
Appeal Decision

Site visit made on 22 February 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2024

Appeal Ref: APP/W4325/W/23/3326801

38 Kingsland Road, Oxton, Wirral CH42 9NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr J McArdle (Freshfield Properties (NW) Ltd) against the decision of Wirral Council.
 - The application Ref is APP/23/00225.
 - The development proposed is the change of use from five residential apartments (C3) to a House in Multiple Occupation HMO (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from five residential apartments (C3) to a House in Multiple Occupation HMO (Sui Generis) at 38 Kingsland Road, Oxton, Wirral CH42 9NW in accordance with the terms of the application, Ref APP/23/00225, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised National Planning Policy Framework (Framework) was published in December 2023. I have had regard to this in reaching my decision.
3. I have utilised the description of development from the decision notice in my above heading as this more accurately describes the appeal development.

Main Issues

4. The main issues are: (i) the effect of the proposed development on the living conditions of neighbouring residents, with regards to noise and disturbance, and (ii) whether the development would provide satisfactory accommodation for its future occupants, with regard to outlook.

Reasons

Living Conditions – Neighbouring Residential Occupiers

5. The appeal site comprises of a semi-detached building which currently comprises of 5 flats. It is situated in a predominantly residential area which is mainly formed of larger properties.
6. The proposed House in Multiple Occupation (HMO) would adjoin an existing dwelling occupied by a family, and in this respect, the proposal would be contrary to Saved Policy HS14 of the Wirral Unitary Development Plan (UDP).

7. The appeal property already comprises of existing flats used by a number of different households. Although reference has been made to an increase in the comings and goings from the proposal, I do not consider that the scale of the increase, having regard to the existing use, would give rise to harmful levels of noise and disturbance to surrounding residential occupiers.
8. For the reasons given above, I conclude that the development would not cause unacceptable harm to the living conditions of neighbouring residential occupiers with regards to noise and disturbance. As such, although it would be contrary to Saved UDP Policy HS14 (ii), it would not give rise to unacceptable harm to the living conditions of neighbouring occupiers. It would accord with Paragraph 135 of the Framework, which seeks, amongst other matters, a high standard of amenity for existing and future users.

Living Conditions - Appeal Property's Future Occupiers

9. Bedroom 7 at second floor level would only be served by a single rooflight with bedroom 8, also at second floor level, being served by a side-facing window that faces 40 Kingsland Road. These bedrooms would replace the existing flat on the top floor which is also only served by rooflights or side-facing windows. Although bedroom 7 would be served by a single rooflight, whereas the kitchen/living/dining room in the existing flat is served by two rooflights, the proposed occupants, unlike those of the existing flat, would have access to communal kitchen and dining facilities on the ground floor.
10. Saved UDP Policy HS14 (xiii) states that main living rooms should have a reasonable outlook and not be lit solely by roof lights, nor be in close proximity to high boundary or gable walls. The bedrooms proposed, are not however main living rooms, although in the absence of a communal sitting area, future occupants are likely to spend more time in their respective bedrooms. Nevertheless, having regard to the size and position of the rooflight that would serve bedroom 7, I consider it would provide a satisfactory outlook for future occupants.
11. Bedroom 8 would face No. 40 at a distance of around 4m. Whilst noting this close distance, it is also the case that the elevated position of the window results in it facing the gable end at roof level. The pitched form of the neighbouring property's roof, with the roofslope falling towards Kingsland Road would ensure an adequate outlook from this space.
12. I therefore conclude that the appeal proposal would provide satisfactory accommodation for its future occupants, with regard to outlook. It would not conflict with the aims of Saved UDP Policy HS14 or with Paragraph 135 of the Framework insofar as they seek high standard of amenity for future occupiers.

Other Matters

13. Although reference is made to the impact on the character of the area, including an over concentration of HMO's in the local area, I not been provided with any further evidence in this regard. Nor is there any substantive evidence that the proposal would lead to an increase in anti-social behaviour or an undue increase in pressure on local services.
14. Representations have been made relating to the increased demand for parking and the risk to pedestrians. The Council's decision notice does not raise any adverse impacts in these regards, and I have no reason to disagree. Concerns

have been raised on increased waste generation and storage, but the proposal would provide an area for bin storage.

15. Reference has been made to a similar proposal for a HMO on the same road as that of the appeal site. I have not been provided with any further details and am not aware of the full circumstances of that case. I can confirm that I have considered this appeal on its own merits.
16. I have taken into account other matters raised relating to the devaluation of properties, lack of notification of the application subject of this appeal, as well as the existing residents of the flats not being aware of the proposed development, but none of these matters would outweigh my conclusions on the main issues.

Conditions

17. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended those suggested as appropriate.
18. A condition is required to limit the number of occupants in the interests of the living conditions of neighbouring residential occupiers. A condition requiring the provision of a bin store and cycle parking are required to ensure adequate provision is made for the storage of waste and to encourage the use of a sustainable means of travel. A condition is also necessary requiring the provision of the communal facilities in the interests of the living conditions of future occupants.

Conclusion

19. I conclude, for the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is allowed.

F Rafiq

INSPECTOR

Schedule of 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:
 - Site Location Plan Proposed Site Plan Dwg No: 38KR/200/BR, dated Dec 2022
 - Proposed Plan Layouts Dwg No: 38KR/203/BR, dated Dec 2022
 - Proposed Elevations Dwg No: 38KR/204/BR, dated Dec 2022
- 3) The House in Multiple Occupation hereby approved shall not be occupied by more than eight people.
- 4) The bin store and the cycle store as identified on Site Location Plan Proposed Site Plan (Dwg No: 38KR/200/BR, dated Dec 2022) shall be constructed and made available to use prior to the first occupation of the development hereby permitted.
- 5) Prior to the first occupation of the bedrooms within the development hereby approved, the following communal facilities shall be made available to use for all occupants, and the facilities maintained as such thereafter:
 - Ground Floor – Hall, Utility, Kitchen/Dining, Garden Store (Dwg No: 38KR/203/BR)
 - Second Floor - Kitchen (Dwg No: 38KR/203/BR)

End of Conditions