

Appeal Decision

Site visit made on 3 September 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Appeal Ref: APP/Z4310/W/24/3341970

61 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/2064.
 - The development proposed is change of use from 6no. bed HMO to 7no. bed HMO with external dormer and alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended plans as part of their appeal. The Procedural Guide for Planning Appeals¹ advises that an amendment to planning application proposals to overcome a local planning authority's reasons for refusal should normally be made through a fresh planning application, and the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
3. Established case law² states that, in considering whether, or not, to accept amendments to a proposal during the appeal process, it must be considered whether the proposed change involves a 'substantial difference' or a 'fundamental change' to the application and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
4. In this instance, the proposed revisions are seeking to address the issues upon which the Council based its decision on at the application stage in respect of the size of the internal living space and outlook, and which would, in my view, have resulted in a different application. As such, it is evident that the appellant has sought to evolve the proposed development through the appeal process, thus depriving the Council and interested parties of the

¹ Procedural Guide: Planning Appeals – England (updated August 2024)

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWCH 2823 (Admin)

opportunity to formally consider the revisions. Consequently, in the interests of natural justice, I have determined this appeal on the basis of the initial plans with which the Council considered the application and which have been subject to consultation, and not the suggested amendments.

Main Issue

5. The main issue is whether the proposal would provide adequate living conditions for future occupiers, with regard to internal living space and outlook.

Reasons

6. The appeal property, 61 Egerton Road (No 61), is a two-storey mid terrace property situated within a densely developed urban area of terraced housing arranged in a grid-iron street layout. The surrounding area is predominantly residential with commercial and retail uses nearby. No 61 is currently in use as a six-bedroomed House in Multiple Occupation (HMO).
7. The existing roof space of No 61 currently provides one bedroom which is lit by a rooflight within the front roof slope. The proposed development would include a rear dormer to provide further space. The new space would be divided into two bedrooms, one to the front and one to the rear.
8. The front bedroom (bedroom 7) within the roof space would be smaller than the current bedroom, as some of the original room space would be lost as part of the extension and alterations.
9. The evidence before me indicates that bedroom 7 has a total floorspace of 12.6m², of which 7.9m² is usable floorspace (above 1500mm head height.). This would be compliant with the minimum bedroom size of 6.5m² set out in Supplementary Planning Guidance Note 7 - Conversion of Buildings into Flats and Bedsits (SPG). However, the Houses in Multiple Occupation Standards and Management Document (HMO SMD) (2022) sets out that bedrooms should have a minimum ceiling height of 2.14m over no less than 75% of the room.
10. Although the HMO SMD does not form part of the development plan, my attention has been drawn to a previous appeal decision³ whereby the Inspector considered that the HMO SMD provided useful planning guidance in ensuring satisfactory internal space standards. The supporting text of Policy H10 of the Liverpool Local Plan 2013-2033 (LP) references the Council's Guidance on Standards and Management of Houses in Multiple Occupation, and any subsequent updates, as providing clear advice for applicants on matters including space standards. The Inspector considered that the HMO SMD, a replacement of the guidance document referenced at paragraph 8.63 of the LP, is intended to support Policy H10 of the Local Plan. I concur with this view, and give the document moderate weight in determining this appeal.
11. Whilst bedroom 7 would have a usable floor area that would exceed the minimum size for one person as set out in the HMO SMD and SPG7, the extent of the space that would have a height at least 2.14m would be significantly less than the standard 75% of the room. The room would only have a very limited amount of space for the occupant to stand up straight.

³ APP/Z4310/W/23/3335836

Regardless of the layout of furniture, this would result in cramped, impractical and oppressive accommodation for its future occupant.

12. Bedroom 7 would be lit by a single roof light. Policy H10 of the LP is clear that bedrooms should not be lit solely by rooflights. However, my attention has been drawn to recent appeal decisions which have allowed HMOs with bedrooms which would be lit only by rooflights.⁴ I am mindful that consistency in the planning process is important and like cases should be decided in a like manner. Whilst it is inevitable for comparisons to be made, each will have its own site-specific circumstances and merits upon which it is considered. I do not consider that the appeal decisions brought to my attention represent a direct parallel to the appeal proposal, which I have determined on its own merits. In this instance, there is a single roof light which is not set low in the roof slope, and which would only allow for limited views out of the bedroom and a lack of visual connection with the surroundings.
13. I note that the rooflight serves an existing bedroom, which would continue regardless of the outcome of this appeal. However, the smaller size of the proposed bedroom compared to the existing room would exacerbate the feeling of oppressiveness due to a limited outlook.
14. I noted from my site visit that the rooflight allowed a sufficient degree of natural light into the room and would provide adequate ventilation. I do not consider that the opening mechanism of the rooflight would be hazardous, and a future occupier would be aware of how the window opened and the layout of the room, in order to avoid any collisions.
15. The proposal would have a combined kitchen/living area on the ground floor. Whilst the HMO SMD stipulates that a lounge for 7 persons should be 17.5m² the LP is the starting point for decision making and I attach significant weight to Policy H10. Paragraph 8.62 of the LP states that 'the minimum size of communal lounge space is 12 square metres of usable floorspace, equating to 3 square metres per person, assuming a small four-person size HMO. For HMO accommodating more residents, proportionately more communal lounge space should be provided.' In this instance as the proposed HMO would accommodate 7 residents, I consider that proportionately it would be reasonable to expect 21m² of communal lounge space to be provided. Table 2 of the HMO SMD indicates that a kitchen for a 7 person HMO should be 9m². The minimum usable floorspace of a combined kitchen lounge area provided for the 7 bed HMO should therefore be 30m². The proposal would provide a combined lounge/ kitchen area of 27.1m², below the required standards.
16. There is no evidence before me to justify the below standard provision of communal space. As such the proposed 7 bed HMO would be overcrowded which would cause significant harm to the living conditions of future occupants.
17. I therefore conclude that the proposal would not provide adequate living conditions for future occupiers with regard to internal space and outlook. As such it would conflict with LP Policy H10 which seeks, amongst other matters, to ensure adequate living conditions of future occupiers. It would also conflict with guidance contained within SPG 7, which seeks to ensure that satisfactory

⁴ APP/Z4310/W/21/3289739; APP/Z4310/W/23/3315540; APP/Z4310/W/23/3334746

standards of accommodation are achieved, including internal space. Furthermore, it would conflict with Paragraph 135 of the National Planning Policy Framework which seeks to ensure a high standard of amenity for future users.

Other Matters

18. HMOs are an essential part of Liverpool's housing stock, and the proposal would make a small contribution to housing need. The proposal would be in a sustainable location close to facilities and transport links, and would provide living accommodation for young people who would contribute to the economy and local facilities. However, these benefits do not outweigh or alter my overall concerns regarding the harm to living conditions for future occupiers.

Conclusion

19. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, the appeal should be dismissed.

L C Hughes

INSPECTOR