



Appeal Decision

Site visit made on 26 November 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/M4320/W/24/3346410

101 South Road, Waterloo, Sefton L22 0LS

- 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 Carolyne, Harold Jones Ltd against the decision of Sefton Metropolitan Borough Council.
 - The application Ref is DC/2024/00288.
 - The development proposed is retention of ground floor Class E use at front of premises; change of use of the rear part of the ground floor and the whole of the 1st and 2nd floors to form a 7 bedroom [7 person] sui generis HMO; removal of flat roof above rear yard to create outdoor amenity space; refuse storage for both the Class E unit and HMO; cycle storage in basement; with consequential minor external alterations to windows and doors.
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Decision

1. The appeal is allowed and planning permission is granted for retention of ground floor Class E use at front of premises; change of use of the rear part of the ground floor and the whole of the 1st and 2nd floors to form a 7 bedroom [7 person] sui generis HMO; removal of flat roof above rear yard to create outdoor amenity space; refuse storage for both the Class E unit and HMO; cycle storage in basement; with consequential minor external alterations to windows and doors at 101 South Road, Waterloo, Sefton L22 0LS in accordance with the terms of the application, Ref DC/2024/00288, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal site has a complex history with a number of previous applications seeking permission to change the use of the property to a House in Multiple Occupation (HMO) with various layouts, bedroom numbers and outdoor amenity provisions, all of which were refused by the Council.
3. There have been five previous appeals against the decision to refuse applications to convert the property into an HMO. Two appeals, for an 8-bedroom HMO and a 5-bedroom HMO were dismissed in March 2023¹, and two appeals for 8-bedroom HMOs were dismissed in January 2024². An appeal for a 5-bedroom HMO was allowed in March 2023³. Whilst there are differences between those appeals and the one before me, the earlier decisions are material considerations to which I have had regard in the determination of this appeal, and I refer to them in my reasoning below.

¹ APP/M4320/W/22/3307024; APP/M4320/W/22/3307028.

² APP/M4320/W/23/3321797; APP/M4320/W/23/3326424.

³ APP/M4320/W/22/3307322.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of future occupiers, with regard to external amenity space.

Reasons

5. The proposed HMO would have seven bedrooms, all of which would be for one occupant. From the evidence before me, the proposal would provide 27m² of external amenity space.
6. The Council have adopted a Conversions to Flats and Houses in Multiple Occupation Supplementary Planning Document (2023 SPD). The 2023 SPD is guidance rather than policy and does not form part of the development plan. It does, however, provide further detail on the application of development plan policies and is a material consideration.
7. The 2023 SPD details minimum bedroom sizes which should be provided in HMOs, all of which the proposal would exceed. The 2023 SPD also indicates the level of communal living space which HMOs should provide. Again, the proposed scheme would exceed the suggested requirement.
8. In addition, the 2023 SPD provides information regarding how much outdoor amenity space should be provided. For HMOs with 7 occupants, a minimum of 70m² should be provided. The proposed outdoor amenity space which the scheme would provide would fall far below this figure.
9. My attention has been drawn to the fact that the scheme which was allowed on appeal in March 2023³ for a 5-bedroomed HMO at the property did not provide for any external amenity space.
10. At the time that the appeal for the 5-bedroomed scheme was allowed a different SPD was in place which had been adopted in 2018 (Flats and Houses in Multiple Occupation Supplementary Planning Document) (2018 SPD). From the evidence before me, the 2018 SPD would have required slightly less outdoor amenity space than the 2023 SPD and allowed for a lower level of provision if the proposal was within easy walking distance to a local centre or whereby the proposal would reuse an otherwise vacant building.
11. The 2023 SPD has different requirements. Appendix B of the 2023 SPD includes a flow chart determining if the level of private outdoor amenity space for an HMO conversion would be acceptable. The flow chart indicates that where there is a fallback position that has a genuine and realistic chance of being implemented, and that a proposal would result in a better outcome, a reduced level of amenity space than the required standards would be considered acceptable.
12. The appeal property has a fallback position, as it can be used as a 5-bedroom HMO under the planning permission granted by the allowed 2023 appeal. I note that the Inspector who dismissed two later appeals in January 2024 did not give the earlier Inspector's decision of 2023 significant weight, as the guidance setting out HMO standards had shifted with the production of the 2023 SPD. However, the dismissed 2024 appeals were for 8-bedroomed HMOs which would have provided no outdoor amenity space. As such, the increased number of occupiers from the approved appeal would have meant that the shortfall of outdoor amenity space would have been felt more acutely,

especially as the bedrooms would have been generally smaller than those of the approved appeal, and there would have been a smaller amount of internal communal space per occupier. As such, the 8 bedroom appeal schemes refused on appeal in 2024 would not have resulted in a better position than the 2023 approved fallback scheme.

13. The appeal before me differs, as unlike the 2024 dismissed 8-bedroom schemes, the proposal would allow for 27m² of outdoor amenity space and in addition would have a larger amount of internal communal space than the dismissed 8-bedroom schemes.
14. The appeal proposal would have generally smaller bedrooms than the fallback scheme. However, the figures in the fallback scheme are bolstered by 2 very large bedrooms which would only be available to 2 residents and would not benefit the other occupants. The proposed scheme would provide an improved balance of bedroom space across the bedrooms than the fallback scheme. Furthermore, the bedroom sizes within the appeal scheme would all exceed the suggested minimum standards in the 2023 SPD. The bedrooms would be well laid out and spacious, with en-suites, natural light and a good outlook. The internal communal space would also be well laid out, accessible for all residents and would exceed the 2023 SPD requirements.
15. The appeal scheme would have the benefit of providing external outdoor amenity space, none of which would be provided by the fallback scheme. Whilst, largely due to the smaller bedroom sizes, the overall amount of space per resident would be less than that afforded by the fallback scheme, with the proposed outdoor amenity space factored in, the overall amount of communal space provided per occupier in the appeal proposal would be higher than that of the fallback scheme. The proposed outdoor amenity space would provide added benefits and would meet the overall aims of the SPD guidance by providing a functional and usable area for occupiers, not accessible to the public, for informal recreation, gardening, drying clothes and socialising.
16. As such, on balance I consider that the proposal would result in a better outcome than the fallback scheme, and therefore a lower level of amenity space would be considered acceptable, as indicated in the flow chart in Appendix B of the 2023 SPD.
17. Consequently, the proposal would not result in unacceptable living conditions for future occupiers with regard to external amenity space. It would comply with Policy HC4 of the Local Plan for Sefton (2017) which seeks to ensure that conversions to HMOs will not cause significant harm to the living conditions of the occupiers of the property. It would also accord with guidance contained within the SPD which seeks to ensure that occupants of HMOs do not have inadequate living conditions. Furthermore, it would conform with Paragraph 135(f) of the National Planning Policy Framework, which states that developments should provide a high standard of amenity for future users.

Other Matters

18. A previous application at the appeal site⁴ proposed a greater amount of external amenity space. However, that scheme was for a 9-bed HMO and it was considered that the proposed elevated outdoor amenity area would be

⁴ DC/2022/01947

unacceptable as it would provide clear views of the habitable room windows to the front elevations of the immediate neighbouring properties. As such, I do not consider it unreasonable that the appellant has not proposed a similar layout in this scheme.

19. The proposed outdoor amenity space would sit parallel with the side elevation of the neighbouring property and would be screened by the existing boundary wall. Whilst any noise from use of the rear amenity area may be audible at neighbouring properties there is no indication that this would be significantly greater than the noise generated by occupants of other dwellings enjoying their outdoor space. The proposal makes adequate provision for the storage of refuse and the effect of refuse being stored in the alley would be for the Council to enforce under other legislation. I note that the Council did not raise concerns regarding the effect of the proposal on the living conditions of neighbouring occupiers, and I have not been provided with substantive evidence to draw me to another conclusion.
20. The proposed scheme would retain its commercial frontage and Class E use at ground floor and basement level. There is no policy requirement in terms of floor space for commercial units, and the use of the Class E unit is not a matter before me as part of this appeal.

Conditions

21. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. For the sake of clarity, I have amended the conditions as necessary. The appellant has confirmed their agreement to the pre-commencement condition.
22. In addition to the standard commencement condition, I have attached a condition specifying the approved plans in the interest of certainty (conditions 1 and 2). In order to safeguard the living conditions of future occupiers and adjacent land users at the earliest stage, I have attached a pre-commencement condition ensuring that a noise report is submitted and recommendations implemented prior to occupation (condition 3). Conditions 4 and 5 relate to cycle parking and refuse storage, to ensure that satisfactory facilities are provided for future occupiers and to promote sustainable transport. Condition 6 relates to glazing and ventilation details and is included to safeguard the living conditions of future occupiers.

Conclusion

23. For the reasons given above, I conclude that the proposal would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
24. As a result, the appeal is allowed.

L C Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with Drawing Nos: 131 PLN L 03A – Location Plan; 131 PLN L 19C – Proposed Site Plan; 131 PLN E 27 – Proposed Elevations 1 of 2; 131 PLN E 26F – Proposed Elevations 2 of 2; and 131 PLN P 29F – Proposed Plans.
- 3) No development shall commence until a noise report has been submitted to and agreed in writing by the local planning authority. The report shall show the enhancement of all walls and ceilings within the application site by a minimum of 10db above the standard within table 0.1a of Approved Document E of the Building Regulations. The requirements and recommendations of the report shall be implemented on site and retained thereafter for the lifetime of the development.
- 4) Prior to the development hereby permitted being occupied, the secure cycle parking shown on Drawing No. 131 PLN P 29F shall be installed and made available for use. The facilities shall be retained thereafter for the lifetime of the development.
- 5) Prior to the development hereby permitted being occupied, the secure refuse store shown on Drawing No. 131 PLN P 29F shall be installed and made available for use. The facilities shall be retained thereafter for the lifetime of the development.
- 6) Prior to the occupation of the development hereby permitted, the glazing and acoustic trickle ventilation details, as shown on Drawing Nos. 131 PLN E 27 and 131 PLN E 26F shall be installed and retained thereafter for the lifetime of the development.

***** END OF SCHEDULE *****