



Appeal Decision

Site visit made on 13 June 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Appeal Ref: APP/Z4310/W/23/3315086

184 Molyneux Road, Kensington, Liverpool L6 6AW

- 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 Sam Huglin of INM & MZH Properties Ltd against the decision of Liverpool City Council.
 - The application Ref 22F/0928, dated 24 March 2022, was refused by notice dated 21 December 2022.
 - The development proposed is change use of ground floor from shop to residential, roof extension to existing roof for loft conversion, conversion of existing dwelling into a 7 no bed HMO.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of ground floor from shop and upper floor flat into 7 bed House in Multiple Occupation (HMO) and erect roof extension to existing roof for loft conversion in connection with HMO use and install rooflights to the front at 184 Molyneux Road, Kensington, Liverpool L6 6AW in accordance with the terms of the application, Ref 22F/0928, dated 24 March 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: 1173-02-01-001; 1173-02-02-002 Rev A; 1173-02-03-002 Rev D; 1173-02-03-003 Rev A; 1173-02-02-004 Rev A; and 1173-02-05-002 Rev A.
 - 3) The external finishes of the development hereby permitted shall match in materials, colour, style, bonding and texture those of the existing building.
 - 4) No part of the development shall be occupied or brought into use until the area indicated on the submitted plans to be set aside for 7 cycle parking spaces has been provided as shown in drawing number 1173-02-03-002 Rev C. The cycle parking shall be retained as such thereafter.
 - 5) The number of persons in residence at the premises shall not exceed 7 at any one time.

Preliminary Matters

1. I have amended the description of the development, in the decision above, to that given on the Council's decision notice as it is a clearer, less ambiguous

description, however I have included the reference to HMO (house in multiple occupation) in full for the avoidance of doubt.

2. The proposal includes a roof extension and the installation of rooflights. The Council have raised no objections to these elements and based upon the information provided and my observations on site, I have no reason to disagree.

Main Issues

3. The main issues are the effect of the proposed development on the character of the area, with regard to the balance and mix of housing, and the living conditions of the occupiers of nearby properties with regards to noise and disturbance.

Reasons

4. The site consists of a two-storey end of terrace property in a densely developed primarily residential area at the corner of Molyneux Road and Esher Road. The ground floor, which is accessed off Molyneux Road, was last in use as a hairdressing salon. At first floor is a two-bedroom flat which is accessed off Esher Road. Molyneux Road is a busy road that includes some commercial uses. Esher Road, however, is a quieter residential road.
5. The Council recognises that HMOs are an essential part of Liverpool's housing stock to meet a diverse range of housing needs, but that poor quality developments and cumulative impact of excessive concentrations of specific groups can harm the character and amenity of the wider neighbourhood. Policy H11 of the Liverpool Local Plan 2013-2033 (LLP) which states that in designated neighbourhoods with an HMO concentration equal or exceeding a threshold of 10% of all dwellings, a change of use from a C3 use to an HMO will not be supported.
6. I note that the site is within a ward which has been identified as having the greatest concentration of HMOs, and that the number of HMO's on Esher Road equates to around 33%. However, Policy H11 does not require that such an assessment is made at a street or ward level. The parties agree that the site lies within the designated area F, Prescott Road/Shield Road/Boaler Street/Coleridge Street, and that the proposal would not result in the number of HMOs in this area equalling or exceeding 10%. Consequently, a conflict with LLP Policy H11 due to an excessive concentration of HMOs would not arise.
7. HMOs are usually occupied by unrelated adults leading independent lives and undertaking separate activities. In comparison with the use of the premises as a hairdressing salon at ground floor, where activity would largely be during the day, and the two-bedroom flat above, the proposed use would result in an increase in footfall and on balance would generate more noise. However, in the context of the commercial uses and other HMOs in the area, I do not consider that any intensification of use and increase in comings and goings as a result of the appeal proposal is likely to be materially harmful to the living conditions of the occupiers of the nearby premises. In reaching this conclusion I note that the Council's environmental health department have raised no objections to the proposed use.

8. Overall, I consider that the level of noise and disturbance arising from the proposal would not be at an intensity that would materially reduce the living conditions of neighbours.
9. The appeal plans identify an area that would provide adequate storage for waste and recycling receptacles. Moreover, there is no substantive evidence before me which would suggest that the proposed use would place an unacceptable burden on Council services, such as rubbish collection or street cleaning, that would justify withholding planning permission.
10. I recognise that the occupation of HMOs can lead to increased incidents of anti-social behaviour due, in part, to the more transient nature of their occupancy. Nonetheless, there is no substantive evidence before me to indicate that an increase in the number of HMO's within the area will result in an increase in the criminal or antisocial behaviour referred to by the Ward Members or the MP.
11. As such, I conclude that the development would not have a harmful effect on the character of the area, and occupiers of nearby properties would have satisfactory living conditions regarding noise and disturbance. Accordingly, the proposal would accord with LLP Policy H7 and H10 which seek to ensure no adverse impact on residential amenity or the character of the area, and the relevant provisions of the National Planning Policy Framework.

Other considerations

12. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010 (the Act). Given the current occupier of the flat is disabled, they have a protected character for the purposes of the PSED. Article 8 of the HRA requires that decisions ensure respect for private and family life and the home. In reaching my decision, I have kept these interests at the forefront of my mind. However, these are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
13. The consequence of allowing the appeal would be that the person presently residing in the appeal property would, very likely, be required to vacate the accommodation. This would represent an interference with their home and weighs against a grant of planning permission. However, there is no indication that the occupant would not be given a reasonable notice period to find an alternative home. Moreover, there is no indication that the person would be made homeless after the notice period has expired or that a suitable home could not be found where appropriate support would be available.
14. Having regard to the legitimate and well-established planning policy aims of boosting housing stock and meeting a diverse range of housing needs which the proposed 7 bedroom HMO would assist in achieving, a granting of planning permission would be proportionate and necessary. It would not unacceptably violate the occupant's rights under Article 1 and 8. The protection of the public interest in providing for housing needs cannot be achieved by means that are less interfering of their rights.

Other Matters

15. My attention has been drawn to an Article (4) Direction which has the effect of requiring planning permission to be obtained for a change of use between a C3 and C4 HMO. Consequently, planning permission is required for such proposals,

allowing the Council greater control over the density of such uses. The Article 4 Direction does not, however, prohibit the grant of planning permission for development that accords with the development plan.

16. Representations have been received suggesting that if the hairdressing salon is no longer commercially viable, a conversion to a family dwelling would be acceptable. However, the role of the Inspector does not require that consideration is given to whether alternative proposals would be preferable. It is to consider the planning merits of the appeal proposal which, for the reasons set out above, I find to be acceptable.
17. The site has local amenities nearby and has good access to bus services. I also note that the proposal includes secured, weatherproof storage for 7 bicycles. This suggests that the occupants of the proposed HMO would not necessarily be reliant upon the private car, having access to alternative modes of transport. Furthermore, on my site visit, which I acknowledge is a snapshot in time, I noted that whilst there appeared to be some on-street parking pressure in the area there was parking capacity on Molyneux Road and Esher Road. Therefore, I do not consider that the proposal will be detrimental to highway safety or result in antisocial parking.

Conditions

18. In addition to the standard time limit condition limiting the lifespan of the planning permission I have also, in the interests of certainty, attached a condition specifying that the development is carried out in accordance with approved plans.
19. I have considered it necessary to attach a condition relating to the materials to be employed in the construction of the extension to ensure the satisfactory appearance of the proposed development.
20. A condition securing the provision of bicycle storage is required in order to provide adequate facilities and reduce reliance on private car transport. In addition, it is necessary to limit the number of residents to 7 to prevent any adverse impact on the living conditions of neighbours.
21. The Council has set out, within the list of recommended conditions, a number of informatives. Such informatives would have no legal effect, and I have not, therefore, included them in the decision. However, the appellant has had sight of the Council's statement of case and should, therefore, be aware of the contents of them.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

Elaine Moulton

INSPECTOR