
Appeal Decision

Site visit made on 31 July 2017

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 August 2017

Appeal Ref: APP/Z4310/W/17/3174265
10 Borrowdale Road, Liverpool L15 3LE

- 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 Larry Broderick against the decision of Liverpool City Council.
 - The application Ref 17F/0158, dated 15 January 2017, was refused by notice dated 7 April 2017.
 - The development proposed is to continue to use premises as a HMO for 9 students and retain single storey extension to rear.
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Decision

1. The appeal is allowed and planning permission is granted to continue to use premises as a HMO for 9 students and retain single storey extension to rear at 10 Borrowdale Road, Liverpool L15 3LE in accordance with the terms of the application, Ref 17F/0158, dated 15 January 2017, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: JB 102; JB 103; JB 104, JB 105 and site location plan.

Main Issue

2. The main issue is whether occupiers of the House in Multiple Occupation (HMO) are likely to experience acceptable living conditions in terms of the provision of bathroom facilities.

Reasons

3. The appeal site is a mid-terrace property which has nine bedrooms, two bathrooms, a living room and a kitchen/dining room. The kitchen/dining room, living room and the bathrooms are all communal facilities for the occupiers of the property to use. Each of these facilities is on the ground floor, except for a bathroom on the second floor of the property.
4. While the Council does not cite a development plan policy in their reason for refusing planning permission, their 'Statement of Appeal' refers to saved Policy H7 of The City of Liverpool Unitary Development Plan (UDP). I also note they do not consider the property to be suitable HMO accommodation for the proposed number of occupiers as a result of its size and the limited bathroom facilities which mean that there are no separate toilet and shower facilities.

5. I understand the property has been used as a HMO since around 2013¹ when internal alterations were undertaken to increase the number of bedrooms and bathrooms in the property. However, Supplementary Planning Guidance Note 7 'Conversion of Buildings into Flats and Bedsits' (SPG 7) seeks to ensure *satisfactory standards of accommodation are achieved by such development*. Saved UDP Policy H7 also requires, among other matters, development proposals to take account of *the design of internal spaces, which should reflect the advice contained in the City Council's "Code of Practice for Houses in Multiple Occupation" regarding minimum sizes, acoustic insulation, light and ventilation and consideration of the suitability of premises, in terms of size and location, for full or part conversion*.
6. The property is relatively large and is laid out across three floors. The room sizes are generous and the bedrooms all have a wardrobe and a desk, with some benefitting from a chest of drawers or shelves. I note the size of each bedroom accords with SPG 7. Both bathrooms contain the only toilets in the property. They also contain a shower unit and a wash basin. However, this means that occupiers are not able to use a shower or toilet while both bathrooms are in use. The Council suggest that the bathrooms could be unavailable for extended periods of time, but this time period is not quantified, even with the proposed number of occupiers. Regardless, it is not uncommon for occupiers of residential accommodation to wait for a short period until a WC or shower becomes available. Furthermore, while there may be periods of greater demand; occupiers would be able to use at least one of the bathrooms within a reasonable period of time in my view.
7. Criterion iii of saved UDP Policy H7 also refers to the City Council's "Code of Practice for Houses in Multiple Occupation". While the applicant refers to a document titled '*Guidance Standards and Management of HMOs*', I gather the respective names are essentially the same document. The Council do not dispute this. The document outlines the Council's stance in terms of the bathroom and WC sharing ratio in HMO accommodation. The standard is based on the number of persons occupying the property. For 6 to 10 persons there should be a bathroom and WC sharing ratio of *2 bath/shower and 2 WCs*. The document also explains that *WC's maybe contained within the bathroom or a separate closet*. Having regard to this document, the appeal scheme meets this provision. Occupiers would also not need to travel more than one floor to use a bathroom.
8. Although the appellant refers to planning permissions that have been granted at 8 and 14 Borrowdale Road² to use these properties as HMO accommodation for 9 and 8 students respectively, they are not directly comparable to the appeal scheme. The scheme at No 8 has a WC and two bathrooms each with toilets in, while No 14 has separate WC and shower room facilities. In any case, I am not satisfied that the appeal site is occupied by too many people. Hence they would experience a satisfactory standard of living accommodation.
9. Accordingly, I conclude that the proposed development would comply with saved UDP Policy H7, SPG 7 and with Guidance on Standards and Management of Houses in Multiple Occupation. Together these seek, among other things, development to achieve a satisfactory standard of accommodation.

¹ Application form

² Council Application Refs: 16F/2487 and 16F/2094

Other Matters

10. I recognise points are made about the concentration of HMO's in the area and I am mindful of the separate appeal at 31 Borrowdale Road³. In any event, I have determined this appeal based on the development that has been applied for on the basis of the evidence before me in accordance with the development plan, unless material considerations indicate otherwise. Furthermore, despite suggestions that a property used as a HMO cannot extend, I am not aware of any such restriction, subject to obtaining planning permission.
11. There are no parking restrictions on Borrowdale Road and the property has a rear yard which could, in addition to the hall be used to store bicycles. The site is near to a high frequency bus route and services and facilities on Smithdown Road which would lessen the need for occupants to use a car. Thus, I agree with the stance of the Council's Highway Development Control. I do, however recognise, due to level differences, that the rear yard is not suitable to store wheelie bins for refuse and recycling. Space is however available to the front of the property for them and I note this is a common practice in the road.
12. Although the rear extension would face habitable windows found in the terrace on Lidderdale Road, the extension is within the curtilage of the appeal site and behind a brick boundary wall. Given the existing form of development and the scale and massing of the extension, I do not consider that the extension would result in a loss of light in these neighbouring windows.
13. Even though concerns are raised in terms of anti-social behaviour, water pressure, noise, disturbance and crime, there is no substantive evidence before me to support these claims. Despite resident's frustrations, the Council's approach to handling their complaints is a matter for the Council to address.

Conclusion and Conditions

14. I have had regard to the planning conditions suggested by the Council. I have imposed a condition regarding the plans in the interests of certainty. However, a standard commencement condition is not necessary as the scheme is already in use. A condition is also not necessary, given the description of development to control the number of occupiers or to control refuse and recycling, as there is ample space within the curtilage of the site to store such materials until their collection. Thus, I have not imposed these three conditions.
15. For the reasons set out above, I conclude that the appeal should be allowed.

Andrew McGlone

INSPECTOR

³ Appeal Ref: APP/Z4310/W/17/3174442