



Appeal Decision

Site visit made on 7 March 2019

by Mark Caine BSc (Hons) MTPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2019

Appeal Ref: APP/Z4310/W/18/3217701

109 Kenmare Road, Liverpool, L15 3HQ

- 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 Zedia Investments Ltd against the decision of Liverpool City Council.
 - The application Ref 18F/0282, dated 31 January 2018, was refused by the local planning authority on 4 July 2018.
 - The development proposed is the change of use from HMO for 5 persons to HMO for 7 persons.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from HMO for 5 persons to HMO for 7 persons at 109 Kenmare Road, Liverpool, L15 3HQ in accordance with the terms of the application, Ref 18F/0282, dated 31 January 2018, 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 permitted shall be carried out in accordance with the following approved plans: 1418 PL01 Location Plan, 1418 PL02 Rev A Existing and Proposed Plans, 1418 PL03 Existing and Proposed Elevations and Site Plan.
 - 3) The number of residents to be accommodated on the premises shall not exceed seven.

Procedural Matters

2. The Council's reasons for refusal refer to Policy H10 of the pre-submission draft Liverpool Local Plan (Emerging Plan) which has been submitted for Examination in Public. However, the Emerging Plan does not yet form part of the development plan. I have not been provided with a copy of any relevant saved policies associated with the current development plan, nor are they referred to in the Council reasons for refusal.
3. In reaching my decision I have had regard to the updated revised National Planning Policy Framework (the Framework) published on 19 February 2019. In light of the facts of the case it does not alter my conclusion.
4. Revised plan 1418 PL02 Rev A was submitted following the submission of the planning application to the Council but prior to its determination. This illustrates a section through the rear dormer and clearly indicates the

position of the 3 roof lights in the front roof plane. I am satisfied that all relevant parties have had the opportunity to comment on this and would not be prejudiced. Therefore, I have determined the appeal taking account of the revised plan as an amendment to the original application submission.

Main Issues

5. The main issues are the effect of the proposal on the living conditions of the occupiers of neighbouring residential properties, with regard to noise and disturbance; and, whether the proposal would provide adequate living conditions for future residents, with regard to internal room sizes and outlook.

Reasons

Living conditions of occupiers of neighbouring properties

6. The appeal relates to a mid-terrace property that is located in a predominantly residential area which is characterised by similar terrace properties.
7. The appeal documentation states that the property is currently in use as a House of Multiple Occupation (HMO) for five people. It also puts forward that the existing rear dormer extension, loft conversion and rooflights have previously been constructed under permitted development rights. The Council does not dispute this, and I have no substantive reason to question it. The existing rear dormer, loft conversion and rooflights are therefore not the subject of this appeal.
8. The proposal would only modestly increase the number of people occupying the property. I am not convinced that the increase in activity, and associated noise, over and above that generated by the existing level of occupancy, would be significant. As a consequence, the coming and goings associated with an additional two people living at the property would not, in my view, result in additional noise and disturbance to an extent that would be harmful to the living conditions of occupiers of neighbouring properties.
9. In support of its case the LPA has drawn my attention to an appeal decision (APP/W4325/W/16/3153464) for a proposed 7 bedroom HMO in a terrace property. However, in this case the Inspector's assessment was based on the change of use of a dwelling to a HMO, and there was a specific policy restriction on creating new HMOs next to single household dwellings. Accordingly, its circumstances are not directly comparable to those which apply in this appeal.
10. For the reasons above, I thereby conclude that the proposal would not have a materially harmful effect on the living conditions of the occupiers of neighbouring properties with regard to noise and disturbance.
11. The proposal would therefore not conflict with advice contained in paragraph 127 of the Framework which seeks a high standard of amenity for existing and future users of development. It would also comply with the Emerging Plan Policy H10 in this respect. Amongst other matters, this permits the conversion of houses to HMOs providing that there would be no adverse impact on the amenity of neighbouring properties and the character of the surrounding area in particular through increased activity, noise or disturbance. Whilst I appreciate that the Emerging Plan has been submitted for Examination in Public, this has yet to take place. The Emerging Plan therefore currently carries

limited weight due to its stage of preparation, despite the lack of objections to this policy.

12. Therefore, while I afford Emerging Plan Policy H10 limited weight in this case taking account of paragraph 213 of the Framework, this does not alter my overall conclusion on this main issue having regard to the Framework taken as a whole.

Living conditions of future residents

13. Policy H10 of the Emerging Plan also seeks, amongst other things, to ensure that bedrooms in HMOs should not be solely served by roof lights. It also requires HMOs to provide communal lounge areas of at least 12 metres², plus 3 metres² per person if there are more than four residents.
14. The proposed bedroom 7 as shown in the submitted plans would be within the roof space and only be served by rooflights. Nonetheless there would be 3 roof lights positioned within the front roof plane, which given the size of the room, would ensure that it would not appear overly dark or gloomy as there would be sufficient natural light. The Council measures the cill heights of these roof lights to be around 1.6 metres, and I appreciate that much of the outlook would be of the sky. However outward views from these windows when standing would be possible for most people. I therefore do not consider the level of outlook to be limited to such a degree as to warrant the dismissal of the appeal on this basis.
15. I also recognise that the size of the proposed lounge area would be below the floorspace requirements of Emerging Plan Policy H10. Nonetheless, I consider that the lounge area shown in the submitted plans would be of a sufficient size to accommodate adequate seating arrangements for 7 occupiers and other home furnishings. As a result of all of these factors, I am satisfied that the proposal does not represent an over-intensification of the HMO use.
16. I therefore find that the proposal would provide adequate living conditions for future residents, with regard to internal room sizes and outlook. It would thereby accord with advice contained in paragraph 127 of the Framework in this regard. Whilst I have found that there is some conflict with Policy H10 of the Emerging Plan I afford it limited weight in this case taking account of paragraph 213 of the Framework. As such it also does not alter my overall conclusion on this main issue having regard to the Framework when taken as a whole.

Other matters

17. Local ward councillors and local residents have raised a number of other matters, including concerns about the amount of HMOs in the area, overcrowding, the volume of traffic, parking issues, and the proposed waste and cycle storage facilities.
18. It is evident that there are a number of HMOs in the surrounding area, as I observed on my site visit. However, the Council has not raised any objections to the principle of a HMO in this location. There is nothing substantive before me to suggest that the area is subject to an Article 4 direction removing permitted development rights in the GPDO for changes of use from dwellings to smaller HMOs. My attention has also not been drawn to any adopted development plan policy which seeks to restrict the number of HMOs in this area. As a result the proposal would not circumvent planning policy.

19. The Council's Highway Authority has not raised any objections in respect of the availability of parking, and I am satisfied that the number of vehicle movements would not result in any congestion or highway or pedestrian safety risk. The Council are also satisfied that sufficient space to accommodate cycle parking and bins to the rear of the property and I have no reason to question any of these findings.
20. Concerns have also been raised about anti-social behaviour, littering, and the increased pressure on local services. I have also had regard to the representations made regarding insufficient water pressure, blocked drains, the size of the toilet facilities, and whether the means of escape from fire would be suitable. However, there is no substantive evidence before me to demonstrate that the standard of accommodation would be unacceptable or to support the claims made.

Conditions

21. I have considered the conditions suggested by the Council having regard to the six tests set out in the Framework. In addition to the standard time condition I agree that a condition is needed to secure compliance with the submitted plans to provide certainty. A condition relating to maximum occupancy levels is also required to ensure that the development would provide future residents with a satisfactory living environment. However, suggested condition 2 requires bins to be stored within the designated waste facilities and only left out on collection day. I have concerns about the enforceability of such a condition and have therefore omitted it. In any case, there is other legislation with which to deal with obstructions on a highway.

Conclusion

22. For the reasons given above, and having regard to all other matters, I conclude that the appeal should be allowed.

Mark Caine

INSPECTOR