
Appeal Decision

Site visit made on 17 May 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

Appeal Ref: APP/Z4310/W/21/3288352

23 Hartington Road, Toxteth, Liverpool L8 0SD

- 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 Tablecheck Ltd against the decision of Liverpool City Council.
 - The application Ref 21F/2316, dated 23 June 2021, was refused by notice dated 1 December 2021.
 - The development proposed is change of use from a small HMO (class c4) to a large HMO (sui generis) arising from the use of 2 existing first floor rooms to accommodate 2 additional en-suite bedrooms (over and above the lawful use of 6 bedrooms), and the creation of a cycle storage area at the side of the premises.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a small HMO (class C4) to a large HMO (sui generis) arising from the use of 2 existing first floor rooms to accommodate 2 additional en-suite bedrooms (over and above the lawful use of 6 bedrooms), and the creation of a cycle storage area at the side of the premises at 23 Hartington Road, Liverpool L8 0SD in accordance with the terms of the application, Ref 21F/2316, dated 23 June 2021, 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: Kel_001 - Location Plan; Kel_002 - Existing Block Plan; Kel_003 - Proposed Block Plan; Kel_004-A1 - Existing Floor Plans; Kel_005-A1 - Proposed Floor Plans; Kel_006 - Existing Elevations; and Kel_006B - Proposed Elevations.
 - 3) The number of persons in residence at the premises shall not exceed 8 no. at any one time.
 - 4) Any waste generated to be discarded as refuse or recycled shall be kept within the curtilage of the premises and shall only be placed outside the premises on the appropriate refuse collection day.
 - 5) A scheme for the provision of cycle parking in accordance with the Council's current standards shall be submitted to and approved in writing by the local planning authority before the development is first brought into use. The approved scheme shall be implemented before any part of the development is occupied or brought into use and shall be retained as such thereafter.

Application for costs

2. An application for costs was made by Tablecheck Ltd against Liverpool City Council. This application is the subject of a separate decision.

Preliminary Matters

3. I do not have a certificate of lawfulness before me in terms of the suggested C4 use, but I am satisfied that the appeal property has been and is currently occupied as a Use Class C4 small House in Multiple Occupation (HMO) by up to six unrelated individuals. I have considered the proposal on the basis that planning permission is sought for the change of use and development that I have set out above.
4. In refusing planning permission, the Council cited saved Policy H7 of The City of Liverpool Unitary Development Plan. However, following the adoption of the Liverpool Local Plan 2013-2033 (Local Plan) in January 2022 this policy is no longer part of the development plan. This now comprises of the Local Plan, and I have determined the appeal on this basis.

Main Issue

5. The main issue is the effect of the development on the character of the area, with regard to the balance and mix of housing, and the living conditions of the occupiers of nearby properties, with regards to noise and disturbance.

Reasons

6. The two-storey semi-detached appeal property lies within a primarily residential area characterised by a tight-knit urban grain to the south of Smithdown Road and next to Toxteth Park Cemetery. Properties in the area are either occupied as dwelling houses or HMO's. Planning permission was granted by the Council to use 27 Harrington Road as a HMO for eight persons in 2020.
7. The appeal proposal would result in two additional persons living at the property. They would occupy two existing empty rooms. Consequently, the HMO use at the property would be intensified and there be additional comings and goings not only by the future occupants but also from deliveries and/or visitors. In total, there could be eight unrelated individuals living at the appeal property is likely to mean that the property's occupation is more transient in nature. The additional occupants could also lead to further paraphernalia.
8. However, I do not consider that the uplift in the occupation of the property would cause a significant increase in comings and goings or noise, disturbance or litter. I recognise that the cumulative effect of HMO's and additional occupants therein can be difficult to quantify, and while the properties occupation as a HMO may be different numerically and in character to that of a family home, that does not automatically mean that it is harmful. There is no substantive evidence to indicate that the local area is overly saturated by HMO's or that the mix of housing is not balanced. Nor is there any indication that there have been formal complaints relating to noise and disturbance or the use of the property. Notably, the Council's Senior Enforcement Officer did not raise any objections to the proposal.
9. As such, I conclude that the development would not have a harmful effect on the character of the area, and occupiers of nearby properties would have satisfactory living conditions, with regards to noise and disturbance. On this

basis, the proposal would accord with Local Plan Policy H10 and Supplementary Planning Guidance Note 7 - Conversion of Buildings into Flats and Bedsits. Amongst other things, these jointly seek to ensure development would not have an adverse impact on the amenity of neighbouring properties and the character of the surrounding area through increased activity, noise or disturbance.

Other Matters

10. The appeal property is within the Toxteth Parks and Avenues Conservation Area. The proposal would result in an intensified use of the property which would lead to internal changes. There would be cycle storage and bin storage externally, but the appeal scheme would, in my opinion, have a neutral effect on the significance of the Conservation Area. As such, the Conservation Area would be preserved.

Conditions

11. I have imposed an approved plans condition in the interests of certainty. To ensure the living conditions of future occupants, I have imposed a condition limiting the number of persons living at the property. To safeguard the living conditions of nearby residents and the character of the street, I have imposed a condition so that refuse, and recycling are kept within the curtilage of the property. Furthermore, to encourage the use of bicycles, a sustainable mode of transport, I have imposed a condition to secure cycle parking facilities given that they form part of the development proposed and as it was unclear whether there were any on site. I have not imposed a condition for refuse provision as the property has sufficient space for these within the curtilage.

Conclusion

12. The appeal scheme accords with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.
13. For the reasons given above I conclude that the appeal should be allowed.

Andrew McGlone

INSPECTOR