



Appeal Decision

Site visit made on 13 October 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2022

Appeal Ref: APP/Z4310/W/22/3298406

27 Spellow Lane, Liverpool, L4 4DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Mr Denis Bordais against Liverpool City Council.
- The application Ref 22F/0608, is dated 4 March 2022.
The development proposed is described on the application form as 'change of use from a small HMO (Class C4) to a large HMO (sui generis) arising from the use of 1 existing first floor room to accommodate 1 additional en-suite bedroom (over and above the lawful use of 6 bedrooms), and the erection of cycle stores at the rear of the premises.'

Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The house at 27 Spellow Lane has been converted ready for use as a 7 bedroomed house in multiple occupation (HMO). At the time of my visit, the recently renovated property was unoccupied.
3. According to the appellant, the property had previously been converted, under permitted development rights, from a dwelling to a small HMO, capable of accommodating up to 6 people. The proposed occupation of a seventh room would change the use from a small to large HMO, and so requires planning permission.
4. The appellant has indicated that the front bedroom on the first floor would form the additional, seventh bedroom, and so the appeal should be considered on that basis. However, it is unclear whether the property has ever been used as a small HMO, and even if it has, it seems unlikely that one of the largest bedrooms and brightest bedrooms would remain unused. I find no clear basis for considering that any particular bedroom should be taken as the seventh for the purposes of this appeal. Rather, I have assessed the appropriateness of the property as a whole to accommodate 7 people, whilst bearing in mind that 6 people could be accommodated in the property as a small HMO, without the need for planning permission.
5. The appeal stems from the Council's failure to make a decision on the application within the necessary timescales. The Council has not indicated whether it would have approved or refused the application, but has provided copies of pertinent policies from the adopted Liverpool Local Plan 2022.

6. The appeal site is not located in an area designated as having an HMO concentration of 10% or more. As such, Local Plan Policy H11 requires that the proposal be assessed against the criteria in paragraph 2 of Policy H10. I have therefore assessed the proposal in light of the requirements contained in Policy H10, which is concerned with the conversion of existing buildings into HMOs.

Main Issue

7. The main issue is whether the site is suitable for use as a large HMO for 7 persons, having regard to the requirements set out in relevant planning policy.

Reasons

8. The appeal concerns a traditional mid terrace house, with accommodation over 3 floors. The property fronts directly onto Spellow Lane, which is residential on one side, with commercial uses linked with the nearby Everton Football Ground on the other. The area is mixed in character, and the appeal site is very close to a range of shops and facilities along Walton Road.
9. The houses along this side of Spellow Lane are fairly large, older terraces with small rear back yards. The increased activity associated with occupation by one additional person would be small, and would be unlikely to cause harm to the amenity of neighbouring properties. Compared with the permitted use as a 6 bedroomed small HMO, the proposed use would not result in any discernible change to the character of the area. Indeed, having recently been renovated, the property appears smart and well maintained when viewed from the street.
10. Given its size, style and location, the appeal property is suitable for conversion for use as an HMO. However, it is also necessary to consider whether the internal arrangements are suitable for the number of occupants proposed, and so whether satisfactory living conditions would be provided for future tenants.
11. Paragraph 2c. of Local Plan Policy H10 requires that the configuration of internal space satisfactorily takes account of minimum room sizes, acoustic insulation, light and ventilation. Further detail is provided in the explanatory text and in the Council's 'Guidance on Standards and Management of houses in Multiple Occupation'.
12. The house has been renovated throughout to a good standard. The bedrooms all have en-suite bathrooms, and are all of an adequate size. The kitchen, although not particularly large, is satisfactory for 7 persons. However, despite the reference on the submitted plan to a kitchen/lounge, there is no communal sitting or dining area. As there is not enough space in the kitchen to sit and eat, and no communal lounge or dining area, occupiers of the HMO would need to take their meals to their bedrooms, which in some cases would be up two flights of stairs. This lack of communal space means that proposal does not comply with the requirement in Local Plan paragraph 8.62 that, in order to support the communal nature of HMO occupation, a dedicated lounge area of at least 12m² should be provided.
13. At my site visit, I saw that the property has a basement, which could possibly be used to provide additional communal space, subject to the provision of adequate lighting, and assuming other relevant standards could be met. However, this space is not shown on the submitted plans, and so does not form part of the appeal proposal.

14. Most of the bedrooms, particularly those at the front of the house, have good sized windows and feel bright and airy. However, the back room on the second floor, marked as bedroom 5 on the submitted plan, is served only by a single, narrow rooflight. The small size of the opening, and its position on the north facing roof, means that this room feels quite gloomy. The lack of natural light to this room is a particular concern given the lack of alternative, communal space in the house, which means that, for future occupiers of room 5, this space would provide their main living area. In this way the proposal fails to comply with criterion 2i. of Policy H10, which requires that bedrooms are not solely lit by rooflights.
15. The external space at the rear of the property has space for bin storage, and the plans show that provision would be made for secure cycle storage. No off-street parking is provided, but that is the case for all the houses along this street. The site is easily accessible to shops, services and public transport, so future residents could meet their day-to-day needs without a car. I note that the Council's highways officer has not objected to the scheme, and I have no reason to come to a different view.
16. Assuming that the property has already been converted to use as a small HMO, the proposed change of use would not result in the loss of a dwelling suitable for continued use by a family. As such, there is no conflict with criterion 2n. of Policy H10.
17. The appellant has provided a copy of a HMO Licence for the property, dated 28 January 2021, which confirms that the Council is satisfied with the proposed management arrangements.
18. The licence also says that the HMO is suitable for occupation by 7 persons, but the licence is provided under housing legislation, and is not based on the same assessment as that required for a planning application. I have considered this appeal in light of Local Plan Policy H10 paragraph 2. Whilst the proposal does meet some of the criteria, and others are not relevant, the lack of communal space and the small rooflight to bedroom 5 means that the scheme would not comply with criteria 2a., 2c. and 2i of the Policy.
19. For the reasons given, I am unable to conclude that the site is suitable for use as a large HMO for 7 persons. The proposal would not comply with the requirements set out in Local Plan Policy H10. Furthermore, it would fail to provide a high standard of amenity for future users, as required by paragraph 130f) of the National Planning Policy Framework (the Framework).

Conclusion

20. The proposal conflicts with the development plan and the Framework. No other considerations outweigh this finding. The appeal is therefore dismissed.

R Morgan

INSPECTOR