
Appeal Decision

Site Visit made on 12 July 2021 by Hilary Senior BA (Hons) MCD MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2021

Appeal Ref: APP/Z4310/W/21/3271829

6 Alderson Road, Liverpool, L15 2HL

- 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 Silverstone against the decision of Liverpool City Council.
 - The application Ref 20F/2526, dated 6 October 2020, was refused by notice dated 18 March 2021.
 - The development proposed is change of use from a C4 use class HMO to a sui generis use class HMO for up to eight occupiers, facilitated by single storey rear extensions, rear dormer, new window to first floor front elevation, and installation of two rooflights on the front elevation.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from a C4 use class HMO to a sui generis use class HMO for up to eight occupiers, facilitated by single storey rear extensions, rear dormer, new window to first floor front elevation, and installation of two rooflights on the front elevation at 6 Alderson Road, Liverpool, L15 2HL in accordance with the terms of the application, Ref 20F/2526, dated 6 October 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 plans: 0002 Proposed Floor Plans, 0004 - Proposed Elevations, Location Plan (002).
 - 3) Prior to the first occupation of the development hereby permitted the cycle storage as contained within Cycle Storage Specifications shall be provided in a location that has first been agreed in writing by the local planning authority. The cycle storage facility shall thereafter be retained for that purpose.
 - 4) The external surfaces of the development hereby permitted shall match in materials, colour, style, bonding and texture of those of the existing building.
 - 5) The number of persons in residence at the premises shall not exceed 8 at any one time.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Accordingly, the parties have been provided with an opportunity to make submissions in respect of the publication, although neither party provided further submissions in this regard.
4. There is dispute between the parties as to the current use of the property. The appellant has submitted a copy of an Assured Shorthold Tenancy Agreement signed by 3 tenants for the period between 1 September 2020 and 30 June 2021 and has also indicated that the property was occupied by a number of students in the preceding years. Although I do not have a certificate of lawfulness before me in terms of the suggested C4 use, I am satisfied on the basis of the evidence before me that the property has been and is occupied by a number of unrelated individuals and is not therefore a single family dwellinghouse as asserted by the Council. I have assessed the proposal on the basis that permission is therefore sought for the change of use and development as set out in the banner heading.
5. Both parties have referred me to several policies of the Liverpool Local Plan 2013-2033 (Pre-Submission Draft 2018) (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. I do not have any firm details of the extent and nature of the main modifications nor of the resulting outcome of the consultation exercise. As such, and in accordance with Paragraph 48 of the National Planning Policy Framework, I give moderate weight to policies of the Emerging Plan.

Main Issues

6. The Council's concerns relate to the change of use of the property and they have no objections to the single storey rear extensions, rear dormer, new window to first floor front elevation, or installation of two rooflights on the front elevation. From all I have seen and read I have no reason to disagree.
7. Therefore, the main issues for this appeal are:
 - the effect of the change of use on the living conditions of occupiers of nearby properties, with particular regard to noise and disturbance;
 - whether the proposal provides acceptable living conditions for future occupiers of bedroom 8 in the roof space, with particular regard to outlook and natural light; and
 - the effect of the change of use on the character and appearance of the surrounding area with particular regard to the balance and mix of housing, including the supply of family-sized dwellings.

Reasons for the Recommendation

Living Conditions of nearby occupiers

8. The appeal site is a semi-detached dwelling set back from the road behind a low wall. It lies within in a primarily residential area with an urban grid pattern grain and is typical of the surrounding area.

9. The evidence before me indicates that 3 tenants were living at the property most recently, but 4 have lived there in the past, in 3 bedrooms. The proposal would effectively double the number of people living at the property, facilitated by the proposed extensions, which would provide 8 bedrooms along with 2 bathrooms and a communal kitchen/living area.
10. Whilst the comings and goings to the property would be increased as a result of the increase in the number of occupiers, no substantive evidence has been provided to demonstrate that this would be harmful to the living conditions of nearby occupiers. Moreover, I have not been made aware that the Council has received any formal complaints regarding noise or anti-social behaviour relating to the existing use of the property. I note the assertions made by local Councillors however the concerns raised are not substantiated. It is noteworthy that the Council's Environmental Health Manager and local residents did not object to the proposal at the planning application stage.
11. My attention has been drawn to an appeal at 47 Thornycroft Road where an Inspector concluded that harm to the living conditions of occupiers of neighbouring properties would be caused by the change of use of the property to a sui generis use class HMO for up to seven occupiers. In this case it appears that nearby occupiers had raised objections because of existing concerns in respect of noise and disturbance that was being experienced. No such concerns have been raised by nearby residents in this case and accordingly the evidence before me does not lead me to find similarly to my colleague in this regard.
12. In light of the above, I conclude that the proposal would not result in harm to the living conditions of occupiers of nearby properties and there would be no conflict with the aims of Policy H7 of the adopted Liverpool Unitary Development Plan 2002 (UDP) or emerging Policy H10 of the Emerging Plan or the Supplementary Planning Guidance Note 7 – Conversion of Buildings into Flats and Bedsits (SPG) which collectively seek to ensure that the amenity of neighbouring occupiers is not detrimentally affected, through increased activity, noise or disturbance.

Living Conditions of future occupiers

13. Bedroom 8 in the roofspace would be served by 2 rooflights within the front plane of the roof. These rooflights would be low level with the drawings showing the centre of them being 1300mm above the floor level of this room. This level would allow the intended future occupier of this room views out of the openings if stood close to them and allow light to enter the room. The room would be light and airy as a result and would be a pleasant space within which to spend time in. Furthermore, it is unlikely that the occupier would spend all their time in the bedroom; the communal space would be available for occupiers to use also to socialise and spend time in.
14. I note reference to a previous appeal¹ which, from the evidence before me would appear to have been dismissed on inadequate outlook and natural light from a bedroom within the roof space. I do not however have detailed drawings of the case before me to assess whether that proposal was similar to the proposal before me. In any event, I have determined this appeal on the site specific circumstances of this case.

¹ Ref APP/Z4310/W/20/3265366

15. I therefore conclude that future occupiers of bedroom 8 would have satisfactory living conditions, with regards to outlook and natural light. The proposal would therefore conform with saved Policy H7 of the UDP, and the aims of the SPG which collectively seek proposals to provide a satisfactory level of amenity, taking into account the design of internal spaces. Whilst there would be some conflict with Emerging Plan Policy H10 which sets out that bedrooms, amongst other rooms, should not be solely lit by rooflights, the design of the windows in this case ensures that there would be satisfactory outlook and light levels from them because of their height in the room similar to a window in a wall. Accordingly, I find that there is no conflict with the purpose of this policy to provide a high quality of design.

Character and Housing Mix

16. The appeal site is located within a residential area which is designated as a Primarily Residential Area within the UDP and Emerging Plan. It comprises a well-proportioned property, with outside space for the occupiers to enjoy and would be suitable for family occupation in both its unextended or extended condition.
17. Externally, the property has the appearance of a family dwelling and no concerns have been raised in terms of the extensions and alterations having a harmful effect on the character or appearance of the area.
18. I accept that if the HMO is occupied by students there may be certain times of the year that the property may not be fully occupied. However, it is not uncommon for students to remain in the area for employment reasons and there is no evidence before me to demonstrate that occupation by students elsewhere in the locality has caused harm to the cohesiveness of the community or had an effect on community services.
19. I note that the Council has adopted an Article 4 Direction removing permitted development rights for the change of use between family dwellinghouses and their use as small HMOs in the locality, in an attempt to limit the number of them in specific communities. However, as the property is currently in use as a small HMO, there would be no further loss of family housing (or increase of HMOs) and the Article 4 Direction would have little effect on the status of the site. Although the number of occupants of the property would increase as a result of the proposal, it would not alter the existing balance or mix of family housing in the locality, or the character of the area.
20. I conclude therefore that the proposal would not have a harmful effect on the character or appearance of the surrounding area, nor would it harmfully affect the balance and mix of housing, including the supply of family-sized dwellings. The proposal would not contradict Policy H10 of the emerging Liverpool Local Plan (LLP) which, amongst other things, seeks to ensure development would not have an adverse impact on the character of a surrounding area. In addition, it would not contradict Policy H11 of the Emerging Local Plan which seeks to restrict the change of use of a family dwelling to a small HMO.

Other Matters

21. I acknowledge the concerns raised by local Councillors regarding, amongst other things, anti-social behaviour; community instability; undermining of community services; increased demand for on street parking and waste

collections and loss of sun light. I have taken these concerns into account but do not have evidence of any particular issues in the area. Consequently, these matters do not alter my conclusions on the main issues.

22. My attention has been drawn to other appeal decisions for similar proposals relating to, amongst other things, the loss of a family dwelling, use of rooflights and living conditions. I do not have the full details of the cases or the plans that accompanied them before me so I cannot be certain that they are directly comparable to the appeal scheme. In any event, I have determined this appeal on its own merits based on the site-specific circumstances of the case.

Conditions

23. I have considered the conditions suggested by the Council in accordance with the Framework and Planning Practice Guidance. A condition specifying that the development is undertaken in accordance with the approved drawings is necessary to provide certainty, as is a condition restricting the number of occupiers. In order to protect the character and appearance of the area a condition that specifies that matching materials to the host dwelling are used in the development is also necessary.
24. To promote sustainable forms of transport and to provide security to cycles, a condition is also necessary.
25. The Council refer to a bathroom window in its suggested conditions. However, as the first-floor front elevation window would serve bedrooms it is not necessary to include the suggested condition.

Conclusion and Recommendation

26. For the reasons given above and having regard to all other matters raised, I conclude that the proposal complies with the development plan taken as a whole. There are no material considerations that indicate that a decision should be made other than in accordance with the development plan. I recommend that the appeal is allowed with the suggested conditions.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

27. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree that the appeal should be allowed with the conditions suggested.

RC Kirby

INSPECTOR