



Appeal Decision

Site Visit made on 20 July 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 September 2021

Appeal Ref: APP/Z4310/W/21/3269262

66 Portman Road, Liverpool L15 2HJ

- 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 O'Flaherty against the decision of Liverpool City Council.
 - The application Ref 20F/2509, dated 6 October 2020, was refused by notice dated 29 January 2021.
 - The development proposed is change of use from a C3 single occupancy dwelling 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.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In the interests of natural justice both main parties have had the opportunity to make representation. In reaching my decision I have had regard to the revised Framework.
3. The main parties have referred to policies within the emerging Liverpool Local Plan 2013-2033 Pre-submission draft January 2018 (LLP). The LLP has been independently examined by an Inspector and the Council are preparing main modifications. Most relevant to this appeal are emerging Policy H7, which has no main modifications and emerging Policies H10, H11 which had early schedule main modifications and limited representations. As such, in accordance with paragraph 48 of the Framework, and given its advanced stage of the plan preparation, I have afforded these policies moderate weight.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character of the surrounding area, with particular regard to the balance and mix of housing and the loss of a family sized dwelling;
 - The effect of the proposal on the living conditions of neighbouring occupiers, with regard to noise and disturbance; and
 - Whether the proposal provides an acceptable standard of living conditions for future occupants, with particular regard to outlook and natural light.

Reasons

Character, balance and mix of housing

5. The appeal site is a two-storey mid terrace property located within an identified primarily residential area (PRA). The immediate area consists of similar traditional terraced properties which are positioned in parallel rows and are back-to-back with alleyways separating the rows between rear yard areas. The majority of properties feature existing rear outriggers or have been extended and there are several with rear dormers and front rooflights in situ along Portman Road.
6. Saved Policy H4 of The City of Liverpool Unitary Development Plan, 2002 (UDP) sets out that permission will be granted for changes of use within a PRA, provided there is no adverse impact on residential amenity or the character of the area and subject to other policies of the plan. Saved Policy H7 grants permission for the conversion of buildings for multiple occupation, taking account of certain criteria including the suitability of premises in terms of size and location; the impact on the amenity of neighbouring properties and the character of the surrounding area.
7. Policies are also supported by the UDP, Supplementary Planning Guidance Note 7 (SPG7), '*Conversion of Buildings into Flats and Bedsits*' which sets out guidance relating to suitable premises and consideration of the impact on the character, environment and amenity of neighbouring properties.
8. The Council contend that the proposal would result in the loss of a dwelling that is suitable in size, design and layout and location to continue as a family dwelling. It would appear that the historic character of the location has been made up of single-family dwellings, but this has now changed over time. Moreover, as I observed at the time of the site visit, and from third party representations there appears to be a mix of both family dwellings and houses in multiple occupation (HMO) along Portman Road.
9. Nevertheless, the proposal would inevitably result in an increase of HMO accommodation within an existing concentration and result in the loss of a potential future family home. Although, I have limited evidence on the 10% assessment and which properties these relate too along Portman Road. The proposal before me is for a change of use from its existing use as a C3 dwellinghouse, thus capable of being a family home.
10. The appellant's case is that the proposed external works could be confirmed in a lawful development certificate and that the change of use will commence shortly to a 6 bed HMO and would already constitute permitted development. As I observed, at the time of the site visit, it does not appear that external works have commenced or have been completed to facilitate the proposed development. Despite this, it would appear that the proposed external works would be acceptable and would be similar to nearby alterations and extensions to properties and would not harm the character of the area.
11. Nevertheless, I have not been provided with any substantive evidence that the property is or has been established as a lawful HMO for up to 3-6 occupants, under permitted development. Neither do the existing plans before me represent this, or that I have been provided with an alternative internal layout. In the absence of any substantive evidence, including any lawful certificate and

that the property has been in previous use as C4, I cannot be certain this would take place. Therefore, I have given this matter little consideration as there does not appear to be a genuine fall-back option for the appellant.

12. Moreover, the Council have confirmed that the appeal site lies within the Article 4 Direction, which came into force on the 17 June 2021, and prohibits the conversion of C3 use to C4 use under permitted development rights. As such, the proposal would inevitably lead to an increase of HMO accommodation within an existing concentration and result in the loss of a family sized home.
13. Consequently, I conclude that the proposal would result in harm to the character of the area, with particular regard to the balance and mix of housing and the loss of a family sized dwelling. It would therefore conflict with the requirements of Saved Policies H4 and H7 of the UDP and SPG7, as I have set out.
14. Furthermore, the proposal would conflict with the requirements of emerging Policies H7, H10 and H11, which amongst other things, seek to ensure that there is balanced housing provision meeting the needs of families and households of varying sizes; and that permission will be granted where there would be no adverse impact on the character of the surrounding area.

Living Conditions – Neighbouring occupiers

15. The appeal property is a moderate sized terraced dwelling and is capable of a large family living together. The proposed works to facilitate the HMO would result in an increase of the number of bedrooms and incorporate a rear extension and dormer. Residents of the proposed HMO would most likely be unrelated and the appellant confirms that the number of occupants would be seven.
16. Therefore, it would result in a much larger property than the existing and given the number of proposed occupants would likely result in an intensification of use at the property. I do not consider that noise and disturbance would be of a similar level to a large family living together, in terms of coming and goings at the property and the likely increase in visitors, deliveries and domestic paraphernalia associated with several individuals living together. Moreover, this would be particularly noticeable to occupiers of the adjoining properties given that the property is sited within the middle of a row of terraces.
17. The appellant's statement of case indicates that they have a physical presence in the area and operate a strict Noise and Nuisance Policy, including a 'three strikes' policy which is included within the tenancy agreement. Nevertheless, the Council and third parties indicate there are frequent complaints of anti-social behaviour within the vicinity of the site. Moreover, such management or contracts would not be relevant or enforceable under the planning regime.
18. For the reasons given above, I conclude that the proposal would cause harm to the living conditions of neighbouring occupiers, with particular regard to noise and disturbance. The proposal would be contrary to Saved Policy H7 of the UDP and Supplementary Planning Guidance Note 7, which seek proposals to take account of the impact on the amenity of neighbouring properties. It would also conflict with emerging Policy H10 of the LLP which requires there to be no adverse impact on the amenity of neighbouring properties, particularly through increased noise or disturbance.

Living Conditions – Future occupiers

19. The proposal would result in 7 bedrooms which would be spread across the floors of the property. Although, bedroom-07 would be situated within the roof space and would meet the space standards for bedroom size, it would only be served by 2 rooflights. Due to the angle of the slope and the position of the rooflights being low within the roof slope, it would result in a restricted outlook for any future occupier of the bedroom, which would not be adequate.
20. Furthermore, given that there would be only two small rooflights, angled at a low position within the roof slope serving the habitable bedroom, natural light would be restricted. It would likely be that any future occupier of bedroom-07 would spend the majority of their time within that room. As such, the lack of natural light, particularly in the early mornings or evenings would result in inadequate and unacceptable conditions that would be detrimental to their health and wellbeing. Thus, in the absence of adequate natural light, there would be harm to the living conditions of any future occupant of bedroom-07.
21. Despite, the internal and external communal amenity areas meeting minimum or exceeding size requirements, floor area and bin storage being acceptable. This does not compensate or outweigh the inadequate internal living space in regard to outlook and natural light for bedroom-07. Furthermore, I have not been provided with any plans, showing an alternative layout for the property.
22. For the reasons given above, I conclude that the proposal would not provide an acceptable standard of living conditions for all its occupants, with particular regard to outlook and natural light. The proposal would be contrary to Saved Policy H7 of the UDP which takes account of the criteria for the design of internal spaces, regarding minimum size, acoustic insulation, light and ventilation. It would also conflict with SPG7, paragraph 17 guidance, which advises that bedrooms should not be lit solely by rooflights as they do not provide a satisfactory level of amenity.
23. Moreover, it would be in conflict with emerging Policy H10 of the LLP, which amongst other things requires the premises to be suitable for the size of the number of households to be accommodated and that living rooms, kitchens and bedrooms are not solely lit by rooflights.

Other Matters

24. I note that third parties have expressed additional concerns about the proposed development, including highway safety, car parking, waste and crime. However, the Council did not raise these points as reasons for refusal, and I have no substantive evidence to support those concerns. Given my findings in relation to the main issues, it is not necessary to consider these matters in detail.
25. I understand other developments have been granted by the Council in nearby areas. I have been provided with limited details of them, although there may be some similarities with the appeal scheme. The appellant suggests that the Council have been inconsistent, but this does not affect the precise circumstances of the appeal scheme. I have also had regard to the appeal decisions¹, which the main parties have brought to my attention. Insufficient information has been submitted on these schemes, and so I cannot be sure

¹ 3171743, 3231011, 3217701, 3258390, 3258393, 3183336, 3265366

that they represent a direct parallel to the appeal proposal, in respect of location, public representation, emerging policies and the Article 4 Direction. In any event, the appeal needs to be determined on its individual merits on the basis of the evidence before me.

26. I recognise the appeal proposal would have benefits with regard to contributing to additional housing in the Borough and the contribution additional future occupiers of the HMO would make to the local economy. I acknowledge the importance of meeting the needs of groups with specific housing requirements and that the appellant has recently completed other HMO conversions. The site location is also within access to public transport links and within walking distance of local amenities.
27. These matters, however, do not outweigh my findings in respect of living conditions of existing occupiers, and future occupiers of the HMO nor the conflict I have found with the development plan read as a whole. Moreover, it would also conflict with the emerging policies contained within the LLP, Policies H7, H10 and H11, of which I have afforded moderate weight.

Conclusion

28. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

KA Taylor

INSPECTOR