



Appeal Decision

Site visit made on 21 December 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 9 February 2023

Appeal Ref: APP/Z4310/W/22/3298397

61 Garmoyle Road, Liverpool L15 3JH

- 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 Simon Lawrence (SGL Property) against Liverpool City Council.
 - The application Ref 22F/0005 is dated 5 January 2022.
 - The development proposed is the change of use from 6 bed HMO (C4) to 7 bed HMO (sui generis).
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Simon Lawrence (SGL Property) against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The application form was submitted in the name of Pamela Lawrence (Prosperity Law) while the appeal form was submitted in the name of Mr Simon Lawrence (SGL Property). It has been confirmed that the appellant is Mr Simon Lawrence (SGL Property).
4. I noted on my visit that the use of the property as a 7 bed house in multiple occupation (HMO) has begun. However, I have decided the appeal on the plans submitted with the application and the description of development provided.

Main Issues

5. The appeal was submitted due to the Council failing to make a decision within an agreed period of time. Based on the submitted policies, my site visit, and representations from the parties; I consider the main issues to be the effect of the proposed development on: (i) the housing mix of the area, including the living conditions of neighbouring occupiers with regard to noise and disturbance; and (ii) the living conditions of future occupiers, with regard to outlook and internal space provision.

Reasons

Housing mix

6. The appeal site comprises a two storey mid terrace property with converted roofspace in the residential Dales neighbourhood. Similar terraced properties line the street, being both multiple occupancy and single family dwellings.
7. It is clear that the property was, at one time, suitable for use as a family dwelling given its size, design, layout and location, and I note the conclusion of the 2017 appeal decision¹ that the property constituted a dwellinghouse. However, on the evidence before me the use of the property was subsequently changed to a small HMO under permitted development rights and a licence was obtained for occupation of the property by up to 6 people. This occurred prior to the introduction of the Article 4 direction in the area.
8. Notwithstanding the absence of a certificate of lawful development, there is no convincing evidence before me to persuade me that at the time the current application was made the appeal property was in use as a family dwelling. Accordingly, I have considered the appeal on the basis that its lawful use is currently a small HMO. As such, the proposal would not result in the loss of a family dwelling in the area, but relates to the change of use from a small HMO to a large HMO.
9. The Dales neighbourhood has been designated as having an over-concentration of HMOs. Policy H11 of the Liverpool Local Plan 2013 – 2022 (the LLP) states that in neighbourhoods with a HMO concentration equal to or exceeding 10% of all dwellings, applications for a change of use from a family dwelling to a HMO will not be supported. However, as I have concluded that the appeal property is already in lawful use as a small HMO, the proposal would not conflict with this aspect of Policy H11. Although it would allow for a minor increase in occupancy, the use of the site would continue as a HMO.
10. While the proposal would increase the number of comings and goings and associated activity when compared with the current lawful use, this increase would be limited. The lawful occupancy would be for only one additional person. While I acknowledge the comments of interested parties, this level of increase in activity, movements and associated noise would not be so great as to result in harmful impacts on the living conditions of surrounding residents. The property would continue to be occupied as a HMO, with the possibility of all occupants having separate daily routines, rather than changing from a family dwelling in which occupants are more likely to operate as a single unit.
11. Although concerns have been raised that the proposal would also result in pollution, litter and anti-social behaviour, I have no substantive or persuasive evidence before me that this would be the case.
12. For the reasons given the proposal would not result in a significant change to the balance or mix of housing in the area, or cause harm to the living conditions of neighbouring occupiers with regard to noise and disturbance. As such, there would be no conflict with the provisions of Policies H10 and H11 of the LLP insofar as they seek to avoid the loss of family dwellings and overconcentration of HMOs and to ensure adequate living conditions for surrounding occupiers.

¹ APP/Z4310/D/17/3175837

Living conditions – future occupiers

13. Notwithstanding my findings above, planning permission is required for the conversion of the existing small HMO to the proposed large HMO. On this basis, the provisions of Policy H10 of the LLP remain applicable to the proposal. This includes the requirement that in the case of conversions of existing dwellings and buildings, bedrooms are not to be solely lit by rooflights.
14. However, the front bedroom on the second floor of the property would be lit in this manner. I observed this room on my visit. While the rooflights provide adequate light to the room, due to their oblique angle and positioning on the sloped ceiling, I find that they afford users of that room a constrained and limited outlook. This would negatively affect the living conditions of potential future occupiers, particularly when using this space as a bedroom.
15. Policy H10 further states that internal space should take account of minimal room size, with supporting text setting out that communal lounge space should be provided at a size of 3sqm per occupant, being 21sqm for the proposal. The submitted plans show the proposed lounge would not meet this standard.
16. I observed this room on my visit. Even acknowledging that the lounge is combined with the kitchen in an open plan style that would exceed 21sqm, due to the placement of furniture and kitchen fixtures, the resulting useable floorspace and circulation areas are limited. The room appears cramped and contrived, and would fail to comfortably meet the day to day needs of seven individual occupiers.
17. For the reasons given the proposal would harm the living conditions of future occupiers, with regards to outlook and provision of internal space. As such, it would fail to comply with the provisions of Policy H10 insofar as they seek to ensure adequate living conditions for future occupiers.

Conclusion

18. For the reasons given, while I have found in favour of the appellant on the first main issue, this does not justify the harm identified on the second main issue. As such, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR