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## Appeal Decision

Site visit made on 28 July 2020

**by Jillian Rann BA (Hons) MSc MRTPI**

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

**Decision date: 10 September 2020**

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**Appeal Ref: APP/Z4310/W/20/3249165**

**313 Lower Breck Road and 45/47 Breck Road, Liverpool L6 0AF**

- 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 Anthony Mutch against the decision of Liverpool City Council.
  - The application Ref 19F/2170, dated 30 August 2019, was refused by notice dated 17 January 2020.
  - The development proposed is described as: 'change of use of upper floors into supported accommodation – to remain as 3 separate addresses'.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupants of nearby residential properties with regard to noise, disturbance and antisocial behaviour.

### Reasons

3. The appeal relates to the upper floors of three adjoining terraced properties. They would be converted into three self-contained units, providing accommodation for 19 people in total, and would be operated by an organisation which provides accommodation for people who have become homeless.
4. The appellant refers to the units as houses in multiple occupation (HMOs). However, the development is described on the application form as supported accommodation and the submissions refer to occupants being assigned support workers who, amongst other things, would support them to gain skills to live independently. I have considered the proposal on that basis, having regard to the supported nature of the proposed HMO accommodation as described.
5. The properties are located above commercial premises within a parade containing other commercial units, close to a relatively busy main road junction. However, there are residential properties above other units in the parade and others nearby on Walton Breck Road opposite and on Lower Breck Road and Taplow Street to the sides and rear. Given the nature of the site's surroundings, the occupants of those nearby dwellings are likely to be subject to a greater degree of activity than those living in more predominantly residential areas, particularly during the day. However, the levels of

background noise and activity in the vicinity of the site are likely to be lower on an evening and later at night when those nearby businesses are closed and traffic levels around the adjacent junction are likely to be lower.

6. The development would be split into 3 self-contained units. However, the comings and goings of up to 19 residents and their visitors could nonetheless lead to a significant amount of activity in the vicinity of the site, including on an evening when background noise levels are likely to be lower than during the day. Visitors may not be permitted after 2100 hours. However, the possibility of up to 19 residents coming and going to and from the properties or congregating on the street nearby and talking beyond those times could not be ruled out. Given the number of potential occupants and the site's proximity to other residential properties, and based on the evidence before me, I consider there is an unacceptable likelihood that the development could give rise to detrimental levels of noise and disturbance for nearby residents, including at times when background noise levels are likely to be lower and those residents should reasonably be able to expect a greater degree of peace and quiet in their homes.
7. The application has also attracted a significant number of objections from the local community, raising concerns that antisocial behaviour in the area could increase as a consequence of the development. Whilst prospective occupants of the development may require a degree of support, it would not inevitably give rise to antisocial behaviour. However, those concerns identified by local residents are a material consideration. Given the strength of feeling and concern in the local community in that regard, and as the development would not have a 24 hour on-site management presence, the need for a detailed management plan to be provided up-front is imperative to allow consideration to be given to whether, in the event that noise or antisocial behaviour did occur, the community could have confidence that it would be dealt with swiftly and effectively.
8. I have been provided with several documents relating to the intended management and operation of the properties. However, I do not appear to have the full set of those documents which form the basis of the appellant's management procedures. For example, there are references in the submissions to a Nuisance Policy, and to the management taking 'appropriate steps in terms of warnings or evictions' in certain circumstances. However, neither that Nuisance Policy nor other documents referred to, including a Warning Procedure and Eviction Procedure are before me.
9. I am advised that support workers would conduct regular checks and supervise future occupants. However, in the absence of full details of the proposed management procedures, including details of how they would be enforced through warnings or evictions as indicated, I cannot be certain how or whether any issues with noise or antisocial behaviour which may arise would be promptly or effectively dealt with. Whilst some enforcement powers may exist under HMO licensing legislation, living conditions are a material planning consideration and thus are pertinent to my determination of this appeal. Given the site's proximity to other residential properties and the potential harm to the living conditions of existing and future occupants which could arise, and the degree of concern raised within the local community, I am not content to deal with those outstanding matters by condition in this case.

10. I recognise the potentially significant benefits that the provision of supported living accommodation, in an accessible location close to local facilities and public transport links, could have for prospective occupants. However, in the absence of certainty as to how any noise, disturbance or antisocial behaviour which may arise would be dealt with, I cannot be certain that the development would operate without adverse effect on the living conditions of the occupants of other nearby residential properties with regard to noise, disturbance or antisocial behaviour.
11. The proposal would therefore not accord with Policy H7 of the City of Liverpool Unitary Development Plan (the UDP) which requires proposals for the conversion of buildings to multiple occupation to take account of the impact on the amenity of neighbouring properties. The Council's decision also refers to UDP Policies S5 and S6. However, those policies aim principally to maintain the vitality and viability of district centres and are relevant to the proposal only insofar as they provide some general support for residential uses on the upper floors of buildings in such locations.
12. The reason for refusal also refers to Policies SP1 and H10 of the emerging Liverpool Local Plan 2013-2033. Their requirements are similar to those of the UDP policies cited, in stating that permission will be granted for HMOs providing there would be no adverse impact on the amenities of neighbouring properties through noise or disturbance and seeking to protect the vitality and viability of district centres. However, as those emerging policies remain subject to examination and possible amendment I afford them limited weight.

### **Other Matters**

13. I am advised that the appellant's organisation manages a number of other similar properties in the city and that there do not appear to have been any complaints to the Council's HMO licencing team in relation to two of those properties. However, whilst from the evidence before me I cannot be certain of the circumstances in those cases or that they are directly comparable to those in the current appeal. In any event, I have considered the appeal on its own planning merits and on the basis of the evidence before me and the context and detail of the accommodation proposed in this case.
14. My attention has been drawn to a high number of calls having been received by the police in relation to another of the appellant's properties elsewhere in the city. However, from the evidence before me I cannot be certain of the exact circumstances in that case, including where the calls were made from or what the nature of the reported incidents were. Consequently, it is not possible to draw any firm conclusions as to the circumstances in that case or the implications for the proposal before me, and I afford it little weight.

### **Conclusion**

15. For the reasons given, the appeal is dismissed.

*Jillian Rann*  
INSPECTOR