



Appeal Decision

Site visit made on 10 April 2024

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13.05.2024

Appeal Ref: APP/Z4310/W/23/3334746

49 Egerton Road, Liverpool L15 2HN

- 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 A&I Property against the decision of Liverpool City Council.
 - The application Ref is 23F/2063.
 - The development proposed is change of use from 6 No. bed to 7 No. bed HMO with external rear dormer and alterations.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from 6 No. bed to 7 No. bed HMO with external rear dormer and alterations at 49 Egerton Road, Liverpool, L15 2HN in accordance with the terms of the application, Ref 23F/2063, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published in December 2023 and so is a material consideration. The parties had opportunity to comment on the updated Framework in their submissions, furthermore, the relevant sections of the new Framework have not changed in respect of the main issues in this appeal.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposal on the character of the surrounding area and the living conditions of neighbouring occupiers, with regard to the intensification of the HMO use of the property; and,
 - whether the proposed development would provide adequate living conditions for the future occupier of bedroom 6, with regard to useable space, outlook, and natural light.

Reasons

Character of the area and neighbouring occupiers

4. The appeal site is a mid-terraced property within a primarily residential area. The appeal property is lawfully in use as a six bedroom HMO falling within Use Class C4.
5. The site is located in an area covered by an Article 4 Direction which removes permitted development rights for Houses in Multiple Occupation (HMOs). The

evidence provided sets out that the Article 4 Direction is in place due to the fact it is an area where the concentration of HMOs has reached or could reach, a level that is considered to have an adverse impact on the character of the area. The threshold for such is where more than 10% of properties are HMOs.

6. The appellant advances that the extent of HMO concentration in the area is currently at 16%. However, notwithstanding that the proposal would change the use of the property from a C4 Use to a Sui Generis HMO use, as it is an existing HMO it will be already included in the current concentration figure and so, the proposal would not add to the overall number of HMO properties within the Article 4 area. Also, criterion 2 of Policy H11 of the Liverpool Local Plan 2013-2033 (adopted January 2022) (LLP) does not include the change of use from C4, small HMOs to large, Sui Generis HMOs and therefore, there is no dispute in regard to such criterion.
7. I observed that Egerton Road has the character and appearance of a residential street. Furthermore, there was no notable difference to the external appearance of the appeal property and that of other residential properties along the road. Additionally, the proposal would not result in the loss of a family home, as it is already a lawful HMO. Therefore, I consider the proposal would not lead to unbalanced housing provision that fails to meet the needs of families and households of varying sizes within the local neighbourhood.
8. The Council asserts that by reason of the intensification of the use of the property from a small to large HMO, it would increase levels of noise and disturbance experienced by neighbouring occupiers, as a result of the comings and goings to the appeal property. Objections have been received from local Councillors and residents in relation to such concerns, although I have no substantive evidence in regard to the specific problems experienced at the appeal property. Also, no objections have been raised by the Council's environmental health team in respect of noise disturbance or other anti-social behaviour with regard to the proposal.
9. Based on the evidence before me, the comings and goings and increased activity associated with one additional occupant within the HMO property, I consider it would not give rise to a discernible harmful increase to noise and general disturbance experienced by occupiers of neighbouring properties.
10. Having regard to the above, the proposal would not cause harm to the character of the surrounding area and the living conditions of neighbouring occupiers, with reference to the intensification of the HMO use of the property. Accordingly, there would be no conflict with Policies H7 and H10 of the LLP, which, amongst other matters, requires development to protect the character of an area and the living conditions of existing residents.

Living conditions of future occupier

11. Policy H10 of the LLP relates to the conversion of dwellings, including their conversion to HMOs. It supports the conversion to HMOs provided certain criteria is met, including that the configuration of internal space satisfactorily takes account of minimum room size, acoustic installation, light and ventilation. Also, criterion 2i of Policy H10 of the LLP requires living rooms, kitchens, and bedrooms in HMOs to not be solely lit by rooflights.

12. As shown on the proposed floorplans, bedroom 6 would have a total floor area of 13 sqm, although the proposed section drawing shows that a large part of the room would have restricted ceiling height. The guidance contained in the Council's Supplementary Planning Guidance Note 7 (SPG7) sets out that the minimum required floorspace for bedrooms within HMOs is 6.5 sqm. Based on the evidence before me, discounting the floor area with restricted ceiling height, I consider bedroom 6 would have sufficient useable space to meet the recommended minimum standard set out in SPG7. That the useable space would be fairly narrow does not make it an unacceptable sized bedroom, as the SPG7 does not stipulate minimum size width required for HMO bedrooms.
13. The proposed cross-section and floor plans indicate that bedroom 6 would be served by two skylight windows, one above head height and one at a lower sill height. Whilst the lower skylight would be below the purlin beam, and both skylights angled toward the sky and positioned toward one end of the bedroom, I consider that the skylights would allow the occupants to look out of the room and provide sufficient natural light and ventilation to occupy and study in the bedroom. I furthermore observed that the existing bedroom in the roof space of the appeal property is currently only served by two skylights, yet the floorspace is larger than that of proposed bedroom 6.
14. I appreciate that the shape and size of bedroom 6 and the tapering ceiling height in parts of the room will limit where furniture, including a bed could be positioned within the room. However, the proposed floorplans indicate how a bed could be positioned within the room, so that the pillow end is not directly below the skylights. Therefore, I do not consider that the skylights would cause undue sleep disturbance to the occupants of the bedroom from inclement weather.
15. The Council has referred to two appeal decisions which they consider supports their position with regard to the living conditions of the future occupier of bedroom 6. However, whilst I have not been provided with any substantive information in regard to these appeal cases to allow comparison, I have considered the appeal proposal having regard to its individual merits.
16. In view of the above, whilst the proposal would be contrary to the requirements of criterion 2i of Policy H10 of the LLP, I consider that the configuration of bedroom 6 satisfactorily takes into account minimum room size, light and ventilation. Therefore, despite some conflict, I conclude on this main issue that the proposal would achieve the overall aims of Policy H10 of the LLP and would provide adequate living conditions for the future occupier of bedroom 6, with regard to useable space, outlook, and natural light.

Other Matters

17. I acknowledge the concerns raised by local residents and Ward Councillors in relation to parking, litter, and the strain on local facilities. However, from the evidence before me and my site visit, I do not consider an additional occupant at the premises would cause detriment to local parking provision. I therefore have no reason to disagree with the view of the local highway authority, who have raised no objection, subject to the provision of cycle parking.
18. At the time of my visit there was no obvious evidence of significant litter problems within the road and, most properties had wheelie bins kept in front of their properties. I also observed that the appeal site is within walking distance

of plentiful shops and local facilities nearby, including two major supermarkets. Additionally, I have no substantive evidence to demonstrate the proposal would place strain on local facilities. Therefore, such concerns do not weigh against the proposal.

Conditions

19. I have considered the conditions suggested by the Council, in the event I allow the appeal, having regard to the advice contained within the Planning Practice Guidance (PPG) and the Framework. In addition to the standard implementation condition, it would be necessary in the interests of certainty to define the plans with which the scheme should accord.
20. I also consider that it is necessary to limit the number of residents to 7 to regulate the overall effect of the proposal on the character of the area and living conditions of neighbouring occupiers. Additionally, a condition is necessary to ensure there would be adequate provision of cycle parking and bin storage at the property, to promote sustainable travel and protect the character of the area, respectively. Although, I have amended the wording of the condition, so it directly relates to the development permitted and that the details of the requirements are first agreed with the Council prior to the use of the specific bedrooms.

Conclusion

21. For the reasons given above, having regard to the development plan as a whole, the Framework and all other matters raised, I conclude the appeal should be allowed.

C Billings

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 001; Site Plan as existing/proposed 002; Floor Plans as Proposed 004 Rev A; Elevations & Sections as Existing & Proposed; 005 Rev A; and Gable Elevations as Existing & Proposed 006 Rev A
- 3) The number of persons in residence at the premises shall not exceed 7 at any one time.
- 4) Prior to the first occupation of new bedrooms 6 and 7, as shown on the approved plans, cycle parking and bin storage facilities shall be provided within the site, in accordance with details to be first submitted to and approved in writing by the local planning authority. The cycle parking and bin storage areas shall thereafter be retained for the lifetime of the development.

End of Schedule.