



# Appeal Decision

Site visit made on 28 July 2022

**by R Morgan BSc (Hons) MCD MRTPI**

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

**Decision date: 16 September 2022**

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**Appeal Ref: APP/Z4310/W/22/3293838**

**Former Bogans Carpet Unit, New Bird Street, Liverpool, L1 0DN**

- 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 Crosslane Co-Living SPV1 Limited, Wates Group Limited and Ascot Property Limited against the decision of Liverpool City Council.
  - The application Ref 20F/2743, dated 9 October 2020, was refused by notice dated 24 January 2022.
  - The development proposed is to demolish existing buildings and erect a 4 to 9 storey block creating 236 co-living apartments (Sui Generis) and ground floor commercial/business units (Use Class E), together with associated car parking, cycle parking, on site communal space, including co-working areas, gym and external courtyard, landscaping and other external works.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal proposal was subject to amendments during the course of the application and the number of units has changed from that referred to on the original application form. I have used the revised description, as this relates to the scheme upon which the Council made its decision.
3. Since it made its decision on the appeal proposal, the Council has published a Co-Living Planning Policy Advice Note (March 2022). This document does not form supplementary planning guidance, rather it takes the form of an advice note which sets out the Council's understanding of the co-living concept, and identifies the policies it considers to be relevant. I have treated the advice note on that basis. The appellant has had the opportunity to comment on the document as part of the appeal process, and I have taken those comments into account in determining this appeal.

## Main Issues

4. The main issues are:
  - i) whether the proposal would provide a satisfactory mix of dwelling types,
  - ii) whether the scheme would provide satisfactory living conditions for future occupiers, with particular regard to space standards.
  - ii) whether adequate provision would be made to meet the requirements for accessible housing.

## Reasons

### *Background and Policy context*

5. The appeal site is within the Baltic Triangle area. This part of the city is undergoing significant change, with former industrial and warehousing uses being replaced by new employment, leisure and residential development. Within the area there is a strong focus on creative arts and digital industries.
6. Continuing this trend, the proposed development would involve the demolition of the existing industrial unit and the erection of a building of between 4-9 storeys in height. On the ground floor would be a mix of class E uses, including a gym and work spaces, with 236 co-living apartments on the floors above.
7. Although co-living is relatively new to the UK, a number of schemes have been developed across the country. The concept generally involves a purpose built development of private studio flats containing a bedspace, basic kitchen facilities and a bathroom, with extensive shared communal facilities.
8. It is common ground that co-living accommodation does not constitute dwellinghouses as defined within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The application form describes the use as being Sui Generis. Both parties agree that this is appropriate to classify the use in this way, and I have no reason to take a different view.
9. There is no specific planning policy relating to co-living schemes within the National Planning Policy Framework (the Framework), or within the recently adopted Liverpool Local Plan (January 2022). In the absence of any local development plan policy dealing specifically with this type of development, the appellant has referred to Policy H16 in the London Plan 2021, which deals with large scale purpose built shared living developments. This policy provides a useful indication of the considerations which may be relevant in assessing such schemes. However, Policy H16 does not apply to the appeal scheme, which must be determined in terms of relevant policies for Liverpool.
10. The Council has indicated that a number of housing policies in the Liverpool Local Plan are relevant to the proposal, including CC24 and H12. I agree. Although it is not a C3 use, the scheme nonetheless provides a place for people to live. Although they do not specifically mention co-living schemes, Policies CC24 and H12 are both concerned with residential development, and there is nothing within either Policy, or their explanatory text, which limits their scope to uses falling within Class C3. As such, I read both Policy CC24 and H12 as applying to residential use in its broader meaning, applying to those forms of accommodation which fall within sui generis and other Use Classes, as well as traditional forms of Class C3 housing.
11. I note the Council's conclusion that the scheme does not easily lend itself to the provision of affordable housing. As it was not a reason for refusal, I have not considered the matter of affordable housing in any detail. However, the Council's conclusions on this matter do not alter my view regarding the applicability of wider housing policies to the scheme.

### *Housing mix*

12. Local Plan Policy CC24 requires that new residential development provides a greater proportion of 2 bed+ than 1 bed dwellings. This requirement stems

from evidence which formed part of the Local Plan preparation, notably the finding that a significant proportion of the housing requirement figure (34,780 units over the period 2013-2033) has already been completed or has planning permission, and that a large element of these commitments comprise studio or one bedroom apartments.

13. In light of this, the policy aims to ensure the provision of a balanced housing mix within the city. Policy CC14, which relates specifically to the Baltic Triangle area, reiterates this requirement more strongly, stating that residential development *must* provide a mix of housing types and tenures, including provision for families, in accordance with Policy CC24. However, the proposed 236 apartments would all be single bed, studio type accommodation, so would not comply with either policy.
14. The appeal scheme is particularly aimed at millennials and young professionals, looking for flexible accommodation. The appellant's needs assessment suggests that the proposal would meet a gap in the market for affordable rental accommodation for young single people, in a vibrant area of the city which is attractive for young people to live and work.
15. The nature of the proposal, with its emphasis on communal living spaces, social integration and well-being, means that the scheme would provide a different offer to traditional apartment schemes, with something that is not currently available in this area. For people within its target market, proposal would broaden the range of housing available. It would deliver a different product from other apartment schemes, and in that sense would contribute to a more diverse housing offer in this part of the city, as required by Policy CC24.
16. This could be an advantage of the scheme for the target group, but as identified in the Local Plan and in the needs assessment, a large number of studio and 1 bed apartments have already been provided in the city centre over the last few years, and more have planning permission. The scheme would contribute further to the imbalance in housing supply, adding to the number of smaller, studio apartments, without providing any larger forms of accommodation. I appreciate that the co-living model may not easily lend itself to a range of housing types, but no clear explanation has been provided as to why it is not possible to incorporate some 2 bed units.
17. The needs assessment highlights growth in the city centre population of 17-29 year olds between 2002-2011. This suggests that there is likely to be demand within the age group which the appeal scheme would cater for. This data appears to contrast with more recent data from the 2021 census. According to the appellant, this new data indicates that Liverpool has seen a fall of 5% in the number of 25-29 year olds over the past 10 years. The headline census figures do not explain the reasons for any population fluctuations, and do not tell us whether or not the availability of suitable housing is a factor. The census data does not provide a reason to depart from the recently adopted Local Plan, which is based on up-to-date evidence about the local housing market, that has recently been subject to examination.
18. The appellant has provided examples of other appeals involving co-living schemes in support of their case, including two appeals in Hounslow<sup>1</sup> where the matter of housing mix was considered. Full details of these cases have not

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<sup>1</sup> APP/F5540/W/19/3227226 and APP/F5540/W/20/3260357

been provided so I am unable to consider them in any detail. However, but the example appeals would have been determined in light of different policies, operating within a very different housing market, so are not easily comparable with the case before me.

19. In light of the above considerations, I conclude that the proposal would fail to provide a satisfactory mix of housing, contrary to the requirements of Policy CC24, and repeated in Policy CC14.

*Living conditions – space standards*

20. To ensure that new residential development provides an adequate standard of accommodation, with rooms large enough to accommodate a basic level of furniture and circulation space, Local Plan Policies CC24 and H12 require that new development in the city meets the Nationally Described Space Standards (NDSS). In Liverpool, the adoption of the NDSS is justified in part by the recent trend for smaller units, and the finding that a significant proportion of some types of residences provided recently have been below the minimum standards.
21. As noted above, the appeal proposal involves residential development. As such, the space standards contained in Local Plan Policies CC24 and H12 apply.
22. The floorplans show that most of the proposed studios would be around 22m<sup>2</sup>. Whilst there would be some larger units, the majority would not meet the NDSS requirement of 37m<sup>2</sup> for a studio apartment with shower. Consequently, the scheme would not comply with the policies. That said, the co-living concept involves provision of extensive communal areas, and in this way it differs from standard apartment schemes. It is therefore reasonable to take a broader view in this case, and take account of the communal areas when considering compliance with space standards.
23. It is easy to see how the co-living concept could be attractive, particularly for young people, but the concept relies heavily on the provision of extensive communal facilities. To set aside the required space standards, it is important to ensure that the proposed shared amenity spaces are of sufficient quantity and quality to provide a satisfactory standard of living for residents.
24. The submitted plans show that the ground floor areas would include a café/servery, flexible co-working spaces, meeting/quiet work spaces and a gym and well-being room. In their 'Response to interim comments 01.04.21' the appellant has confirmed that these spaces, along with the co-working space on the mezzanine floor, would be available for residents, but would also be publicly accessible.
25. The inclusion of publicly available facilities would help to integrate the scheme into the local area, providing active street frontages and the opportunity for local people to make use of the facilities. However, for residents these areas would not form part of freely available living space, particularly if, as suggested in the submitted management plan, it would be necessary to pre-book and/or pay for use of some of the facilities.
26. Excluding those areas, the main areas of communal space for residents use would be on the first floor, where there would be a large lounge, gallery and cinema room. In addition, there would be shared amenity spaces on the first floor and on most of the floors above. Detailed layouts have not been provided

for these spaces, but the appellant has indicated that they would be laid out as kitchen/lounge areas.

27. Additional shared outdoor amenity areas would be available in the central ground courtyard and roof terrace. However, outdoor amenity space is general a requirement of any residential development and is not a particular feature of this development.
28. In order to make a broad assessment about the quantity of amenity space to be provided, the 'Response to interim comments 01.04.21' provides a calculation of amenity space per unit. Based on a slightly lower number of units overall (234 rather than 236), this suggests that the level of amenity space per unit would be 6.48m<sup>2</sup>, which would increase to 8.57m<sup>2</sup> if the co-working space is taken into account. The extent to which the co-working spaces would be available to residents is uncertain for the reasons given above. However, even if they were included in the calculation, most of the studios would still fall well below the NDSS when an allowance for communal areas was included.
29. The kitchen/lounge spaces would be large rooms of typically 82.5m<sup>2</sup>, but with more than 40 studios on some of the floors, and no amenity space on the 5<sup>th</sup> and 7<sup>th</sup> floors, the kitchens would be shared amongst a considerable number of people.
30. The strong emphasis on communal living, alongside potential opportunities to make friends, may well be an important reason for people to choose to live in the proposed development. The submissions highlight the importance of eating and cooking together, but with only basic kitchenettes provided in each studio, there could be considerable demand for the shared kitchen/amenity spaces.
31. The management plan says that each kitchen would have sufficient facilities to support several residents cooking and eating simultaneously, but given the large number of people potentially sharing the facilities, it is unclear whether this would be sufficient. I note the suggestion in the management plan that that shared kitchen spaces would be bookable, which suggests that it might be necessary to manage demand. This raises further questions about the adequacy of the provision.
32. The appellant has emphasised the importance of the communal facilities for the wellbeing of residents, but this requires that facilities are readily available for residents, when they need them. Without this, there is a risk that occupiers could end up being spending long periods in their apartments, which is a particular concern as the majority do not meet the minimum standards.
33. The images provided in the submissions show attractively designed and furnished spaces, and the management plan includes details of cleaning and maintenance of the shared kitchens and other areas. I do not doubt that an attractive living space could be provided. However, the overall level of shared amenity space does not make up for the deficiency in individual unit size, and, if it is necessary to book some of the spaces, the extent to which the facilities would be readily available to occupiers is also uncertain.
34. I have had regard to the other appeal examples referred to, in Hounslow, Kettering and Wandsworth, and note the findings that the NDSS did not apply in some of those cases. However as I have only been provided with very brief

details about those cases, I am unable to comment further about their relevance to the case before me.

35. The majority of the proposed studios would not meet the minimum space standards, and it has not been demonstrated that the communal spaces would be sufficient to make up for this deficiency. I am therefore unable to conclude that the scheme would provide a satisfactory standard of living, with particular regard to space standards. In respect of the minimum space standards, the proposal would conflict with Policies H12 and CC24.

#### *Accessibility requirements*

36. Reflecting the above-average number of people in Liverpool with long term health problems or disabilities, Local Plan Policy H12 requires that, as a minimum, all residential units should be designed to meet the requirements of Part M4(2) of the Building Regulations, relating to accessible and adaptable dwellings. In addition, in larger schemes such as the proposed development, 10% of all new homes should comply with Part M4(3). The level of provision should be sufficient to allow simple adaptation of the dwelling to meet the needs of occupants who use wheelchairs.
37. The appellant has provided information to show how the parking, refuse area, and communal areas on the ground floor would meet the minimum standards for accessibility. On the upper floors, corridors would be wide enough for wheelchair use. Whilst detailed layouts for the kitchens have not been provided, the submitted plans note that provision would be made for accessible access to cooking/dining facilities. The Council has indicated that the communal spaces are acceptable in terms of accessibility, and I have no reason to disagree.
38. Part M4(3) of the Building Regulations does not include guidance on studio apartments, so the appellant has transcribed the requirements for circulation and turning spaces to the studios. In total, 34 of the units, equating to more than 13% of the total units, would be of a larger size and would provide space for wheelchair users.
39. Policy H12 requires that new residential developments allow for adaptation to meet the changing needs of occupiers over time, including those who use wheelchairs. In this case, the restricted size of most of the proposed units means that they would not be capable of being easily adapted, so the requirements of Policy H12 would not be fully met. However, the proposed accommodation is primarily aimed at people seeking short term, flexible accommodation. Whilst it is important that the proposed units can cater for a wide range of occupiers, including those using wheelchairs, the justification for all of the units to be capable of adaptation is less in this proposed co-living scheme than would be the case in other forms of housing development which are intended for longer term occupation.
40. The Council has not explained their outstanding concerns about accessibility. From the information provided, and in the absence of any further detail from the Council, I am satisfied that the scheme would enable people with a range of differing needs to gain access to the building and use its main facilities, as required by Policy H12. In addition, more than 10% of the apartments would be designed to be accessible to wheelchair users.



41. However, Policy H12 also requires that new homes should meet the NDSS. The need for residential accommodation to be of an adequate size is important in providing for well-being, and there may be a variety of health related reasons for people needing more space. Greater variation in the size of apartments provided, with more larger units, would assist in ensuring that the scheme was able to meet the differing needs of occupants.
42. Overall, I find that the scheme would made adequate provision in terms of the requirements for accessible housing, but owing to the deficiencies in meeting the NDSS, the scheme does not comply with Policy H12.

### **Other Matters**

43. The Council has indicated that the scheme would be acceptable in terms of scale, design and materiality, and in this respect would meet the requirements of the Baltic Triangle Strategic Regeneration Framework 2020 (SRF) and relevant Local Plan policies. I have no reason to disagree.
44. The appeal site is described as being within the foreground of the Grade I listed Anglican Cathedral. In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have had special regard to the desirability of preserving the setting of the listed building in the determination of this appeal.
45. The massive sandstone Cathedral, sited in elevated position on a raised plateau, forms a major landmark within the city, which is visible from numerous locations in the surrounding area. Its imposing form is a distinctive part of Liverpool's skyline when viewed from the River Mersey waterfront, and the building can also be seen from many locations much further away. The Cathedral is inextricably linked to the City's identity and culture, and has aesthetic, historical and communal significance.
46. Its vast scale and elevated position means that the Cathedral, which is not far from the appeal site, forms a prominent feature in the surrounding area. The Cathedral terminates views along Jordan Street and New Bird Street, with the wings of the building as well as the tower being clearly visible.
47. As has been the case with other recent development in this area, the proposed replacement of the existing industrial building with a considerably taller structure would impede some near views of the Cathedral. However, the SRF accepts the principle of taller buildings as part of the regeneration of this area, and in terms of its scale, the proposal complies with this guidance. The proposed development would sit below the eaves of the main part of the Cathedral, and views along the surrounding streets, which form a simple grid pattern, would be retained.
48. The appellant has provided a Key Views Assessment which shows that the proposed building would not interfere with any of the more distant views identified in the Liverpool World Heritage Site Supplementary Planning Document.
49. The proposal would retain the prominence of the Cathedral within the local area and in more distant views. I am satisfied that it would preserve the setting of the Grade I listed Cathedral. In coming to this view, I note that no objections to the scheme were raised by Historic England or the Council's Building Conservation officer.

50. The site is close to the Liverpool Bay Special Area of Protection (SPA) and a number of other internationally important sites around the Mersey Narrows and Mersey Estuary. I have a statutory duty under the Conservation of Habitats and Species Regulations 2017 (as amended) to consider the potential impacts on the European sites in the determination of the appeal.
51. Had I been allowing the appeal, it would have been necessary for me to complete a Habitats Regulation Assessment and Appropriate Assessment for the scheme, to address concerns expressed by Natural England over potential adverse effects on the integrity of the designated sites which could arise from increased recreational pressure. As I am dismissing the appeal for other reasons, it is not necessary for me to consider these matters any further. That said, from the evidence provided, including comments from Natural England, it appears that these matters are capable of being satisfactorily addressed through the provision of appropriate advisory information for future residents.
52. The Council has indicated that, if the scheme were otherwise acceptable, financial contributions would be required to meet various policy requirements including open space provision, street trees, public art and highways works. No signed legal agreement has been provided as part of the appeal, although the appellant has submitted draft heads of terms. As I have found harm in relation to the main issues in this appeal, and no areas of disagreement have been identified between the parties in relation to the requested financial contributions, I have not considered these matters any further.

### **Planning Balance**

53. The proposal would bring a vacant site back into use and would contribute to the regeneration of the wider Baltic Triangle area. By attracting young people to the area, it would help promote the function of the Baltic Triangle as a creative and digital quarter. The scheme would generate jobs during the construction stage and would employ a number of staff once operational. Further economic benefits would arise from future residents working in the local area, and consuming goods and services.
54. The scheme would provide additional housing, aimed particularly at younger people, with the potential for social interaction and making new friends. It would widen the range of accommodation available, in a location within walking distance of the city centre and a wide range of facilities, with good access to public transport.
55. Set against these benefits are my findings that the scheme would fail to provide an appropriate mix of housing. Furthermore, although the scheme would make adequate provision for accessible housing, it has not been demonstrated that the scheme would provide adequate private and communal space to ensure satisfactory living conditions for future residents. The proposal would fail to comply with Policies CC24 and H12, which have only recently been adopted and are supported by up-to-date evidence.
56. Overall, these significant deficiencies outweigh the benefits of the scheme.
57. Other planning issues, including noise, drainage, access and parking are capable of being resolved through appropriate conditions or a legal agreement. These matters, which represent a lack of harm, are neutral in the planning balance.



**Conclusion**

58. The proposed scheme conflicts with the development plan when taken as a whole. Other considerations do not outweigh this finding. The appeal is therefore dismissed.

*R Morgan*

INSPECTOR