehicles would be parked inappropriately such as on the footway. Moreover, due to the site's location at the junction of Winstanley Road, Stuart Road and Back Winstanley Road where visibility is poor as a result of the alignment of Back Winstanley Road, there would be a strong likelihood that residents, customers and staff seeking to access or egress from the site would not be able to safely and easily move into, out of, and within the site. Thus, conflicts could potentially occur.
14. On this issue, I conclude that the proposed access and parking arrangements would potentially lead to severe unacceptable impacts to highway safety. The proposal would not accord with Local Plan Policy EQ2 which seeks to ensure safe and easy movement into, out of, and within the site for everyone. The scheme would also conflict with Framework paragraph 109 which says that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Conclusion

15. While the proposed salon would be an accessible local service given its location, the merits of this does not outweigh the harm that I have identified in respect of neighbouring occupants living conditions and highway safety.
16. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR



Appeal Decision

Site visit made on 18 December 2018

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2018

Appeal Ref: APP/M4320/W/18/3207103

Kings Park, Seaforth L21 1BB

- 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 Ms Karen Lee of One Vision Housing against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2018/00198, dated 31 January 2018, was refused by notice dated 29 June 2018.
 - The development proposed is the erection of 30 No. dwellinghouses. The breakdown of the dwellings is as follows: 16 x two-storey dwellinghouses – 3 bedrooms; 3 x two-storey dwellinghouses – 2 bedrooms; 11 x bungalow dwellinghouses – 2 bedrooms.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the open space on the appeal site is surplus to requirements.

Reasons

3. The appeal site consists of two parcels of land which are either side of Kings Park. The site was once occupied by two high-rise residential tower blocks. Montgomery House was to the south-west of the site next to Claremont Road, while Churchill House was to the north-east of the site next to Sandy Road. Both tower blocks were demolished in 2016. A third tower block, Alexandra House is in the south-east corner of the site. This was refurbished and extended before the other two tower blocks were demolished. Two and three storey residential properties largely characterise the surrounding area.
4. The development plan, A Local Plan for Sefton (Local Plan) was adopted in 2017 following public consultation and examination in public. Two parts of the appeal site, about 0.56 hectares in size were, on the adoption of the Local Plan, designated as Open Space under Local Plan Policy NH5. This is reflected in the Council's Policies Map. Notably, the sites of the former tower blocks were not included in the Open Space designation. However, this land which makes up roughly 0.74 hectares of the appeal site does form part of a Primary Residential Area under Local Plan Policy HC3. The Council raises no concerns to this land being developed for housing. My findings therefore focus on the land designated as Open Space.
5. At the time when Montgomery House and Churchill House were demolished, I

- understand that they along with Alexandra House were next to open space referred to as Kings Park. The Council's Open Space and Recreation Study, November 2015 (OSRS) classified these spaces as Community Parks which is the lowest level of park identified. Kings Park contained two equipped playground areas. Community Parks according to the OSRS are generally small, serve the local catchment of around 400 metres and community and are individually unlikely to have a diverse range of facilities but in combination in a neighbourhood are able to meet a range of recreational requirements.
6. Even though the appellant says that Kings Park was mostly used by residents of the tower blocks, I agree with the Council that Kings Park is likely to have been more widely used by local residents for recreation, even if the land is privately owned. The appellant accepts this. A tarmacked pathway connects Kings Park to Sandy Road. I noted signs which confirmed the appellant's stance to restrict access to the land due to ongoing maintenance and the risk of accidents occurring, which they say they would be potentially liable for. I note that the land of the former tower block sites was grassed over to maintain a positive relationship with local residents who have views across the land. As a whole the appeal site was mainly grassed, except for Alexandra House and its parking and recreation areas. Given this, the appeal site is not entirely previously developed land having regard to the Annex 2 of the National Planning Policy Framework (the Framework).
 7. The appellant submits that the land which has been designated as Open Space has been done so incorrectly as it is private land, and that, as a result Local Plan Policy NH5 should not be applied to the appeal scheme. I note the appellant's points, especially around the definition of open space, but it is not the role of a planning application or a section 78 appeal to examine whether or not the appeal site should be allocated as Open Space. The opportunity to do so was during the Local Plan process when the forward direction for Sefton was set as a result of the Local Plan being found to be 'sound'. If the appellant was unhappy with the then proposed allocation of the site, this should have been raised as part of the Local Plan process.
 8. The appellant may be right in terms of the extent of the Open Space designation which seems to include parts of the adopted highway among other things. Nevertheless, I have determined the appeal in accordance with the development plan, unless material considerations indicate otherwise.
 9. Open Space in the urban area in terms of the Local Plan comprises of, among other things, main parks, neighbourhood parks (including local parks and play areas, public nature sites in the urban area and larger, public amenity green spaces). Furthermore, Annex 2 of the Framework defines open space as: all open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity. Hence, having regard to the Local Plan and the Framework, there is no distinction between public and private open space. The key consideration is whether it has public value.
 10. The appellant accepts that the land has been used for recreation and it provides visual amenity. Given this and based on my own observations, I am of the view that the land designated as Open Space does offer public value. Consequently, Local Plan Policy NH5 states that other development proposals

are acceptable in principle on open space, where an assessment has been undertaken which has clearly shown the public open space or outdoor sports facilities to be surplus to requirements. This is broadly consistent with Framework paragraph 97 a). There are two other criteria to Local Plan Policy NH5 but the appellant says that neither apply to the appeal scheme.

11. The OSRS is the basis for assessing whether public open space is surplus to requirements. The OSRS provides a detailed analysis of open space in Sefton. It explains how open space is assessed and compares different types of open space for each settlement area in the borough to identify surpluses and deficits. The OSRS identifies that a surplus of open space may exist only where all of the following factors are met: accessibility; quantity; and quality.
12. Before exploring the merits of these factors, it is important to outline the extent of the neighbourhood that the public open spaces serve. Based on my observations of the site and its surroundings I agree with the Council's view of the neighbourhood. This is broadly defined by the busy roads of Princess Way to the south and Crosby Road South to the west, the Liverpool to Southport railway Line to the east and by Cambridge Road to the north.
13. In terms of accessibility the site or open space needs to be within 2 kilometres (km) of a main park and within 1 km of one or more neighbourhood parks and within 400 metres of one or more community parks; and where there is duplication in the type and range of functions of community and neighbourhood parks. There is no dispute between the parties that the site is within 2 km of a main park. To the north and east is Rimrose Valley Country Park, a Countryside Recreation Area. As the crow flies the park is roughly 300 metres from the site, but journeys using Brook Vale from the neighbourhood would be further than this. No specific distances have been provided, but it is likely to be within 1 km of the site. People in the neighbourhood could reach the park using lit footways and the crossing point across Sandy Road, even though the path does traverse the railway line. I note the park may be Highways England's preferred route for the port access road, but I do not have any details of this before me. Based on current circumstances, I give this little weight.
14. I also note the accessibility issues associated with the Neighbourhood Parks of Potters Barn Park and Bowersdale Park to the west and south. Some parts of the neighbourhood are also a fair distance away from these parks, but in any event they are likely to be within the 1 km threshold.
15. I recognise that the appeal scheme would result in the formation of public open space and a playground, but the development would be on the only Community Park in the area. Moreover, this provision is fairly central and within 400 metres of nearly all the neighbourhood. Parks higher up in the hierarchy fulfil a function within the Borough, but residents are less likely to visit them on a day-to-day basis or benefit from their visual amenity. Thus, there is not a surplus of open space in terms of accessibility given the need to have one or more Community Parks within 400 metres of the site or open space.
16. In terms of quantity, the settlement area needs to have around, or meet the quantity of open space, and any loss would not have a significantly detrimental impact on the quantity of open space. The appeal site lies within the Crosby settlement area in which there are the fewest Community Parks according to the OSRS. This is the lowest figure across Sefton. The appeal scheme would provide public open space and a playground, but even if I were to use the

appellant's figures of the site's Open Space designation, the proposed areas would be considerably smaller than the existing quantity of Open Space. I recognise that the proposed provision would be maintained by the appellant who is a Registered Social Housing provider. However, at best the proposed provision carries a neutral weight due to the further loss of Community Park provision in Crosby. In any event, this would not alter or outweigh my findings in terms of accessibility, and there is no substantive evidence before me either way in terms of quality.

17. I conclude that the open space on the appeal site is not surplus to requirements. Significant harm would stem from the proposal which would conflict with Local Plan Policy NH5 and Framework paragraph 97 a) as the appellant's assessment has not clearly shown the public open space to be surplus to requirements.

Other matters

18. Reference is made by the appellant to documents which formed part of the Council's evidence for their Local Plan; however they are not part of the development plan. I do, however, agree with the appellant about the scheme's effect on highway safety, ecology, the environment, drainage, design and landscaping subject to the imposition of planning conditions. The appeal scheme would also contribute to the supply and mix of high-quality housing in Sefton in an accessible location. I note the proposed quantum of houses, but I have no details of how the scheme has been developed to obtain funding as suggested, and fulfil the appellant company's plans around replacement and upgrading. In any event, these matters do not alter or outweigh my findings on the main issue.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR



Appeal Decision

Site visit made on 3 December 2018

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th December 2018

Appeal Ref: APP/M4320/D/18/3210019
108 Churchgate, Southport PR9 7JE

- 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 David Tomlinson against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2018/01183, dated 19 June 2018, was refused by notice dated 13 August 2018.
 - The development proposed is a single storey rear extension following demolition of existing single storey extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my site visit, an extension had already been constructed. The Council confirm that the works that have been carried out are slightly different to the plans submitted with the application subject of this appeal as the extension as built is 2.9m high whereas the proposed plans indicate an extension 2.7m high. Also, the plans indicate that the side elevation of the extension would be approximately 0.2m set back from the boundary with 106 Churchgate. The extension as built is on the boundary and is flush with the existing flank elevation of the original dwelling. I am required to consider the proposal on the basis of the same details that were before the Council when it made its decision and for the avoidance of doubt I have determined the appeal on the basis of the plans as submitted, not what has been constructed.
3. Following the submission of the appeal, the Council confirm that they have served an enforcement notice on the appellant. This has had no bearing on my consideration of the s78 appeal before me.

Main Issue

4. The main issue is the effect of the development on the living conditions of the occupants of the neighbouring residential property, 106 Churchgate, with particular regard to outlook and light.

Reasons

5. The extension is within proximity of two facing windows and a door in the side elevation of No 106 which serve a kitchen diner. There is a third window to the rear of the kitchen diner. From the eastern most facing window, the outlook is

- dominated by the original flank elevation of the appeal property. From the second facing window, the outlook is dominated by the extension in situ, although there are some views above it of the two-storey outrigger on the appeal property and limited skyline views are visible from an oblique angle.
6. The appellant contends that the boundary between the two properties previously consisted of a 2m high brick wall. The Council disputes this, arguing that it was lower and this was corroborated by the occupant of No 106, who confirmed that it was low enough for her to look over. The Council provides a photograph of the property when the disputed wall was in situ, which suggests that the wall was lower than 2m in height. Based on the evidence before me, I consider that the wall was significantly lower than 2m in height.
 7. As a result of the proximity of the eastern most facing window to the original flank elevation of the appeal property, the proposed extension would likely have a negligible, if at all any, effect on the outlook from it. However, the 2.7m high flank wall of the extension would rise significantly higher than the previous boundary wall, even if it was 2m in height, and, in addition to its substantial depth, it would therefore significantly diminish the amount of light entering it.
 8. With regard to the second facing window, this would be directly opposite the extension. Prior to the construction of the extension in situ, the outlook from this window would have been dominated by the two-storey outrigger on the appeal property. Nevertheless, due to the set-back position of the outrigger from the boundary with No 106 and its relatively short depth, there would have been some depth to the outlook, allowing views over the boundary wall and there would have been a moderate amount of visible sky. The proposal would eliminate this depth and create a blank elevation that would rise significantly above the boundary wall, thus severely diminishing the outlook from the window. For the same reason, the level of light serving this window would be significantly reduced.
 9. During my site visit I had the opportunity to view the site from both of these windows in No 106. The kitchen diner that they serve is narrow and long. The lack of light entering and outlook from these windows as a result of the extension that has been constructed creates a gloomy and oppressively confined living space. Whilst the extension that is the subject of this appeal would be set back slightly from the boundary and be approximately 0.2m lower in height, I do not consider that it would make a marked difference to the current unacceptable living conditions as a result of the extension in situ.
 10. The Council argues that the presence of an archway creates a physical boundary between the kitchen and dining area and therefore should be considered as two separate rooms. However, I disagree. The archway is almost the full width of the kitchen allowing full movement between the two areas and given the relatively small size of the dining room, they are clearly designed to be functionally and physically read as a single room. Nevertheless, whilst the rear window allows uninterrupted views of the rear garden and provides sufficient light to serve the dining area, due to the distance of this window from the kitchen area it provides inadequate outlook or light to a considerable portion of the overall room.

11. I have had regard to the effect of the extension on the light entering the side door of No 106. However, given that the glazing in the door is limited, I do not consider that there is any material effect on the light entering it.
12. I have also had regard to the effect of the extension on the outlook from the rear garden of No 106. The extension would almost link the side elevation of the original dwelling with No 106's detached garage. It would clearly be visible from parts of the garden closest to the dwelling and the alleyway between the two properties. However, given its substantial size, there would be sufficient outlook retained throughout most of the garden to ensure that it would not significantly harm its usability.
13. I find therefore that the proposal would significantly harm the living conditions of the occupants of 106 Churchgate with regard to outlook and light. As such, it would be contrary to Policy HC4 of the Local Plan for Sefton 2017, which, amongst other things, seeks to ensure that extensions and alterations are designed so that there shall be no significant reduction in the living conditions of the occupiers of neighbouring properties, with particular regard to loss of outlook and light. In addition, it would fail to comply with the advice set out in the Sefton Council House Extensions Supplementary Planning Document 2018, which states that extensions should avoid causing harm to the windows of neighbouring properties, with regard to light and outlook. Furthermore, it would fail to accord with paragraph 127 of the National Planning Policy Framework, which states that development should create places with a high standard of amenity for existing and future users.

Other Matters

14. The appellant contends that an extension could be erected under permitted development rights that would be higher than the proposed extension with a 3m high elevation on the boundary. The Council contends that such a scheme, as identified on the plans submitted, would not be permitted development due to the presence of the first floor of the existing outrigger, which appears to be an extension to the original property. Based on the evidence before me, such a proposal would not be permitted development as, taking into account the existing first floor extension, it would fail to comply with Part 1 Schedule 2 Class A Paragraph A.1 (h) and (j) of The Town and Country Planning (General Permitted Development) (England) Order 2015. Therefore, I do not find that this represents a fallback position.
15. The appellant has referred me to a number of planning permissions granted by the Council for extensions in the locality. However, based on the limited evidence before me, I am not satisfied that any of these schemes are directly comparable to the appeal proposal, with particular regard to the height of the extension and its proximity to habitable room windows. Accordingly, I attribute these cases limited weight. In any event, I have considered the proposal on the basis of its own merits.
16. I have had regard to the recent appeal decision¹ referred to me by the Council. The details of the scheme are not before me and therefore I cannot be certain that there are any direct similarities with the current proposal. Accordingly, I attribute this case limited weight.

¹ Appeal ref APP/M4320/D/18/3200900

17. I acknowledge the appellant's need for the extension to accommodate his family. However, I do not consider that these circumstances outweigh the harm I have identified above. I have also had regard to the potential enforcement action that the Council may proceed with against the existing extension and the subsequent financial implications. However, such risks are always a possibility in instances whereby development proceeds prior to planning permission being granted.

18. I note that there is a dispute regarding the boundary line between the appeal property and No 106. However, matters of land ownership have not had any bearing on my consideration of the planning merits of the proposal.

Conclusion

19. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR