



Appeal Decision

Site visit made on 20 June 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 22 August 2023

Appeal Ref: APP/Z4310/W/22/3310946

23 Garmoyle Road, Liverpool L15 3HN

- 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 B Hart against the decision of Liverpool City Council.
 - The application Ref 19F/3200, dated 2 July 2019, was refused by notice dated 12 May 2022.
 - The development proposed is described as 'retention of property as a seven bed HMO.'
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Decision

1. The appeal is allowed and planning permission is granted for change of use of property to a seven bed HMO at 23 Garmoyle Road, Liverpool L15 3HN in accordance with the terms of the application, Ref 19F/3200, dated 2 July 2019, subject to the following conditions:
 - 1) The development hereby approved shall be carried out in strict accordance with the following approved plans: 'Location plan'; and 'Retention of 23 Garmoyle Road as a seven bed HMO'.
 - 2) Unless within three months of the date of this decision a scheme for cycle parking is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within three months of the local planning authority's approval, the use of the site as a House in Multiple Occupation (HMO) shall cease until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within six months of the date of this decision, the use of the site shall cease until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved cycle parking specified in this condition, the cycle parking 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.
 - 3) The number of persons in residence at the premises shall not exceed 7 at any one time.

Preliminary Matters

2. The description of development as set out in the banner heading, indicates that the change of use of the property to a seven bed House in Multiple Occupation

(HMO) has already been carried out. That said, I have removed the word 'retention' from my formal decision as it is not an act of development.

3. The appellant refers to a previous planning application¹ which was submitted to the Council on 11 August 2017 to change the use of the living room to a bedroom in order to change from a 6 bedroom, Use Class C4, to a 7 bed sui generis use HMO. Both parties refer to the application being invalid and later disposed of by the Council.
4. The appellant has submitted evidence for the use of the dwelling as an HMO including details of the invalid application, a Building Regulations Certificate for the loft conversion and internal alterations, completed in March 2017, and details from the Council's HMO Licensing Support Officer.

Main Issues

5. The main issues are the effect of development on:
 - The supply of family dwellings;
 - The character of the area with regard to the mix and balance of housing and the living conditions of the occupiers of nearby properties in terms of noise and disturbance; and
 - The living conditions of the occupiers of the second-floor front bedroom in regard to natural light and outlook.

Reasons

Family housing

6. The site is a mid-terraced house in a block of four houses, with the end of the row being occupied by the Garmoyle Road community garden. It is within an area of similar style terraced housing laid out in a grid pattern.
7. The area is largely residential, appearing to be a mix of family housing and HMOs, and is a short distance from shops and facilities on Smithdown Road. The building has two rooflights on the front roof slope and a dormer extension on the rear roof slope. This has enabled the creation of two bedrooms and a shower room on the second floor, reached by an additional staircase.
8. Policy H10, criterion n, of the Liverpool Local Plan 2013-2033 (LLP) allows the conversion of houses into HMOs providing that 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.
9. There is substantive evidence that the appeal site has been used as an HMO since at least 2017 which the Council does not dispute. At that time, it had six bedrooms, although further submitted evidence points to the introduction of the 7th bedroom on the ground floor being there since 2017 when the appellant tried to apply for planning permission. Although the Council consider that No 23 is not a difficult dwelling type to sustain as a single dwelling, it appears from the evidence and my viewing of the property, that the building has not been used as a family dwelling for some time. Notwithstanding this, the alterations that have taken place to the building retain the overall layout of a dwelling and

¹ PL/INV/2647/17

so there is no evidence to suggest that if the use of the property as a HMO was to cease, the house could not be used for a family in the future.

10. Therefore, based on the evidence that the property is already used as an HMO, I find that there would be no conflict with Policy H10 of the LLP which seeks to prevent the loss of dwellings that are suitable for family use.

Character, mix and balance and living conditions of neighbours

11. Policy H11 of the LLP seeks to ensure a balanced housing provision that meets the needs of families and households of varying sizes, whilst Supplementary Planning Guidance Note 7 (SPG) 'Conversion of Buildings into Flats and Bedsits' identifies larger houses as being suitable for conversion for this purpose.
12. The Council's policy acknowledges that HMOs are an essential part of Liverpool's housing stock, but that excessive concentrations of specific groups can harm the character and amenity of the wider neighbourhood. The 'Dales' area, in which the appeal site is located, is considered by the Council to have an over concentration of HMOs, although no substantive evidence has been provided by the Council regarding the degree of any over concentration. This area is subject to an Article 4 direction restricting the change of use from dwellings (Use Class C3) to HMOs (Use Class C4) and sui generis. This direction, according to the appellant came into effect on 6 April 2018.
13. The proposal seeks to retain the use of the property as an HMO for 7 people. Whilst the use of a house as an HMO, occupied by a group of individuals living together, would have different living patterns to a family group, the submitted evidence points to the building being used as an HMO since 2017. Therefore, the proposed change from 6 to 7 occupants would not lead to a material difference in the number of comings and goings.
14. The Council has referred to a complaint in 2019 about loud music at the property that was not substantiated, and there are objections from a third party about noise and rubbish from landlord owned property in the area. However, based on the evidence that the property has been used by 7 residents for several years, I do not consider that there is substantive evidence that the proposal would cause noise and disturbance which would harm the occupiers of neighbouring properties. Furthermore, the Environmental Protection Unit has not expressed concern regarding noise and disturbance.
15. Whilst the proposal is within an area with an Article 4 direction and Policy H11 seeks to avoid further HMOs, the evidence is such that the building has been operating as an HMO for some years, and prior to the Article 4 direction coming into effect. In fact, the appellant has stated that the building would revert to being used as a six bed HMO if the appeal fails. Consequently, the proposal has not altered the balance of housing and would not harm the character of the area and the living conditions of the occupiers of neighbouring properties in terms of noise and disturbance. It would therefore not conflict with Policy H11 of the LLP.

Living conditions of occupiers

16. The second-floor front bedroom is lit only by rooflights. This bedroom is partly under the eaves at the front, so has some restricted floorspace. Notwithstanding this, the room is a reasonable size which did not appear

cramped despite a bed, wardrobe and desk being positioned in the room at the time of my visit.

17. The submitted drawing and the appellant's statement say that the sill height is 1.20 metres. The rooflights are, however, high on the front slope of the ceiling. I stood beneath the window, whose sill height was roughly level with the head height of this Inspector, some 1.60 metres. I was unable to see out. Despite this lack of outlook, the bedroom is sizeable, with white painted walls and the two rooflights have white frames. It is therefore bright and well-lit.
18. A room only being lit by rooflights is contrary to criterion i of LLP Policy H10. Whilst the fact that the room is only served by rooflights does result in some conflict with this policy, they have been in place for several years, and based on the size and level of light that they provide, do not harm the living conditions of the occupiers of the second-floor front bedroom. Furthermore, as the property is for shared living, the occupiers have access to the living room and kitchen facilities on the ground floor, plus external space in the backyard. Therefore, despite some conflict, I find that the proposal would achieve the overall aims of the policy and would provide suitable living conditions for the occupiers of the second-floor front bedroom with regard to the level of natural light and outlook. It would therefore accord with Policy H10 of the LLP.

Other Matters

19. A third party has commented that proposals such as this have blocked sunlight into neighbouring back yards, however, this proposal does not involve any external changes to the building and so would not affect light levels to adjoining properties.
20. Whilst the Council's Recycling and Waste Minimisation Team have expressed concerns at the lack of plans for waste storage, the submitted plan does show a bin storage area in the rear yard. I entered the yard and noted that it was empty, clean and free from any rubbish or other materials. I also walked along Barrington Road to view the rear lane behind the property, which is gated. I could see that refuse bins for a number of houses were stored in this area. Consequently, appropriate space and access is available for waste disposal at the site.
21. The Council's Highway Development Control consider that the site is in a sustainable location with amenities and bus stops within walking distance on Smithdown Road; and 2no Sheffield stands for cycles are shown in the rear yard, with the living room also providing some space for cycle storage. I attribute moderate weight to this.

Conditions

22. As the proposal is already in use as an HMO, it is not necessary to attach a condition specifying its commencement. However, a condition detailing the approved plans is necessary in the interest of certainty.
23. Condition 2 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. I have also imposed a condition limiting the maximum occupancy of the premises to 7 people so that it aligns with the description of development. This is reasonable and necessary to ensure that the living conditions of both neighbouring residents and the occupiers of the house are not harmed.

Conclusion

24. For the reasons given above, considering the development plan as a whole and all relevant material considerations, the appeal is allowed.

M J Francis

INSPECTOR