



Appeal Decision

Site Visit made on 20 July 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2021

Appeal Ref: APP/Z4310/W/21/3273627

183 Molyneux Road, Kensington, Liverpool L6 6AW

- 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 INM Properties against the decision of Liverpool City Council.
 - The application Ref 20F/0842, dated 12 March 2020, was refused by notice dated 12 February 2021.
 - The development proposed is a two storey side/rear, single storey rear extensions, to form eight bed HMO, from its current 6 bed HMO.
-

Decision

1. The appeal is allowed and planning permission is granted to use the premises as a house in multiple occupation for 8 persons and erect a part single/part two storey extension at 183 Molyneux Road, Kensington, Liverpool L6 6AL, in accordance with the terms of application Ref 20F/0842, dated 12 March 2020, 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 plan: 'proposed two storey and single storey rear extension to form an eight bed HMO from the current 6 bed HMO at 183 Molyneux Road.'
 - 3) The property shall be limited to a maximum of eight residents at all times.

Preliminary Matters

2. The description in the banner heading above is taken from the planning application form. However, the Council's Decision Notice uses an alternative description and I have adopted this as a clearer and more concise description of the development. It does not change the development for which planning permission was sought.
3. The postcode on the planning application form is different to that stated on the Council's Decision Notice and the appeal form. I have used the revised postcode for the purposes of this decision as this reflects the consistent stance of the main parties since the date of the Council's decision. Despite any discrepancy in the postcodes, I am satisfied that parties who would normally be consulted would not be prejudiced by that minor inconsistency.
4. The application form describes the existing use of the house as an HMO for 6 occupants. Although the planning history for the site does not confirm that use, the Council accepts that a use as an HMO for up to 6 people does not currently

require planning permission. The representations of third parties identify that the building has been used as an HMO and there is no alternative claim from the Council or other parties. I therefore find, on the balance of the evidence, that the existing building is a small HMO for the purposes of my determination of the appeal.

5. The Council's reason for refusal includes reference to emerging Policy H10 of the Liverpool Local Plan 2013-2033 Pre-submission Draft (Jan 2018) (ELLP), which remains to be adopted. The plan was submitted for independent examination following a period of public consultation. According to the Council, there are further modifications to be made to the policy which will be subject to additional consultation. It states that as no objections to proposed modifications have been received to date it is considered unlikely that this policy as modified will attract objections.
6. There is some dispute between the main parties as to the public availability of the proposed changes and therefore any potential nature and number of outstanding objections to Policy H10 is unclear. Nevertheless, having regard to the stage of preparation of the plan and the identified requirement for modification and re-consultation, I find that the policy attracts moderate weight in the context of this appeal.
7. Since the time of the Council's decision a revised version of the Framework has been issued by the Government. However, it does not alter the status and primacy of the development plan. Furthermore, I find that there is no material change in the national approach to housing delivery with particular regard to HMOs.

Main Issues

8. The main issues are the effect of the development on:
 - the Council's housing stock of family dwellings
 - the character of the locality and local housing mix including effects on the living conditions of nearby residents
 - the living conditions of prospective occupiers with particular regard to outlook and natural light.

Reasons

Family housing

9. The site consists of a two-storey end of terrace dwelling set a short distance from the back of the pavement on Molyneux Road. The property is located in an area of predominantly high-density terraced homes. The gable wall and part of the yard wall side-on to Mallow Road. The building provides accommodation over three floors with dormer extensions present on the rear roof slope.
10. In the main, the terraces provide traditional family homes; however, the Council identifies that a number have been converted to houses in multiple occupation such that the area has a mix of tenures. Criteria n of emerging Policy H10 of the ELLP seeks to prevent the loss of a dwelling that is suitable in size, design, layout and location for continued use as a family dwelling.

11. There is no dispute that the existing property is used as an HMO for 6 people. Accordingly, it currently contributes to the proportion of HMOs making up the characteristic mixed tenure housing in the locality. The extension of the building, or use by an increased number of occupants, would not therefore result in the loss of an existing family dwelling.
12. Furthermore, although the proposed extensions to the buildings would provide additional accommodation on two floors such that it would be slightly larger than the majority of properties in the locality, there is little evidence to suggest that the size or layout of an enlarged building could not suitably be used for family living at some time in the future should the existing HMO use cease. Although the proposed extensions would reduce the area of the external space to the rear, the site would be sufficient to accommodate bin and cycle storage as a minimum.
13. As the balance of evidence supports the existing use of the premises as an HMO, I find there is no conflict with emerging Policy H10 of the ELLP as it seeks to prevent the loss of dwellings suitable in size for continued use as a family dwelling.

Character, housing mix and residential living conditions

14. Policy H7 of the City of Liverpool Unitary Development Plan [2002] (UDP) and emerging Policies H10 and H11 of the ELLP seek to support balanced communities and acknowledge the contribution that HMOs can make to delivering housing for particular sectors of the market. This includes student and low-cost housing options.
15. The Council also recognise that excessive concentrations of specific groups can harm the character and amenity of the wider neighbourhood. Although there is little before me to indicate that the proportion of HMOs in the neighbourhood is close to the defined tipping point of 10% applied by Policy H11 elsewhere, I acknowledge that the Council is considering preventing future changes in the locality using an Article (4) Direction to achieve greater control over the balance of HMOs amongst other housing stock in the locality. However, that restriction could not be applied retrospectively and, as an existing HMO, the property contributes to the existing mix of housing tenures in the area.
16. The proposal would include the increased use of the premises as an HMO through its occupation by 2 additional individuals. Although this would not increase the proportion of HMOs, it would lead to intensification of the building's use in a manner that would not be typical of family accommodation found in the locality.
17. Notwithstanding the extent of the shared elements of the accommodation, as occupiers would be generally unrelated there would be a higher propensity for more independent living by the residents of the HMO. This could lead to greater comparable levels of comings and goings as occupiers go about their individual daily business, shopping trips or recreational pastimes. Increased activity may also stem from potentially higher cumulative visitor numbers attending to meet those individual occupiers.
18. However, measured against the baseline of the existing HMO use for 6 people, the increase in occupancy would be small. Although I have little doubt that the use of the premises would intensify, the effect of two additional individuals

would be minor in the context of the existing housing mix, local environmental conditions and the effects arising from increased activity within or about the site.

19. According to the Council's report, third party representations were received by the Council in relation to the potential noise and disturbance arising from the proposal. A representation in response to the appeal also suggests previous occupation by loud students with little regard for locals. However, there is little substantive evidence to identify that the appeal site has been the cause of anti-social behaviour, formal complaints, poor management, or that the increased occupancy would necessarily be the cause of any such concerns. Given the small change that would occur, I find there is little to suggest that significant harm to the living conditions of nearby residents would arise. This view is supported by an absence of objections by the Council's Environmental Health advisors.
20. Whilst there might be a tendency for occupiers of HMOs to be more transient than those of other forms of accommodation, there is little before me to demonstrate that residents would not contribute to the local community or would impose any challenging support needs upon it.
21. For the above reasons, I find that any effect of a minor increase in the intensity of use of the site would be negligible in relation to the residential character of the locality, the local environment and the living conditions of neighbouring residents. It would thereby comply with saved Policy H7 of the UDP, emerging Policy H10 of the ELLP and the Council's Supplementary Planning Guidance Note 7: Conversion of Buildings into Flats and Bedsits (SPG) as they seek to control the impacts of properties occupied as HMOs with regard to local housing mix, the impact on the amenity of neighbouring properties and the character of the surrounding area.

Living conditions – prospective occupiers

22. The extension of the building would provide a consolidated appearance to the development on the site. It would allow the reconfiguration of the ground and first floors to provide additional bedrooms and shared living accommodation. There is no dispute between the main parties that the proposed extent of the accommodation would provide suitable sized rooms for the individual bedrooms and the communal areas. Additionally, a sufficient number of bathrooms would be provided.
23. The additional bedrooms facilitated by the extensions would be at first floor level. These would each be served by a single window opening providing an outlook and source of natural daylight.
24. According to the submitted plans and the appellant's statement, there is no proposed change to the existing accommodation in the roof space. The existing front bedroom served by two rooflights would be provided with sufficient levels of natural daylight and there would be no change to its outlook. Although this would conflict with the standards set out in the Council's SPG, as an arrangement of the accommodation within the building shown to be existing, I find this is a matter of limited weight in the circumstances of the case.
25. As the new rooms would meet the SPG requirements, the proposal would deliver a suitable standard of accommodation for prospective occupiers and

would align with the requirements of saved Policy H7 of the UDP, Policy H10 of the ELLP and the SPG as they seek to secure appropriate standards of accommodation within HMOs.

Other Matters

26. Concerns have been raised by third parties in regard to car parking problems in the locality. There are few restrictions to on-street parking in the vicinity of the site. At the time of my site inspection, albeit only a snapshot in time, there were opportunities for parking in close proximity to the site. In the absence of evidence to demonstrate that parking pressure about the site is significant such that it leads to highway safety or local amenity concerns, there is little basis to attach significant weight to this matter. I also note the Council's highway advisors raised no objection in this respect.
27. I acknowledge the third-party comments in relation to the effects of previous extensions to the property and occupancy of the adjoining dwelling. I also note the effects of the former use of the site as an Airbnb premises. However, these are matters of limited weight in the context of a proposal for new development. Furthermore, matters in relation to licensing and premises insurance are not relevant considerations in the context of the appeal.

Conditions

28. The Council have not indicated that conditions are necessary to make the development acceptable in planning terms. Having had regard to Paragraph 56 of the Framework and the National Planning Practice Guidance relating to the use of planning conditions, I have applied the standard condition limiting the lifespan of the planning permission. I have also imposed a condition specifying the relevant drawings as this provides certainty. For the avoidance of doubt, I have imposed an upper limit on the occupancy of the building in alignment with the description of the development. This is reasonable and necessary to maintain accommodation standards and protect the living conditions of nearby residents.

Conclusion

29. For the reasons given above, the appeal should be allowed.

R Hitchcock

INSPECTOR