



Appeal Decision

Site visit made on 21 March 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2023

Appeal Ref: APP/Z4310/W/22/3309935

65 Alderson Road, Liverpool L15 2HL

- 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 Tom Mcconnon, Wavertree Student Homes Ltd, against Liverpool City Council.
 - The application Ref 22F/2299 is dated 22 August 2022.
 - The development proposed is change of use from C4 Use Class small HMO with 6 Occupiers to a Sui Generis HMO for 7 Occupiers.
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Decision

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

Preliminary Matters

2. The appeal is against the non-determination of a planning application. The Council's submission sets out that they would have refused the application for reasons relating to the character of the area, loss of a single family dwelling, living conditions of the properties' occupants and the amenity of nearby residents.

Main Issues

3. The main issues are:
 - Whether or not the proposed development would provide acceptable living conditions for future occupants, having regard to outlook;
 - The effect of the proposed development on the character of the area, having regard to the mix and balance of housing in the area;
 - Whether or not the proposed development would result in an unacceptable loss of a single family dwelling; and
 - The effect of the proposed development on the living conditions of nearby residents, having regard to noise and disturbance.

Reasons

4. A Lawful Development Certificate (LDC) was granted in February 2021, for the change of use from single dwelling (C3) to 6 bedroom HMO (C4) and erection of extensions and alterations¹. An Article 4 direction came into force on 17 June 2021 which removed permitted development rights for a conversion from a C3

¹ 20LP/3087

dwellinghouse to a C4 small HMO. An initial notice was submitted to the Council's Building Control 9 February 2021 for a conversion of the property to a 7 bedroom HMO and a HMO licence for 7 occupants was granted from 16 August 2021. The Council served an enforcement notice 23 November 2021 against an unlawful change of use to a HMO, this was subsequently subject to an appeal².

5. The Council believes that it is unlikely that a change of use to a small HMO took place by 17 June 2021, rather that the property was converted to provide a 7 bed HMO and has been occupied as a 7 bed HMO since completion of the conversion works in or around September 2021, and therefore the proposal is retrospective. They consider that the existing lawful use of No 65 is as a single-family dwelling.
6. The appellant sets out that the conversion works were completed in Spring 2021, with 6 tenants occupying the property from 15 of June 2021 (before the Article 4 direction came into force). In September 2021 the study was occupied as a bedroom by a 7th tenant, on a separate tenancy agreement. Since, 1 July 2022 the property has been occupied by 6 tenants. The LDC establishes the occupation of the property by 6 tenants and the completion of physical works, prior to the Article 4 Direction coming into effect.
7. No robust evidence has been presented to suggest that the change of use to a C4 small HMO did not take place prior to the Article 4 direction coming into force or to suggest that the appellant's timings of events are not accurate. Furthermore, it appears that the Council did not dispute the timings of events or challenge the evidence (including tenancy agreements) in relation to the enforcement appeal. For these reasons and having regard to the information before me, I consider that No 65 is a small HMO and I have considered the appeal on this basis.

Living conditions- future occupants

8. The proposal before me only seeks to facilitate the proposed change of use. No physical works are proposed. The proposed drawings show that the room labelled 'bedroom 6' would only be served by a pair of rooflights. Therefore, it would be contrary to Policy H10 of the Liverpool Local Plan 2013 – 2033 (2022) (LP). The appellant asserts that this bedroom is already occupied, and the appeal seeks permission for the use of the room labelled 'bedroom 7' for a seventh occupier. This room is not solely lit by rooflights.
9. There are not any clear differences between the existing and proposed floor plans of the second-floor plan. In addition, there is no clear evidence before me to demonstrate that the room labelled 'bedroom 7' is the additional bedroom. Thus, it is not unreasonable to consider the rooflights shown in the room labelled 'bedroom 6'.
10. On my site visit I observed that the rooflights were small. They appeared to be smaller than rooflights seen elsewhere within the street (including that of the neighbouring property, No 63).
11. Given that the bedroom would be part of a HMO, it is reasonable to assume that future occupiers would spend a reasonable amount of time within this room. It is therefore important to ensure that bedrooms have an adequate

² APP/Z4310/C/21/3289450

outlook. Taking into account my site visit observations, and size and positioning of the rooflights, the bedroom labelled 'bedroom 6' would have a poor outlook. The rooflights would not provide a meaningful outlook and would result in low quality accommodation.

12. I have considered the appeal decision highlighted³. It is not clear whether the size and positioning of the rooflights considered acceptable are identical to the scheme before me. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.
13. For these reasons, the proposed development would result in poor quality accommodation and would not provide acceptable living conditions for future occupants, having regard to outlook. Consequently, the proposed development, in this regard, would be contrary to Policy H10 of the LP which seeks to ensure satisfactory living conditions for future residents and ensure that bedrooms are not solely lit by rooflights. In relation to this main issue, it would also conflict with the Council's Conversion of Buildings into Flats and Bedsits: Supplementary Planning Guidance Note 7 (SPG7) which states that main bedrooms should not be lit solely by roof lights as they do not provide a satisfactory level of amenity. In addition, the proposal would not comply with paragraph 130 of the National Planning Policy Framework (the Framework) which states that developments should create places with a high standard of amenity for existing and future users.

Character, mix and balance

14. No 65 is an extended, two-storey mid-terrace property with accommodation within the roofspace. Policy H11 of the LP aims to ensure that there is balanced housing provision meeting the needs of families and households of varying sizes. It states that in designated neighbourhoods with a HMO concentration equal to or exceeding a threshold of 10% of all dwellings in the designated neighbourhood, further planning applications for a change of use from C3 to small (C4) or large HMO dwellings will not be supported.
15. The site falls within one of the designated areas, and the Council highlights that research conducted in 2016-17 found the level of HMOs in this area was 16%. They consider that the percentage is much higher today due to the continuing increase in the conversion of properties to HMOs in this area. Whilst that may be the case, there is no up-to-date evidence to support this claim.
16. Policy H11 refers to specifically the change of use from a C3 dwelling. Having regard to my findings above in relation to No 65 being a small HMO, although the proposal would increase the number of occupiers from 6 to 7, it would not result in the creation of an additional HMO or alter the balance or mix of housing in the area. The modest increase in occupiers would protect the residential character of the area.
17. For these reasons, the proposed development would not have an unacceptable effect on the character of the area, having regard to the mix and balance of housing in the area. Consequently, in this regard, it would comply with the overarching aims of Policies H7, H10 and H11 of the LP. These seek, amongst other matters, to ensure that the residential character of the area is protected within primary residential areas. In relation to this main issue, it would also

³ APP/Z4310/W/21/3289739

comply with SPG7 which states that buildings not considered appropriate for conversion are houses in an area of predominantly single family dwellings where there would be an adverse impact on the character.

Loss of family dwelling

18. No 65 is situated within an established residential area which is characterised by similar terrace properties. The area is home to a mixed community of families, young working households, retired residents, and students occupying the houses as single family dwellings and HMOs.
19. Policy H10 of the LP states that development will not be granted if, amongst other matters, it would cause the loss of a dwelling that is suitable in size, design, layout and location for continued use as a family dwelling. Given my findings above (that No 65 is a small HMO), the proposed development would not result in the loss of a single family dwelling. In this regard it would comply with Policy H10 of the LP.

Living conditions- nearby residents

20. No 65 is situated in an area characterised by densely developed terraced streets. Nearby residents and ward councillors state that there are student HMOs adjacent to No 65 and elsewhere on Alderson Road, and set out noise and disturbance issues relating to the property. In addition, they highlight the poor maintenance of the property and management of waste and increased pressure on parking has resulted in tension within the community. They assert that they have attempted to contact the landlord regarding antisocial behaviour of the building's tenants, but the appellant disputes this claim. The appellant also confirms that they live locally, contrary to the assertions in the objection comments.
21. The Council also highlight that No 65 is located in an area where there is a high number of existing HMOs which has resulted in ongoing problems, and noise nuisance. They consider that the cumulative impact of additional rooms to many properties in close proximity to one another should be regarded as significant.
22. Environmental Health have confirmed that they received a noise complaint about No 65 in September 2021. However, there is little information regarding this complaint. It has also been drawn to my attention that the Council has been sending specialist noise teams into the streets along Smithdown Road to speak to existing student households about noise levels and to attempt to ease community tension.
23. I do not doubt that there are issues within the local area, but, in this case, there is no clear evidence before me to demonstrate that the addition of one occupier would have an unacceptable impact on the living conditions of neighbouring residents, to justify withholding planning permission. The proposed, modest uplift in occupation would not significantly increase comings and goings, noise, disturbance, or waste generation. Furthermore, I cannot assume that all potential occupants would behave in an anti-social manner. There is also no robust evidence before me to demonstrate that the development would cumulatively lead to an unacceptable increase in noise and disturbance compared with the existing use of the property. Accordingly, the

proposed development would not inherently cause undue noise and disturbance.

24. In terms of parking pressure, I observed on my site visit that vehicles park on either side of Alderson Road and some vehicles parked on the pavement. At the time of my site visit, I noted that there were numerous available parking spaces. However, I recognise that this was only a snapshot in time and there may well be other times where parking is more difficult, as suggested by local residents.
25. Highways did not object to the proposed development. I see no reason to disagree with their comments which set out that the appeal site is within walking distance of amenities and public transport, HMO tenants tend to have a low rate of car ownership and tend to rely on sustainable modes of transport. Moreover, if required, then Alderson Road offers unrestricted on-street car parking sufficient to accommodate the unlikely car parking demand. Consequently, based on the information presented and proposed modest increase in occupiers, the proposal would not notably increase pressure on parking within the locality.
26. For these reasons, the proposed development would not have an unacceptable effect on the living conditions of nearby residents, having regard to noise and disturbance. Consequently, in this regard, it would comply with the overarching aims of Policies H7, H10 and H11 of the LP. These seek, amongst other matters, to ensure that there would be no adverse impact on the amenity of neighbouring properties in particular through increased activity, noise or disturbance. In relation to this main issue, it would also comply with SPG7 which states that buildings not considered appropriate for conversion are houses in an area of predominantly single family dwellings where there would be an adverse impact on the amenity of neighbouring properties.

Other Matters

27. I acknowledge the benefits of the scheme, including that HMOs provide affordable accommodation and the appeal site is within walking distance of shops, facilities and public transport. Nonetheless, the benefits would be extremely limited as the proposal would only result in one additional occupier.

Conclusion

28. As set out above, the proposed development would not have an unacceptable effect on the character of the area (having regard to the mix and balance of housing in the area), would not result in the loss of a single family dwelling and would not have an unacceptable effect on the living conditions of nearby residents (having regard to noise and disturbance). However, the proposed development would result in poor quality accommodation and would not provide acceptable living conditions for future occupants, to which I attach significant weight. The benefits associated with the proposed development, and the other matters raised, would not justify or outweigh the harm identified.
29. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR