



Appeal Decision

Site Visit made on 21 June 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2021

Appeal Ref: APP/Z4310/W/21/3270630

47 Thornycroft Road, Liverpool L15 0EN

- 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 Sam O'Flaherty against the decision of Liverpool City Council.
 - The application Ref 21F/0075, dated 6 January 2021, was refused by notice dated 3 March 2021.
 - The development proposed is described as "change of use from a C4 use class HMO for up to six occupiers to a sui generis use class HMO for up to seven occupiers, facilitated by single storey rear extension, rear dormer, and installation of two rooflights on the front elevation."
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the living conditions of occupiers of neighbouring properties and future occupiers of the proposed property with regards to outlook, light, noise and disturbance; and effect of the proposal on the character and appearance of the area.

Reasons

Living conditions

3. The proposal is for the appeal property to be a house in multiple occupation (HMO) having seven bedrooms and therefore allowing up to seven persons to reside in the property. Whilst at my site visit, there appeared to be construction works being undertaken, the appellant has indicated that the property is currently being used as a HMO with six of the rooms being occupied. There is no substantial evidence before me to confirm that the property and bedrooms are or are not being occupied. Nevertheless, the proposal would increase the number of occupants leading to an intensification of use of the property which would likely lead to more movements including more people coming and going, more deliveries to the property and potentially an increase in paraphernalia associated with multiple persons living in one property.
4. Due to these reasons described above, I find that the increase in persons living in the appeal building would result in noise and disturbance reaching a level that would have a detrimental effect on the living conditions of neighbouring occupiers. Objections from local residents describing existing noise and disturbance related problems have been received on the planning application and this appeal. The proposal would intensify these existing issues to an extent

- which would have an adverse affect on the living conditions of surrounding properties.
5. I have had regard to the appellants statement of case including a strict Noise and Nuisance Policy consisting of a 'three strikes' policy pathway, a Waste Management Plan and there being a physical presence in the area at 425 Smithdown Road. There is no evidence of proactive engagement with local residents to resolve existing issues relating to noise and disturbance. It is also not always easy to link noise and disturbance to persons from a particular property, especially if issues occur outside and away from the property or even by third parties that do not reside at the premises.
 6. The proposal would have a harmful effect on the living conditions of the occupiers of neighbouring properties with regards to noise and disturbance. The proposal would be contrary to saved Policy H7 of the City of Liverpool Unitary Development Plan (UDP) and the Supplementary Planning Guidance Note 7 which seeks proposals to take account of the impact of the amenity of neighbouring properties.
 7. The appellant has indicated that the proposed rear dormer extensions fall within the permitted development requirements and this is not disputed by the Council in their statement of case. I therefore have not assessed the effects of this part of the proposal on the living conditions of neighbouring and future occupiers with regards to outlook and light. These matters however, do not outweigh the harm I have described above in relation to noise and disturbance.

Character and appearance

8. The area surrounding the appeal site is predominantly residential in character with two storey terraced properties of traditional architectural styles. It seems apparent that the area has a mix of tenures which include a number of HMO properties. It is also evident from correspondence received from local residents that there are properties in the area in C3 use. Given the existing mix of property types in the area, the proposal would not be out of keeping with the character of the surrounding locality.
9. The Council have indicated that the appeal property is suitable for use as a family property. There is insufficient evidence before me, particularly in relation to concentration of HMOs, to reach a definitive conclusion on whether the proposal would unbalance the housing provision in the area to a level that would have a detrimental effect on the character of the area.
10. The Council have also raised concerns with regards to the effects of the proposed extensions on the character and appearance of the area. As discussed above, the rear dormer extensions are considered to fall within the permitted development regulations and therefore I have not made an assessment on this element. Due to the design, scale and position of the rear extension and rooflights, these would not have an adverse effect on the character and appearance of the surrounding area.
11. Accordingly, the proposal would not have a harmful effect on the character and appearance of the area. The proposal would not contradict Policy H10 of the emerging Liverpool Local Plan (LLP) which seeks development to not have an adverse impact on the character of a surrounding area.

Other Matters

12. The Council's decision notice includes policies from the emerging LLP, with their statement of case describing how much weight should be applied to individual emerging policies. The appellant considers that only limited weight should be given to the emerging policies. In any event, as described in the main issues, I have still found harm against saved policies of the UDP.
13. The Council have confirmed that the appeal site lies within an Article 4 Direction area which prohibits the conversion of C3 use to C4 use by permitted development rights. The appellant claims that the property is currently in a C4 use with six persons residing in the property and this is therefore a fallback position. Insufficient evidence has been provided to convince me that the property is in a C4 use and whether a fallback position exists. In any event, if this fallback position does exist, this matter would not outweigh the harm I have indicated above in relation to the proposal for seven persons to reside in the property.
14. Future occupiers would have access to outdoor areas for bins, secure bicycle storage and amenity space. The appeal site is in a suitable location being close to shops, bus stops and various recreational facilities that could help to reduce the requirement for parking. No evidence has been provided indicating that the proposal would increase crime or the fear of crime. It has also been indicated that the proposed development would contribute in terms of economic benefits with the use of local contractors and the wider supply chain. Due to the scale of the proposal, these benefits would amount to minimal weight.
15. My attention has been brought to a number of schemes that have been granted planning permission by the Council or by planning appeal. Insufficient information has been submitted on these schemes though and I cannot be sure that they represent a direct parallel with the appeal scheme, especially in respect of public representation and location. Nevertheless, I have determined this appeal on its own merits.

Conclusion

16. I have found that the proposal would not have an adverse effect on the living conditions of existing and future occupiers in relation to outlook and light, and the character and appearance of the area. However, these matters and the benefits described above would not outweigh the significant harm I have identified with regards to the living conditions of neighbouring occupiers in respect of noise and disturbance.
17. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding.
18. Therefore, for the reasons given above, the appeal should be dismissed.

Chris Baxter

INSPECTOR