



Appeal Decision

Site visit made on 20 April 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th June 2023

Appeal Ref: APP/Z4310/W/22/3310240

13 Ivanhoe Road, Aigburth, Liverpool L17 8XE

- 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 Mr Haleam Muhashash against the decision of Liverpool City Council.
 - The application Ref 22F/0968, dated 1 April 2022, was refused by notice dated 2 September 2022.
 - The development proposed is described as 'Change of use from dwellinghouse to 8 bedroom HMO. The house already has a HMO License in place'.
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Decision

1. The appeal is allowed and planning permission is granted for Change of use from dwellinghouse to 8 bedroom HMO at 13 Ivanhoe Road, Liverpool L17 8XE in accordance with the terms of the application, Ref 22F/0968, dated 30 May 2022, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The use has commenced. Nevertheless, I have based my decision on the plans before me.

Main Issues

3. The main issues in this appeal are:
 - the effect of the development upon the availability of family homes,
 - whether the development would provide satisfactory living conditions for the future occupiers, as well as neighbouring occupiers, and
 - the effect of the development upon the character and appearance of the area, which includes the Lark Lane Conservation Area (LLCA).

Reasons

Availability of family homes

4. Policy H10 of the Liverpool Local Plan 2013 – 2033 (LP), Adopted January 2022, sets out that when considering the subdivision of dwellings to houses in multiple occupation (HMO), planning permission will be granted subject to meeting a number of criteria, including (n) the development would not cause the loss of a dwelling that is suitable in size, design, layout and location for continued use as a family dwelling.

5. The property is presently in use as an HMO for up to eight people and I noted at my site visit that a large number of other properties along Ivanhoe Road were similarly sub-divided. I am provided with the references for HMO licences dating from 2015. Prior to this, the appellant states that the house was subdivided and used as four flats, with Council Tax paid for four properties, each with a Unique Property Reference Number (UPRN). Whilst this information has not been disputed by the Council, there is no lawful development certificate before me confirming that this property is no longer a single dwelling.
6. As such, whilst the appeal property is not presently in use as a family home and has not been used as such for some time, there would nevertheless be some conflict with LP Policy H10 (n). However, LP Policy H10 and the Council's Supplementary Planning Guidance Note 7 (Conversion of Buildings into Flats and Bedsits), (SPG) recognise the significant contribution that conversion and sub-division of existing dwellings can make to providing a mix of housing to meet the needs of different groups in the community, that is affordable. The development would comply with these overall policy objectives.

Living conditions

7. The main parties are in dispute as to the living conditions afforded to future occupiers of Bedroom 8, which is served only by a rooflight. The Council has not raised any other concerns with the internal arrangements for this HMO. Having considered the plans and viewed the property internally, I have no reason to disagree.
8. Both LP Policy H10 (i) and Paragraph 17 the SPG, state that living rooms, kitchens and main bedrooms should not be lit solely by rooflights as they do not provide a satisfactory level of amenity. As such, there would be some further conflict with this policy. However, from what I observed on my site visit, the rooflight serving Bedroom 8 is large and allows a good level of natural light to penetrate into the room, sufficient to undertake general domestic activities. Further, the rooflight is low down on the roof slope and provides some degree of outlook over the rooftops. Having considered the circumstances of this case therefore, Bedroom 8 provides satisfactory living conditions for future occupiers.
9. The Council's second reason for refusal also expresses some concern as to the location of the external bin store and the impact of this on the living conditions of those occupying the appeal property.
10. The plans indicate that refuse bins would be stored to the front of the property, adjacent to the pedestrian entrance from Ivanhoe Road. However, I noted at my site visit that they had been moved to the rear of the property, alongside a high boundary wall, which backs onto a Food and Wine Bar on Lark Lane. This area is near to a vehicular access off Waverley Road.
11. The curtilage of the property is generously sized and the location of the bin storage area as shown on the plans would be sufficiently distanced from the windows and doors of the host property to ensure that there would be no material harm to occupiers of the host property.
12. The Council's second reason for refusal also expresses concern as to the location of the external bin store and the impact of this on the amenities of those occupying neighbouring properties. As I have concluded above, they

would be positioned a sufficient distance from neighbouring properties, so as to ensure no adverse impact on the outlook of occupiers of nearby properties.

13. As such, the proposal would not result in harm to the living conditions of occupiers of the host property or any neighbouring property. Whilst there is some conflict with criteria (i) of LP Policy H10, the proposal complies with this policy when read as a whole, as well as the Council's SPD, insofar as they collectively seek to ensure that the sub-division of dwellings provides a satisfactory level of amenity for future occupiers. The proposal complies with LP Policy H7, which amongst other matters, requires that new housing development protects the living conditions of existing residents.
14. Further, it would meet the requirements of the National Planning Policy Framework (NPPF) in terms of achieving a high standard of amenity for existing and future users.

Character and appearance

15. The site lies within the LLCA. Ivanhoe Road is a predominantly residential area, consisting of large Victorian villa type properties of a similar scale and design. Mature trees to the front of these properties, give the area a leafy, verdant character. Brick walls of varying height provide most frontage treatments. The tree cover and quality of the architectural style and detailing of these properties, contribute positively to the significance of the LLCA. The built form provides historic value in understanding the growth and prosperity of the city, particularly in the nineteenth century. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area, as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
16. As noted above, a number of these properties have been sub-divided, and bin storage to either the front or side of the individual properties was not uncommon. The degree to which these bins are screened by either vegetation or boundary walls, varies from plot to plot.
17. Bin storage to the frontage, as shown on the proposed plans would be partially screened from the southwest by existing fencing. It would be more visible when approaching from the northeast, because the boundary wall is lower in height. However, given the presence of bin storage in the surrounding area, along with the partial screening provided by fencing, bin storage at this location would not appear unduly prominent, unsightly, or at odds with the character of the area. There would be some conflict with criteria (f) of LP Policy H10, which seeks to locate bin storage within the rear amenity space, where it would not be visible from the public realm. However, in these circumstances, I do not consider that bin storage as shown on the plans would be harmful to the character and appearance of the area.
18. As noted above, at the time of my site visit, bin storage had been re-located to the rear of the property. Here, the boundary walls are high. Other than glimpsed views when passing the vehicular access point, these walls provide a good level of screening of the refuse bins from the wider area. As such, this alternative position would not detract visually from the character and appearance of the area.

19. To conclude on this main issue, the location for the storage of bins as shown on the submitted plans would not harm the character and appearance of the area. The development would have a neutral effect on the significance of the LLCA, thereby preserving the heritage asset. Whilst there would be some conflict with LP Policy HD10 as set out above, the proposal would comply with LP Policy HD1 which requires proposals to preserve or enhance the historic environment and the significance of heritage assets. The requirements of Paragraph 189 of the NPPF would be met in terms of conserving heritage assets in a manner appropriate to their significance.

Conditions

20. I have imposed a condition specifying the approved plans as this provides certainty as to the layout of the HMO. I have also imposed a condition to limit the number of residents to 8 to regulate the living conditions of future occupiers, and the overall effect of the development on the locality.
21. I do not consider it necessary to impose a condition to secure any further details relating to bin storage as the location as shown on the plans hereby approved is adequate.
22. LP Policy TP5 requires that new development provides secure cycle parking facilities. Whilst the plans indicate an area for cycle parking, the mechanism to secure these facilities is not provided. Given the location within the LLCA, these details require approval by the Council. Therefore, condition 3 is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matter before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

Conclusion

23. For the reasons outlined above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

S Brook

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan No TQRQM22131201947860, Site Plan No TQRQM22131202622724, Site Plan with Bin and Cycle Storage demarcated No TQRQM22131202622724, Floor Plans.
- 2) The number of persons residing at the premises shall not exceed 8 at any one time.
- 3) Unless within 3 months of the date of this decision a scheme for secure cycle parking facilities is submitted in writing to the local planning

authority for approval, including a timescale for its implementation, and unless the approved scheme is implemented in accordance with the approved timescales, the occupation of the site as a House in Multiple Occupation for up to 8 people shall cease until such time as a scheme is approved and implemented. If no scheme in accordance with this condition is approved within 6 months of the date of this decision, occupation of the site as a House in Multiple Occupation for up to 8 people shall cease until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.