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# Appeal Decision

Site visit made on 8 June 2022

**by F Rafiq BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> August 2022**

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**Appeal Ref: APP/Z4310/W/22/3291588**

**75 Kenmare Road, Liverpool L15 3HQ**

- 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 Matt Bateman against the decision of Liverpool City Council.
  - The application Ref 21F/2826, dated 22 September 2021, was refused by notice dated 23 December 2021.
  - The development proposed is described as the 'change of use from 5 bedroom property to small HMO for up to 6 occupiers'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Reference has been made by the appellant to the property having been used in Use Class C3 (c) which allows for groups of up to 6 living together as a single household. A certificate of lawfulness (LDC), had been sought for this, was refused by the Council. The appellant instead references the use of the property in Use Class C3 (b), which the Council also acknowledge was the use that the appeal property was in at the time the appeal application was made. I have considered the appeal on this basis.
3. Since the Council issued their decision, the City of Liverpool Unitary Development Plan was superseded by the Liverpool Local Plan 2013-2033 (Local Plan). The appellant has referenced the Local Plan in their appeal statement following its adoption. I have determined the appeal based on the adopted development plan at the time of this decision.

## Main Issues

4. The main issues are (i) the effect of the development on the character of the area with particular regard to the mix and balance of housing, (ii) whether the development would result in the unacceptable loss of a family dwelling, and (iii) whether the proposal would provide adequate living conditions for future occupiers with particular regard to outlook and light.

## Reasons

### *Character, Mix and Balance*

5. The appeal property is a two storey mid-terrace dwelling with further accommodation contained in the roofspace. The property is located in a predominantly residential area. Reference has been made by the Council to the site being in a designated neighbourhood which has a House in Multiple

Occupation (HMO) concentration equal to or exceeding a 10% threshold of all dwellings. Local Plan Policy H11 states that in such neighbourhoods, changes of use from C3 to small or large HMO dwellings will not be supported.

6. Although the appeal property has been used as a dwelling within Use Class C3 (b), by up to six occupiers receiving care, they would have been living together as a single household. Whilst an LDC for use of the property within Use Class C3 (c) has been refused and the appellant intends to appeal, this living together as a single household would also be the case for such a use. A HMO use of the appeal property would not increase the number of occupants. However, the occupation by up to six unrelated individuals is likely to result in increased comings and goings, deliveries and visitors, as each occupant lives independently of others within the building. The property's occupation, whilst being for permanent accommodation, is also likely to be more transient in nature, as potential occupants, such as students have little connection to the local area beyond their stay. I note the Council's Environmental Health consultee did not raise an objection and confirmed that there have been no recent noise complaints at the property. Nevertheless, as set out above, HMO's have different activity patterns from a Use Class C3 dwelling.
7. This proposal, although still providing residential accommodation, would therefore exacerbate the existing concentration of HMO's and further unbalance the housing mix which is above a level that the Council has identified would have an adverse impact on the character of the area.
8. The supporting text to Local Plan Policy does reference the consideration of exceptional circumstances, but this is in relation to unintended consequences such as existing family owner-occupier residents becoming trapped. There is no evidence before me that this is the case with the appeal proposal, and to the contrary, the appellant states that the property is not currently in use as a single occupancy family household dwelling (Use Class C3 (a)).
9. The development would, for the reasons sets out, cause significant harm to the character of the area with specific regard to the mix and balance of housing. As such, the proposal would conflict with Local Plan Policy H11, which seeks, amongst other matters, for there to be a balanced housing provision meeting the needs of families and households of varying sizes and avoiding the adverse impacts on the character of an area due to the concentration of HMO's.

### *Family Dwelling*

10. It is common ground that the appeal property was not in use as a dwelling in Use Class C3 (a) but Use Class C3 (b). These are both sub-classes of the same Use Class C3 and relate to occupation by groups living together as a single household with changes between the sub-classes not requiring planning permission. As such, although the property may not currently be in use as a family dwelling, I consider the provisions of Local Plan Policy H10 2 n) to be relevant.
11. The submitted plans confirm that the size, design and layout of the property would not be altered. The property would provide six bedrooms with a number of kitchen/living/dining spaces. It is also located in a predominantly residential area where there are other dwellings. The appeal property is therefore a dwelling which is suitable for a family and the proposal would see the loss of such. It would not meet the needs of families and households of varying sizes.

12. The proposal would therefore result in the unacceptable loss of a family dwelling and consequently, it would conflict with Local Plan Policy H10, which seeks, in regard to this main issue, to prevent the loss of a dwelling that is suitable in size, design, layout and location for continued use as a family dwelling.

*Living Conditions - Appeal Property's Future Occupiers*

13. The front bedroom at second floor level would only be served by a pair of rooflights. This would be contrary to the requirements Local Plan Policy H10 of 2 i) and Supplementary Planning Guidance Note 7 – Conversion of Buildings into Flats and Bedsits (SPG) which state that bedrooms should not solely be lit by rooflights. However, having visited the site and seen the size and positioning of the roof lights, they would provide a satisfactory outlook for future occupants and good levels of natural light within this room.
14. As such, despite some conflict, I do not consider the appeal proposal would conflict with the aims of this Local Plan policy, the SPG or the National Planning Policy Framework (the Framework), which include seeking a high standard of amenity for existing and future users. Reference has been made to the SPG as being significantly outdated but despite its age, it is broadly in conformity to the Local Plan in relation to seeking the provision of satisfactory levels of amenity.

**Other Matters**

15. The refusal does not raise any concerns in relation to waste management, internal space standards in terms of room sizes, ventilation or acoustic insulation or on the design of the external space which could provide for cycle storage and an amenity space. The site is also in an accessible location to shops, services and recreational facilities and the Council's Highway and Transportation consultee does not object. These are however neutral considerations, as is the acceptability of the scheme in relation to crime and they are not matters which weigh in favour of the appeal proposal.
16. Reference has been made to an appeal<sup>1</sup> on a nearby site. Although there are some similarities with this appeal development such as whether the respective development would provide adequate living conditions for its future occupants, the referenced scheme related to a different form of development involving a change of use from a Use Class C4 HMO to a Sui Generis HMO and a number of the main issues were not therefore directly comparable to the appeal scheme.
17. Reference has been made to planning breaches in representations, but this would be a matter for the Council to investigate in the first instance.
18. I acknowledge there is a growing number of smaller households and the provision that HMO's can make by providing affordable accommodation. Whilst this matter weighs in favour of the proposal, it would not outweigh the harm that I have identified in relation to two of the main issues.

**Conclusion**

19. There would be no harm arising in relation to the provision of adequate living conditions for future occupiers, but I find the development would be

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<sup>1</sup> APP/Z4310/W/21/3271829

unacceptable in relation to the harm that would be caused to the character of the area and by the unacceptable loss of a family dwelling.

20. I have found that the development would conflict with the development plan read 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. Therefore, I conclude that the appeal is dismissed.

*F Rafiq*

INSPECTOR