



Appeal Decision

Site visit made on 5 April 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 7 June 2023

Appeal Ref: APP/Z4310/W/22/3311110

37 Ullet Road, Greenbank, Liverpool L17 3AS

- 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 A&I Property Ltd against the decision of Liverpool City Council.
 - The application Ref 22F/1115, dated 14 April 2022, was refused by notice dated 3 November 2022.
 - The development proposed is the conversion of existing nursing home into 5no. hmo units and all associated works at 37 Ullet Road/2 Sydenham Avenue.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing nursing home into 5no. HMO units and all associated works at 37 Ullet Road and 2 Sydenham Avenue, Greenbank, Liverpool L17 3AS in accordance with the terms of the application, Ref 22F/1115, dated 14 April 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 22.006 - 001
 - 22.006 - 002 rev. a
 - 22.006 - 003
 - 22.006 - 004
 - 22.006 - 005
 - 22.006 - 006
 - Window details (refs. C1-001 (A4) and C2-002 (A4))
 - 3) Prior to the occupation of the development, details of the cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be constructed and available to use prior to the occupation of the development and shall be retained thereafter.
 - 4) Prior to the occupation of the development, details of the external storage spaces and collection point for refuse bins shall be submitted to and approved in writing by the Local Planning Authority. The external refuse storage spaces shall be constructed prior to the occupation of the development and thereafter they shall not be used for any purpose, other than the storage of refuse bins, and shall be maintained as such.
 - 5) The number of persons in residence at the combined HMO premises shall not exceed 31 at any one time.

Preliminary Matters

2. The address in the banner heading is taken from the application form. However, the site would be more accurately described as 37 Ullet Road and 2 Sydenham Avenue. This is the wording used on the decision notice and the one I have used in my formal decision.

Main Issue

3. The main issue in this appeal is the effect of the proposed house in multiple occupation (HMO) units on the living conditions of the occupiers of 4 Sydenham Avenue and 39 Ullet Road, with respect to noise and disturbance.

Reasons

4. The appeal site lies at the corner of two streets and includes two vacant properties which were formerly used as a nursing home. They are connected by a link extension. Both are semi-detached properties, with the adjoining dwellings of 39 Ullet Road and 4 Sydenham Avenue in separate private occupation.
5. The site spans the boundary of two conservation areas, the Sefton Park Conservation Area and the Toxteth Park and the Avenues Conservation Area. These areas are characterised by late Victorian and early Edwardian housing, with some of the larger properties having been subdivided into flats.
6. The proposal seeks planning permission for the change of use of the vacant buildings to 5 no. HMOs in Planning Use Classes C4 and Sui Generis. These units would provide a total of 31 en-suite bedrooms.
7. Policy H10 of the Liverpool Local Plan 2013-2033 (LP) permits the conversion of existing buildings into houses in multiple occupation subject to compliance with certain criteria. Part 2b) of the policy stipulates that there should be no adverse impact on the amenity of neighbouring properties and the character of the surrounding area, in particular through increased activity, noise, or disturbance. The Council's concerns in this case are focused on the effect of the proposed development on living conditions of neighbours and not the character of the area.
8. There is limited evidence before me on the frequency of comings and goings associated with the former use as a nursing home. However, with 23 bedrooms and 22 staff, the likelihood is that there will have been a significant number of movements by staff and visitors, including medical professionals, other support services and family members.
9. The appellant acknowledges that the proposed change of use would result in increased comings and goings. However, these need to be offset against the movements which were required to support the nursing home use. Whilst I do not have the data for comparison, it is unlikely that the difference in movements would be significant. If anything, I consider that the movements would be more dispersed across the course of the day as they would not be associated with staff shift patterns.
10. The officer report states that car ownership is lower amongst residents of HMOs. Movements on foot and by bicycle generate less noise and disturbance for neighbours and they are likely to be insignificant against the dominant

noise source, which is the sound of vehicles on Ullet Road, a well trafficked highway and bus route.

11. The HMOs would be accessed via four separate entrances. Three of these would be the existing entrances to the nursing home. The fourth would be a minor relocation of an existing door on the corner furthest away from the two neighbouring properties. Most residents would use the entrances in the middle of the building, away from adjoining properties. The two entrances nearest 39 Ullet Road and 4 Sydenham Avenue are set off the boundary and dense, mature vegetation provides some separation from these neighbours.
12. Without evidence on the previous use of the rear garden it is difficult to assess the effect of the proposed development on its use. Notwithstanding it would be reasonable to conclude that there would be an increase in the use of the rear garden given the increase in rooms within the HMO units compared to the nursing home. Even if the proposed development led to an increased use of the rear garden, given the size of the garden and the presence of more dominant noise sources, I do not consider that the neighbouring residents would be subject to unacceptable levels of noise or disturbance.
13. Third parties have raised concerns over the potential for nuisance from student occupiers. I have seen no information to indicate that this would be a development for student occupation, but even if it were, I do not consider that the occupation of the accommodation by students would have a materially different effect than other residents.
14. Overall, I conclude that the proposal would not have a materially harmful effect on the living conditions of the occupants of 4 Sydenham Avenue and 39 Ullet Road. The scheme would therefore comply with Policy H10 of the LP.

Other Matters

15. The proposal would include the provision of new lightwells, relocation of a window opening at lower ground floor level and the installation of UPVC windows at basement level. However, the extent of the physical works would be minor. Whilst the Council normally has a presumption against UPVC windows in conservation areas, the visual impact of these, given their discreet location, would be limited. Overall, the character and appearance of both conservation areas would be preserved.
16. Policy H11 of the LP seeks to ensure that there is a balanced housing provision which meets the needs of families and households of varying sizes. It seeks to resist changes of use to HMOs where the concentration of such uses is equal to, or exceeds, a threshold of 10% of all dwellings in the designated neighbourhood. Below that threshold, applications will be considered against the criteria in LP Policy H10 paragraph 2.
17. The appeal site is located within Area D (Sefton Park North). Interested parties allege that the 10% threshold has been exceeded, but there is no substantive evidence to support this contention. The officer report indicates that the area has an HMO concentration of 8.5%. As such, the proposal falls to be considered against LP Policy H10. In my judgement, the proposal complies with this policy, and it would not have an adverse impact on the balance of housing provision or result in unacceptable levels of anti-social behaviour. Whilst I cannot rule out

the existence of unlicensed HMOs in the neighbourhood, there is no firm evidence to suggest that the HMO policy threshold has been exceeded.

18. There is existing on-street parking on Sydenham Avenue and neighbouring roads. The proposed development may lead to some additional parking on the highway, but this is unlikely to be significant compared to that generated by the lawful use as a nursing home. I am mindful that HMO residents have a low rate of car ownership, and that the site is in a highly accessible location close to cycle routes and public transport connections. Although third parties question the quality of cycle infrastructure, my observation was that it is relatively good. Future residents of the development would have good opportunities to use sustainable transport modes, and this would suppress car ownership and limit pressure on kerbside parking. Overall, I am not persuaded that the proposal would have an adverse impact on highway safety.
19. Nevertheless, I note residents' concerns that the proposal would affect the ability to park near their homes. This is particularly relevant to residents, where the protected characteristics of age and disability are engaged. I have had due regard to the Public Sector Equality Duty, but do not consider that the parking impacts would be so significant as to justify the dismissal of this appeal. The Highway Authority does not object to the development and based on the information presented I have no reason to take a different view.
20. The proposed development would include appropriate refuse collection facilities of a sufficient size for the number of residents. These facilities would allow residents to dispose of their waste and recycling in an appropriate manner and should not lead to littering, fly-tipping or issues with pests or vermin.
21. As the appeal site is located within two conservation areas, trees cannot be removed without consent. All existing trees would be retained as part of this proposal. Also, the proposed development does not include any works to the hardstanding and details of the cycle storage and refuse store are to be agreed in writing. As such, there is sufficient protection in place to ensure the root protection areas of nearby trees are unaffected.
22. Although the construction of five HMOs would increase the local population, there is no substantive evidence to indicate that local resources, such as doctors, dentists, water and waste storage, would not have capacity to accommodate the new residents.
23. Whilst alternative uses for the site, including affordable family homes, have been put to me, my assessment is based on the acceptability of the appeal proposal only.

Conditions

24. The Council has indicated the conditions that it considers would be appropriate. I have considered these in light of the tests set out in the Planning Practice Guidance and paragraph 56 of the National Planning Policy Framework.
25. Conditions specifying the time limit for commencement and the approved plans are necessary as this provides certainty. Conditions requiring details of the cycle and refuse storage are necessary in order to ensure there is appropriate provision of these facilities and they are located or constructed to prevent damage to trees. A condition specifying the maximum occupancy of the

proposed development is necessary in order to control the number of movements associated with the proposed development.

26. A condition requiring waste and recycling to be kept on site except for on refuse collection days fails the test of necessity. Similarly, conditions relating to external lighting and works to external surfaces are not necessary to make the development acceptable.

Conclusion

27. The proposed development complies with the development plan when considered as a whole and there are no material considerations, either individually or in combination, which outweigh this.
28. Therefore, for the reasons given above I conclude that the appeal is allowed, and planning permission is granted.

J Hobbs

INSPECTOR