



Appeal Decision

Site visit made on 11 May 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Appeal Ref: APP/Z4310/W/22/3312784

328 Upper Parliament Street, Liverpool L8 7QL

- 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 Wakmoor (Assets) Limited against the decision of Liverpool City Council.
 - The application Ref 22F/0797, dated 21 March 2022, was refused by notice dated 9 November 2022.
 - The development proposed is an 8 Bed HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is described on the application form as an 8 Bed HMO. To clarify, the property comprises a ground floor take-away with residential accommodation above and the proposal is to change the use of the whole property to an 8 bedroom House in Multiple Occupation (HMO). It also includes altering the ground floor front elevation with a new window and door.

Main Issues

3. The main issues are the effect of the proposal on: -
 - the character of appearance of the building and the surrounding area in terms of the alterations to the front elevation; and
 - the living conditions of future occupiers of the HMO by reason of the standard of accommodation.

Reasons

Character and Appearance

4. The appeal site is located within a crescent of three-storey terraced properties with a variety of commercial uses on the ground floor and a mix of uses including residential on the upper floors. The crescent is located on a busy main road and close to a junction with Upper Parliament Street, Smithdown Road, Tunnel Road and Lodge Lane. The commercial uses mainly include shop front windows to their front elevation although at the time of my site visit some were concealed behind roller shutters, including the appeal site.
5. There is a general uniformity in the size of the existing shop windows in the part of the crescent closest to the appeal site although No 328's window is a

little larger than the neighbouring one. The proposal would remove the shop front and replace it with a single window and a new entrance door. The window would be similar in proportions to the upper floor windows but more domestic in appearance than the commercial windows. It would represent a break in an otherwise harmonious row of shop fronts and appear out of character with the appearance of the crescent. Whilst this proposal would alter just one property, the crescent as a whole is a striking feature in the area on this busy junction and so the proposed alterations would have a harmful effect on the character of this area as a whole.

6. For these reasons, the proposed alterations to the frontage would be harmful to the character and appearance of the building and the surrounding area contrary to Local Plan¹ policies H7, H10 and UD7 which, amongst other things, seek to protect the character of an area.

Living Conditions

7. The building comprises three floors and has a single storey flat roofed extension to the rear. It includes a basement and space in the roof would be incorporated into the proposed development. The proposal would result in the whole building being an 8 bedroom HMO. The reasons for refusal identify specific elements of this, in particular with regard to the living room; the kitchen/dining area; bedroom 8; bedroom 2; and waste and bicycle storage. I consider each in turn as follows.
8. The Council consider that the size of the lounge would be too small for use as communal space for the 8 people that could be accommodated in the building. I note that there would be a kitchen as well which has a small area for dining. The combined space of these two rooms would not be insubstantial and would provide a reasonable amount of space for future occupiers.
9. However, the kitchen/dining area would be at basement level with only minimal natural light. Whilst it would add to the communal space in terms of floorspace, it would be a fairly gloomy room to spend any time in. I note the reference as to whether or not the kitchen would be classed as a habitable room in terms of its requirement for natural light. However, taking into account that it includes a small dining area and that the appellant includes it in the calculation for communal space, it is reasonable to expect it to provide a reasonable standard of living space that included natural light. I have found that whilst the lounge and the kitchen would together provide communal space which would be adequate in terms of floorspace, it would be of limited use as the kitchen would be at basement level with minimal natural light.
10. Bedroom 8 would be in the roofspace and have two rooflights. Whilst this would limit the outlook that future occupiers of this room may have, it would allow natural light and ventilation. I also note that this room arrangement is similar to that approved under a separate planning permission². As bedroom 8 would be similar to that approved under an earlier planning permission, I see no reason why it would not be acceptable now, notwithstanding that the permission was before the adoption of the Local Plan.

¹ Liverpool City Council – Liverpool Local Plan 2013-2023, Adopted January 2022.

² Planning Application Ref: 20F/1087 – change of use from an A5 take-away to A1 retail on ground floor with a 6 bed HMO above along with alterations to shop front and rooflights to front – Approved with conditions 3 July 2020.

11. Bedroom 2 would be located towards the rear of the house but with the existing single storey extension beyond that. This would provide the lounge and a staircase to the first floor. Bedroom 2 would, therefore, only be served with a high level window above the flat roofed lounge which would be partly under an external section of a staircase onto the flat roof of the extension. This would provide minimal natural light and outlook. The standard of accommodation in this room would be poor.
12. I note that the appellant states that alterations to the plans could be made to relocate the window and/or have a window either side of the staircase. No plan has been submitted to illustrate how this would be achieved but given the constraints of the room in terms of its size and location within the building, I cannot see that the living conditions of the occupier of this room would be much better. In any event, I do not have any alternative plans before me and so have based my decision on the scheme submitted. I consider that bedroom 2 would be of a poor standard in terms of its very limited window opening and subsequent outlook and natural light.
13. No details have been submitted as to where waste bins could be stored. The appellant indicates that these could be stored at the rear of the property. However, there seems to be little, if any external space within the application site for bins, although there is an area of land to the rear of the crescent which is used by other properties for wheelie bins. This area is unsightly and any bins stored here in relation to the appeal site would potentially be very close to the lounge window. This would present a poor outlook from this room which, as I have referred to above, is smaller than the Council's standard requires. Notwithstanding this, there is no evidence to indicate that the appellant has any rights to store bins here. I am concerned that there would be a lack of storage space for waste bins and I am not satisfied that this could be overcome by a condition.
14. Furthermore, there is no space shown for bicycle storage. Whilst the Council has not been clear why bicycle storage is specifically required, it has indicated that three spaces would be required. I do not find this requirement unreasonable. Although the appellant suggests that a storage area at basement level could be used for bicycles, I am unclear as to how bicycles could be stored in this area and manoeuvre in and out of the property. Accordingly, having regard to the evidence before me, I am not satisfied that the scheme would provide acceptable bicycle storage for the future occupiers.
15. Taking all these elements together, the site is unsuitable for the number of bedrooms proposed for an HMO, contrary to Local Plan Policies H7 and H10. In particular, Policy H7 indicates that proposals for change of use will be granted provided there is no adverse impact on residential amenity, amongst other things.
16. Policy H10 sets out criteria for the conversion of buildings into HMO's. Of particular relevance to this proposal is that the premises should be suitable for conversion in terms of the provision of amenities and size for the number of households to be accommodated; the configuration of internal space should be satisfactory in terms of minimum room size³, light and ventilation; bedrooms

³ The explanation to Policy H10 indicates that to support the communal nature of HMO occupation, a dedicated communal lounge area is required with a minimum size of 12 square metres per of useable floorspace, equating

should not be solely lit by rooflights; and bin storage should be provided externally within the curtilage of the site. Advice is provided for the conversion of buildings to flats and bedsits in the Council's SPG⁴. Also, the Council refer to its Guidance on Standards and Management of Housing in Multiple Occupation but a copy of this document has not been submitted.

17. For the reasons set out above, I have found that the living conditions that would be provided in bedroom 8 acceptable. However, I cannot reach a similar conclusion with regard to bedroom 2, the communal space or bin and cycle storage. Taking all these matters into account, I conclude that the living conditions of future occupiers of the proposed HMO would be below a standard that could reasonably be expected and a harmful living environment would be created.

Other Matters

18. The appellant states that the property has been vacant for almost four years and there is no reasonable prospect of the commercial unit being occupied. The utilisation of the building as a HMO would therefore make maximum use of the building.
19. A statement from a retail property consultant has been submitted and states that the viability of the retail unit is severely limited by its size and there is limited demand from retailers for such units. It states that a marketing board was erected in January 2022 which had not generated any interest⁵. It further states that such units would usually appeal to business such as newsagents or barbers shops but these already exist in the block. Furthermore, the effects of Covid 19 on the retail market and the general change in shopping habits has led to an increased number of voids in the retail sector.
20. I do not doubt that there may have been difficulty in finding commercial users to take up this property. However, whilst some of the properties in the terrace had roller shutters over their windows, the crescent as a whole does not appear to have a high vacancy rate. In any event, the harms that I have found do not preclude the use of the property as a HMO as I have set out, it is the alteration to the frontage and the internal configuration that would be harmful. This matter therefore carries little weight and does not overcome the harm I have identified.

Conclusion

21. The proposal would harm the character and appearance of the building and the surrounding area and create poor living conditions for future occupiers of the HMO, contrary to Local Plan policies H7, H10 and UD7.
22. For the reasons given above I conclude that the appeal should be dismissed.

J D Clark
INSPECTOR

to 3 square metres per person (assuming a 4 person HMO). An 8 person HMO would therefore require 24 square metres, the proposed lounge would be about 19 square metres. The kitchen would be just under 13 square metres. Combined these would be 32 square metres (I have rounded up the figures given by the appellant and the Council).

⁴ Liverpool Unitary Development Plan – Supplementary Planning Guidance Note 7 – Conversion of Buildings into Flats and Bedsits, 2001.

⁵ Letter from Barker Proadlove retail property consultants, dated 7 march 2022.