



Appeal Decision

Site visit made on 20 February 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2024

Appeal Ref: APP/Z4310/W/23/3330660

4 Clifton Road, Liverpool L6 4BQ

- 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 LMCC Trading Limited against the decision of Liverpool City Council.
 - The application Ref is 23F/0187.
 - The development proposed is described as the change use of property to 2 flats (1 x Use Class C4 (HMO) for 6 persons) and 1 x Use Class C3 (for 2 persons) and retention of external alterations including front and rear dormers.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are 1) the effect of the proposed development on the living conditions of occupants of surrounding residential properties with regard to noise and disturbance, and 2) whether or not the proposed development would result in the unacceptable loss of a family sized dwelling.

Reasons

Living conditions

3. The appeal property is a two-storey semi-detached dwelling with basement and roof level accommodation providing accommodation over four floors. Although it is located to the rear of West Derby Road, which is a busy road with commercial properties, there is a clear severance so that the property is within an evidently residential area.
4. In this regard, there is a clear contrast in the noise environment and make up of the street when compared to West Derby Road, with the street on which the appeal property is located being markedly quieter comprising of residential properties which appear to be mainly single dwellings.
5. The proposal would result in the change of use of the property to a 6 bedroom/6 person house of multiple occupation (HMO) and a 2 bedroom/2 person flat. This would result in 8 occupants across the appeal property as a whole.
6. In a previous appeal at the property¹ an Inspector concluded that the proposed use of the property as an 8-bedroom HMO would have a harmful effect on the

¹ APP/Z4310/W/21/3272303

living conditions of occupants of surrounding residential properties in respect of disturbance from noise.

7. The current proposal would also comprise 8 bedrooms in the appeal property, although this would be across two units. As identified in the previous appeal, occupiers of HMOs typically lead independent lives from one another, with separate routines and comings and goings throughout the day and nighttime. The use would be quite different from a single household and would be noticeably more intensive.
8. Although it is not clear in the evidence, such accommodation is often occupied by students and/or young persons of transient occupancy whose lifestyles often conflicts with those of older persons and families who are generally more established and settled in the area.
9. The proposed HMO, when combined with the two-bed unit, cumulatively, would have a significantly greater impact in terms of noise and disturbance than would be expected from a single dwellinghouse. Such activities include the coming and going of unrelated occupants and their visitors, together with any deliveries to be taken at the property. Such movements would likely generate noise from vehicle engines, car radios, doors slamming and voices. These frequent and variable noises would cause disturbance to occupants of existing residential properties who can reasonably expect a degree of peace and quiet, particularly during the evening and nighttime hours.
10. The appellant has highlighted the high-quality internal works that have taken place at the property and the management of the property are factors that would control matters of noise and disturbance. From the submitted evidence, I have no reason to question the quality of works, however, how these would serve to ensure noise and disturbance is limited is not clear or apparent. I also do not doubt the appellant's worthy intention in terms of management of the property, however, in my experience surrounding residents are not always willing to make a formal complaint, and noise and disturbance is largely out of control of the management of the property.
11. I therefore find that the proposed development would cause unacceptable harm to the living conditions of occupants of surrounding residential properties in terms of noise and disturbance. It would be contrary to Policies H7 and H10 of the Liverpool Local Plan (2022) which require, amongst other things, that such forms of development do not have an adverse impact on the amenity of neighbouring properties and the character of the surrounding area in particular through increased activity, noise or disturbance.

Loss of family housing

12. Policy H10 of the Liverpool Local Plan (2022) concerns the conversion of dwellings and buildings. It outlines, amongst other things, that the conversion, or sub-division of dwellings will be permitted where it would not cause the loss of a dwelling that is suitable in size, design, layout and location for continued use as a family dwelling.
13. Although the adjoining property appears to have been converted to flats, the majority of properties on Clifton Road appear to be occupied by single households. This is therefore the prevailing character of the area,

notwithstanding its proximity to the more commercialised and busier West Derby Road, from which I have identified there is a clear separation.

14. The appellant contends that the appeal property has been previously subdivided into six flats and has referred to records from the Land Registry and Royal Mail to support this position. The planning history does not however support any lawful use of the premises as such, and it is not within the confines of this appeal for me to establish the lawful use of the property. There are other mechanisms available to the appellant to establish the lawful use of the premises which would allow greater weight to be given to such a matter in decision making. Had the use of the property as suggested been lawfully established, I would have given this significant weight in the appeal.
15. Policy H10 nevertheless is applicable where the dwelling is of a suitable size, design, layout and location for continued use as a family dwelling. The existing property, due to its size, layout and location, would be capable of forming a large family dwelling, in an area where there is an apparent concentration of family sized dwellings. As a result of the proposed sub-division there would be a loss of a family dwelling.
16. The appellant suggests that there is a lack of demand for C3 family dwellings in this area. There is not, however, any substantive evidence before me to indicate that this is the case either for the appeal property itself or in the wider area. I therefore give this limited weight in the appeal.
17. I acknowledge that in the previous appeal, the Inspector did not consider that the proposed HMO would adversely affect the balance or mix of housing in the area. That decision, however, predates the adoption of the Liverpool Local Plan, and the Inspector afforded only moderate weight to the pertinent emerging policy. The policy now has full weight in decision making and I have determined the appeal on that basis.
18. Based on the evidence before me, the proposed development would therefore result in the loss of a dwelling that is suitable in size, design, layout and location for continued use as a family dwelling. It would be contrary to Policy H10 of the Liverpool Local Plan (2022) as outlined above.

Other Matters

19. The appellant has referred to the compliance of the development with the Nationally Described Space Standards (NDSS). This matter is not however in dispute and is therefore a neutral factor in the balance.
20. The proposed development would provide an element of housing choice in terms of a small residential unit and an HMO. I give this moderate weight in favour of the proposed development.
21. The appellant contends that the development has enhanced the street scene. I am not, however, presented with any evidence to suggest there was previously a negative impact, neither am I convinced that the appeal development is the sole means of improving the appearance of the property in any event. I therefore give this limited weight.

Conclusion

22. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
23. The proposed development would result in a very small increase in the Council's overall housing number and would be in a sustainable location. It would also bring a number of additional residents to the area who would contribute to the local economy. I give these matters moderate weight in favour of the proposed development.
24. However, the harm that I have identified that would be caused to the living conditions of occupants of existing residential properties and the loss of a family sized dwelling, attracts greater weight that outweighs the benefits associated with the proposed development.
25. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the National Planning Policy Framework, that outweigh this conflict.
26. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR