



Appeal Decision

Site Visit made on 1 June 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 28 July 2021

Appeal Ref: APP/Z4310/W/21/3268290

72 Bagot Street, Liverpool L15 0HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Mr T Rehman against Liverpool City Council.
- The application Ref 20F/2739, is dated 26 October 2020.
- The development proposed is described as 'Change of Use to 6 bed HMO'.

Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.
3. The application form describes the development proposed as provided in the final bullet header above. However, this was subsequently referred to by the Council as 'To change use to 6 bed HMO, erect single storey extension to the rear, dormer extension to the rear, roof lights to the front'. I have determined the appeal on this basis as it more accurately describes the proposal.
4. The appeal follows the Council's failure to determine the application within the prescribed period. However, the Council has indicated in its grounds of appeal, that had it been in a position to determine the application, it would have refused planning permission for various reasons.
5. The Council's suggested reasons for refusal refer to Policies H8 and H10 of the pre-submission draft Liverpool Local Plan (Emerging Plan). Notwithstanding the extent of public engagement to date, the Emerging Plan is not adopted and the consultation on the main modifications is yet to take place. As such, and in accordance with Paragraph 48 of the Framework, I give moderate weight to the policies of the Emerging Plan.

Main Issues

6. I consider the main issues to be:
 - The effect of the proposal on the living conditions of the residents of neighbouring properties in the surrounding area, with particular reference to outlook, light, noise and disturbance,
 - Whether the proposal would provide acceptable living conditions for future residents, with particular reference to outlook and natural light,

- The effect of the operational development proposed on the character and appearance of the existing building and the surrounding area,
- The effect of the proposal on the balance and mix of housing in the area.

Reasons

Living conditions of neighbouring residents

7. The orientation of the proposed rear dormer in relation to 70 Bagot Street's rear yard area, the extent of separation between them, and the sun path would be such that it would not appear unacceptably overbearing from this neighbouring private amenity space or result in an unacceptable amount of overshadowing.
8. The appellant argues that the levels of noise and disturbance which would be generated by occupiers of the proposed HMO would not be materially different to the levels that could be generated by a large family or people regarded as forming a single household. However, I consider this to be unlikely, as the use as a single dwelling house would accommodate one household whose family could be expected to share a lifestyle. The level of activity resulting from a group of six unconnected people is likely to result in more frequent comings and goings and differing patterns of behaviour.
9. It has been put to me that the appellant is an experienced HMO landlord and that No 72 will be professionally managed by a recognised local managing agent. The appellant also argues that in addition to HMO Licence conditions, nuisance and anti-social clauses would be applied to the tenant's contracts to prevent any issues arising for the residents of neighbouring properties.
10. However, these matters do not change my view as noise and disturbance can be generated by general activities that take place outside of the property, such as those associated with the coming and goings of residents and their visitors. Whilst I accept those measures may moderate effects, they are principally designed to manage extreme instance of disturbance. In my view noise and disturbance by virtue of the intensity of use of a property by six unconnected individuals would be greater than the prevailing baseline.
11. These include disturbance from car engines, car audio systems, slamming of doors and people conversing at any time of the day, including when residents would reasonably expect a certain degree of peace and quiet. Given that the prevailing character of the area is of family terrace housing the effect would be felt by neighbouring residents, due to the close-knit urban grain found in the area.
12. I therefore find that the proposed rear dormer would not adversely affect the living conditions of the residents of neighbouring properties in respect of outlook and light. No conflict with UDP Policy H8 and advice within Supplementary Planning Guidance Note 7: Conversion of Buildings into Flats and Bedsits (SPG 7) would therefore occur in that respect. Nonetheless, I do consider that the proposed development would have a significantly harmful effect on the residents of neighbouring properties in the surrounding area, in respect of noise and disturbance. As such it conflicts with UDP policy H7, SPG7 and Emerging Plan Policy H10 in this regard. These seek, amongst other matters, to ensure that there is no severe loss of amenity.

Living conditions of future residents

13. The appellant has put forward that the property meets all of the Liverpool City Council and planning policy (including the Emerging Local Plan) criteria for HMO internal space/amenity/WC standards and satisfies all the requirements for current Building Regulations. It has also been put to me that the level of external amenity space is commensurate with the adjacent terraced properties in this street and that all external areas have sufficient space for secure cycle parking, bin storage and amenity space for the occupants.
14. Nonetheless, the roof lights serving bedroom 5 would be positioned at a low level in the front roof plane. They would also be the only source of natural light and outlook for the occupiers of this room. The occupiers of an HMO are likely to lead independent lives from one another and would therefore be likely to spend a greater amount of time in their individual rooms, compared to families that occupy a single dwelling. The importance of natural light and outlook therefore cannot be underestimated. Consequently, with reference to the nature of the proposal and the particular design of the scheme before me, in my view future occupants of these rooms would enjoy unsatisfactorily limited levels of natural light and outlook.
15. As such, I find that the proposed development would not provide acceptable living conditions for future residents, with particular reference to outlook and natural light. Conflict would therefore arise with saved UDP Policy H7 and advice in SPG 7 which seek to ensure that proposals provide a satisfactory level of amenity, taking into account the design of internal spaces. Conflict would also occur with Policy H10 of the Emerging Plan for the same reasons.

Character & appearance

16. The appeal relates to a mid-terrace property that is located in a primarily residential area. Although currently vacant it is uncontested that its existing use is as an office/studio. Nonetheless, the majority of the properties on Bagot Street appear to be in single occupancy residential use and the prevailing character of this street is of close-knit two storey terrace rows that are set out in a linear pattern.
17. The Council has not raised any objections to the proposed single storey rear extension, and I have no reason to disagree with this view. It does, however, argue that as the proposed rear dormer would not be set in a minimum of 1 metre from the main rear wall of the dwelling, and that there are not any other dormers in the vicinity it would be out of character with the existing building and the surrounding area.
18. Nonetheless, the proposed dormer would be located to the rear of the property where public views of it would be limited. It would also be set well back from the eaves of a two-storey outrigger, set well below the roof ridge of the appeal building, and inset, albeit slightly, from its gable and party walls. It would therefore sit comfortably within the rear roof plane and subsequently not appear overly dominant or harmful to the character and appearance of the building. On my site visit I also saw that the adjoining neighbouring property at No 70 has a similar rear dormer extension.
19. I therefore find that this element of the proposal would not have a materially harmful effect on the character and appearance of the existing building and the

surrounding area. As such it would not conflict with UDP Policy H7 which requires, amongst other things, that extensions respect the character of the existing dwelling. The proposal would also not conflict with the requirements of Policy H8 of the Emerging Plan which requires, amongst other matters, for dormer extensions to not be overly dominant.

20. Whilst I acknowledge that the proposal does conflict with some of the specific design advice contained within the Council's SPG 7, this is to be applied with discretion and I have reasoned above how the particular scheme would sit appropriately within its surroundings.

Balance and mix of housing

21. In terms of the principle of development, Policy H7 of The City of Liverpool Unitary Development Plan (2002) (UDP) sets out criteria for the consideration of applications relating to houses in multiple occupation (HMO). SPG7 provides further guidance on standards for the conversion of buildings into flats or HMOs.
22. Supplementary Planning Guidance Note 7: Conversion of Buildings into Flats and Bedsits (SPG7) guides that the conversion of properties to HMOs would not be appropriate in 'an area of predominantly single family dwellings where there would be an adverse impact on the character, environment and amenity of neighbouring properties'. I have reasoned above how that would occur, bringing the scheme into conflict with UDP policy H7 (and emerging policy H10). The appellant has drawn my attention to an extant prior approval permission (Ref: 20PO/2992) at the appeal site for the change of use from an office/studio to a single C3 dwelling house. Nonetheless, that permission does not indicate that the scheme before me is acceptable in planning terms.
23. Policy H11 of the Emerging Plan places greater emphasis on ensuring balanced housing provision in a given locality, taking forward the approach in SPG7. I note that the appeal site is not located in an area subject to an Article 4 direction related to the provision of HMOs, nor is there evidence that one is proposed. Moreover, the proposal would not result in the loss of a family sized dwelling as the property is currently in commercial use. Local Councillors consider that the surrounding area has a high concentration of HMOs. I have, however, set out above how the area appeared to be characterised typically by family housing (I am though without definitive information on that point either way).
24. In that context, in the absence of substantive evidence to the contrary, I conclude that an additional HMO in this area would not undermine balanced housing provision. Accordingly, no inherent conflict arises with the relevant provisions of UDP Policy H8, or Emerging Plan Policies H10 or H11 insofar as this main issue is concerned. Nevertheless, my finding that unacceptable effects would not arise in that respect is effectively neutral in my assessment of the scheme, rather than weighing positively relative to the harm that I have identified above would result.

Other Matters

25. It has also been put to me that the proposed layout could be converted back into a single family dwelling at any time, that the proposal would not result in a loss of privacy for the residents of neighbouring properties, and that it would

be unlikely to generate a level of traffic sufficient to have a material impact on the safe and effective operation of the surrounding highway network. The site's accessible location with good public transport links, within walking distance of shops, recreation areas and local services have also been put forward by the appellant as favourable factors in support of his case. However, these matters did not appear to be contentious in the application and the absence of harm in these respects would be neutral factors that would not weigh in favour of the proposal. In addition, the appellant's willingness to accept a planning condition in relation to bin storage is also acknowledged. However, neither this, nor any other matter, outweighs the harm that I have identified would result.

26. I also note that the appellant is dissatisfied with the Council's handling of the application. However, this matter has had no bearing on my decision as I have only had regard to the planning merits of the proposal that is before me.

Conclusion

27. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal is therefore dismissed and planning permission is refused.

Mark Caine

INSPECTOR