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# Appeal Decision

Site visit made on 14 November 2017

**By S R G Baird BA(Hons) MRTPI**

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

**Decision date: 12 December 2017**

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**Appeal Ref: APP/W4325/W/17/3181358**

**Dickie Lewis's Sports Bar, 1 Oxtan Road, Birkenhead, Merseyside  
CH41 2QQ**

- 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 S Ahmed against the decision of Wirral Metropolitan Borough Council.
  - The application Ref APP/16/01372, dated 12 October 2016, was refused by notice dated 22 June 2017.
  - The development proposed is a change of use into 3 commercial units and HMO Bedsits.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 20 November 2017.

## Preliminary Matters

1. Prior to determination of the application, the proposal was amended to: the change of use from a public house with residential accommodation above to 2 commercial units (A1-Retail and A3-Restaurant) on the ground floor and 12 HMO<sup>1</sup> bedsits on the first and second floors.
2. A schedule of costs was submitted under the heading "Cost Claim for refusal of planning permission". The appellant was advised that an application for an award of costs in this form could not be accepted. To pursue a costs application the appellant was advised to resubmit the claim in line with national guidance. As no further application was received, I have not considered a costs application.

## Decision

3. The appeal is allowed and planning permission is granted for the change of use from a public house with residential accommodation above to 2 commercial units (A1-Retail and A3-Restaurant) on the ground floor and 12 HMO bedsits on the first and second floors at Dickie Lewis's Sports Bar, 1 Oxtan Road, Birkenhead, Merseyside CH41 2QQ in accordance with the terms of the application, Ref APP/16/01372, dated 12 October 2016, subject to the conditions set out in the attached schedule.

## Main Issue

4. The local planning authority (lpa) has no objection to the proposed ground-floor commercial uses or the principle of a HMO on the upper floors. Rather, it is the proposed level of communal facilities for the bedsits that the lpa expresses concern with. Accordingly, the main issue is whether the proposal would provide acceptable living accommodation for prospective residents.

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<sup>1</sup> House in Multiple Occupation.

## Reasons

5. Development plan<sup>2</sup> Policy H14 seeks to ensure that HMOs provide a reasonable living environment for prospective residents. On the first floor there would be 7 bedrooms each with a wash hand basin, 2 shared kitchens, a shared lounge, 2 bathrooms, one of which would include a WC, and a separate WC. The second floor would have 5 bedrooms, a shared kitchen/lounge, a bathroom and a separate WC. The majority of bedrooms are of sufficient size to accommodate double beds and several of the rooms already contain double beds. Thus, the proposal has the potential to accommodate between 7 and 14 occupants on the first floor and between 5 and 10 occupants on the second-floor.
6. UDP Policy H14 does not contain guidance as to the level of communal facilities required to service any number of residents or bedrooms and I have not been referred to any other local or national guidance on the level of such facilities. Here, the Council's Environmental Health and Housing Departments have no objection to the proposed use/layout of the first and second floors. Thus, determining whether the proposed level of communal facilities is adequate it is a matter of professional, albeit subjective, judgement.
7. I have had regard to 2 appeal decisions<sup>3</sup> brought to my attention by an objector. Having regard to the nature of the proposal before me and the nature of the proposals referred to in the other decisions, there are material differences, particularly in the distances of bedrooms to bathrooms/WCs. These decisions do not set a precedent that I am bound to follow.
8. The residents on each floor would have convenient access to kitchen/lounge facilities. In terms of bathrooms/toilets, the 7 rooms on the first-floor would have convenient access to 2 bathrooms/WCs and the 5 rooms on the second-floor would have convenient access to a bathroom and separate WC. The bathroom/WC on the first-floor adjoining Bedroom 9 could also be conveniently accessed by residents on the second-floor. Moreover, these communal facilities would be supplemented by wash hand basin in each room. I acknowledge that on both floors access to the bathrooms/WCs would require residents to negotiate short flights of stairs. This is a Victorian building and such changes in level are not unusual and do not constitute a material impediment to convenient access either to the kitchens, lounges or bathrooms/WCs. Similarly, the proximity of the door to Bedroom 4 to a bathroom and WC would not have a material effect on living conditions.
9. I conclude that the proposed level of communal washing/toilet facilities would provide acceptable living conditions for prospective residents in line with the objective of UDP Policy H14. Accordingly, having regard to all other matters raised, I conclude that this proposal would not conflict with the development plan when read as a whole and the appeal is allowed.

## Conditions

10. For the reasons given by the Ipa, I consider the suggested conditions are reasonable and necessary. Where necessary and in the interests of precision and enforceability, I have amended the suggested conditions.

*George Baird*

Inspector

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<sup>2</sup> Wirral Unitary Development Plan (UDP).

<sup>3</sup> APP/W4325/A/13/2208022 & APP/W4325/A/13/2191054.

## SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 61\_2016\_01 Rev C dated 11 May 2017; Drawing No. 61\_2016\_02 Rev C dated 11 May 201 and Drawing No. 61\_2016\_03 Rev C dated 11 May 2017.
3. The A1/A3 uses hereby permitted shall not be brought into use until a scheme for protecting the bedsits on the first and second floors from noise from the A1/A3 uses has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before any of the bedsits on the first and second floors are occupied and retained thereafter.
4. Before the A3 use hereby permitted takes place, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with a scheme to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.
5. The A3 use hereby permitted shall only take place between the following hours: 0900 hours and 2330 hours Monday to Sunday.
6. No development shall take place until details of secure covered cycle parking and/or storage facilities have been submitted to and approved in writing by the local planning authority. These facilities shall be provided in accordance with the approved details and made available for use prior to the first use of the hereby permitted and shall be retained for use at all times thereafter.
7. Prior to the first occupation of the uses hereby permitted, arrangements for the storage and disposal of refuse, and vehicle access thereto, shall be made within the curtilage of the site, in accordance with details to be submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.