

## Planning Committee

12 November 2020

**Reference:**  
**APP/20/01182**

**Area Team:**  
**Development**  
**Management Team**

**Case Officer:**  
**Mr A Siddall**

**Ward:**  
**Birkenhead and**  
**Tranmere**

**Location:** The Warwick, 29 WESTBOURNE ROAD, BIRKENHEAD, CH43 4TF  
**Proposal:** Change of use of public house (Use Class A4) to 11-bedroom large House in Multiple Occupation (HMO) (Use Class Sui Generis) with external alterations.  
**Applicant:** Inspire Invest Ltd  
**Agent:** Grant Erskine Architects Ltd

**Qualifying Petition:** No

### Site Plan:



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**Development Plan designation:**

Primarily Residential Area

**Planning History:**

No relevant planning history.

**Summary of Representations and Consultations Received:****1.0 WARD MEMBER COMMENTS**

- 1.1 Councillor Pat Cleary requests that this application be removed from delegation on the basis that approval of the scheme would result in a detrimental change in the character of the area, cause harm to the amenity of neighbouring residents, and adversely impact upon existing car parking pressures.

**2.0 SUMMARY OF REPRESENTATIONS**

- 2.1 Having regard to the Council's guidance on publicity for planning applications, notification letters were sent on 09 September 2020 to 11 neighbouring addresses. The deadline for receipt of representations passed on 04 October 2020.

**2.2 REPRESENTATIONS**

Seven representations in objection have been received, two of which were submitted in response to the original notification letter, four were unsolicited and one was received from Merseyside Police Community Policing Team after they were contacted by the Ward Councillor and local residents with their concerns. The comments raised from members of the public can be summarised as follows:

1. There is insufficient parking for the development when considering cumulative effects on parking capacity alongside a nearby apartment development.
2. A risk of anti-social behaviour from future tenants.
3. A development of fewer self-contained flats would be preferable.
4. Overlooking of existing houses and gardens from first floor windows.
5. Future tenants will be noisy and disturb existing residents.
6. An HMO would be a security risk for neighbours.
7. There is an existing concentration of HMO premises in the area.

In their objection the Merseyside Police Community Policing Team cites the former Carlton public house on Borough Road and the former Vale public house on Oxtun Road both of which have been converted to residential accommodation (The Community Policing Team states that they are HMOs, however this is incorrect and they have been converted to self-contained flats - a material difference explained later in the report), Both of these properties have suffered an increase in the level of crime and anti-social behaviour in their vicinity. It is the view of the Community Policing Team that there is a risk of the same problems occurring at The Warwick which would be to the detriment to the efforts of the community to improve their area. The building could be re-used as a community hub.

**2.3 CONSULTATIONS**

**Environmental Health** - No Objection.

**Highways** - No Objection.

**Housing** - No Objection.

**3.1 Reason for referral to Planning Committee**

- 3.1.1 The application has been removed from delegation by Councillor Pat Cleary for reasons given earlier in this report.

**3.2 Site and Surroundings**

- 3.2.1 The application site comprises The Warwick, a two-storey public house, currently vacant situated on the corner of Westbourne Road and Warwick Close and finished externally in brick and render with a dual pitched slate tiled roof. The site is surrounded by dwellings in a

wider Primarily Residential Area. The building directly abuts the pavement to the front and east side elevations and has a small, enclosed yard to the rear, south elevation. To the south of this yard are the rear private gardens of numbers 2 and 4 Warwick Close and the front garden and parking area of number 6. To the western boundary of the building are the rear gardens of 31 and 33 Westbourne Road. Opposite the front of the site are further dwellings. Surrounding properties are mostly in brick with dual pitched tiled roofs with accommodation over two storeys. On street car parking is unrestricted to the front of the site and to the south west along Westbourne Road. To the east of the site is the start of a controlled parking zone with on street parking restricted to permit holders with public metered parking bays.

### **3.3 Proposed Development**

3.3.1 Full planning permission is sought for the conversion of the vacant public house to an 11-bedroom large house in multiple occupation, a Sui generis use. The ground floor will be subdivided into 6 en-suite bedrooms with a communal kitchen/dining space and utility room. The first floor will contain a further 5 bedrooms, three of which are en-suite and two with access to a shared bathroom on the same floor, and a shared kitchen/dining space. No new windows are proposed and the former bar entrance on the principal elevation will be blocked up with some ground floor windows to the rear elevation enlarged. Bin storage and cycle parking will be provided in the rear yard and no dedicated car parking is proposed.

### **3.4 Development Plan**

3.4.1 Applications for Houses in Multiple Occupation are governed by saved UDP policy HS14, which sets criteria to ensure that such proposals avoid a detrimental change in the character of an area by preventing a concentration of HMO properties within the area, maintain privacy and amenity for neighbouring residents, result in a good standard of accommodation for potential future residents and do not have an adverse effect on highway safety.

3.4.2 Saved UDP policy HS4 sets general development criteria for new housing development, seeking to ensure that the proposal does not result in a detrimental change in the character of the area, provides appropriate landscaping and boundary treatment, results in satisfactory access and servicing arrangements and incorporates adequate garden space.

3.4.3 Saved UDP policy TR9 notes that when considering off-street parking requirements, the LPA will be guided by the availability of alternative modes of transport, road safety and traffic management issues and the likelihood of cars being parked on residential roads, amongst other considerations. Policy TR12 expects cycle parking to be provided within the development site.

### **3.5 Other Material Planning Considerations**

3.5.1 The NPPF seeks to support the Government's objective of significantly boosting the supply of homes and notes that it is important that the needs of groups with specific housing requirements are addressed. Section 11 seeks to ensure that development makes efficient use of land and, where there is an existing or anticipated shortage of land for meeting identified housing needs, that planning decisions avoid homes being built at low densities. In meeting this objective, account should be taken of the importance of securing well designed, attractive, safe and healthy places that promote a high standard of amenity for existing and future users.

### **3.6 Assessment**

3.6.1 The main issues pertinent in the assessment of the proposal are;

- The Principle of Development;
- The Character of the Area;
- The Amenity of existing neighbours;
- The Amenity of potential occupiers;
- Access, Parking and Servicing;
- Crime and Anti-Social Behaviour;
- Other Material Considerations.

3.7 Principle of Development:

- 3.7.1 The site is designated as part of a Primarily Residential Area in the Wirral Unitary Development Plan, where conversion of existing building to HMO's will not be permitted unless the proposal meets all the criteria in saved Unitary Development Plan Policy HS14, which provides protection for the character of the area and amenity levels, both for existing neighbours and proposed occupiers.

3.8 The Character of the Area:

- 3.8.1 External alterations to the building are limited in scope and involve redundant doorways to the front and rear elevations being blocked up and made good to suit the particular elevation - render to the front and brick to the rear. Ground floor windows to the rear will be enlarged to improve outlook. These changes will not materially alter the character and appearance of the building and will not result in a material change in the visual amenity of the area. Bin storage will be provided in the rear yard with direct access to the street so it is unlikely that refuse bins will be stored on the public highway.

- 3.8.2 Representation has been made that the use of the premises as a HMO will result in a detrimental change in the character of the area and this can be a legitimate concern if a tipping point is reached where demographic change is both material and detrimental. To avoid such a scenario and to maintain a balanced community, saved UDP policy HS14 seeks to avoid a concentration of HMOs in a particular area by ensuring that existing and approved HMOs do not comprise more than 20% of the properties forming a street frontage within a block.

- 3.8.3 Whilst the UDP requires the street frontage to be assessed for a concentration of HMOs, Officers have reviewed the Council's public register of mandatory HMO licences for properties in this use within a 200-metre radius of the site. This review will pick up all HMOs with five or more occupiers (planning permission is only required for HMOs with seven or more occupiers). It will not pick up HMOs where the number of occupiers is four or less however such premises are unlikely to result in a material change in the character of the area by virtue of their small scale. The review has picked up 6 licensed HMO properties within 200 metres with the closest being 4 Cole Street, licensed for 6 occupiers and located approximately 108 metres north of the site as the crow flies. The other licensed properties are:

- 79 Grange Road West, 6 occupiers, approximately 124 metres north west;
- 19 Alvanley Place, 6 occupiers, approximately 130 metres north west;
- 7 Alvanley Place, licence pending review, approximately 150 metres north west;
- 100 Grange Road West, 6 occupiers, approximately 157 metres north west,
- 76 Westbourne Road, 5 occupiers, approximately 160 metres south west.

- 3.8.4 Having regard to this assessment, it is clear that with 6 licensed HMO premises within 200 metres of the site, a concentration of HMOs cannot be demonstrated, and on Wesbourne Road itself not more than 20% of properties within the street frontage of a block are in licensed HMO use. Consequently, the tests under saved UDP policy HS14 are passed and the use of this building as an HMO will not result in a detrimental change in the existing residential character of the area.

3.9 The Amenity of existing neighbours:

- 3.9.1 Saved policy HS14 of the UDP seeks to ensure that proposals for HMO premises ensure the privacy of neighbours and prevent overlooking of habitable room windows, including as a result of the creation of new windows within the application property. In this instance, existing boundary screening protects the privacy of existing neighbours from the residential occupation of the ground floor rooms, whilst no new windows are created to the first floor. The existing lawful use of the first floor of the public house is as a manager's flat containing living accommodation. It is already possible for people to live on the first floor of the public house and overlook neighbouring gardens through the existing windows and as such, there is no material change in the existing situation for neighbours in respect of the possibility of overlooking.

- 3.9.2 A house in multiple occupation, as with any other residential use is not an inherently noisy land use and it cannot be inferred that occupiers of HMO premises are likely to cause any more disturbance than occupiers of single dwellings or premises subdivided into self-contained flats. Should the actions of any occupier cause a statutory nuisance, environmental health legislation allows for the Council to intervene and, as it would likely be a breach of the mandatory HMO licence, as too could the Council's housing team. The purpose of the planning system is to determine whether an HMO is an acceptable use of land in this location and it should not attempt to solve problems that can be adequately dealt with by other legislation. Members may also wish to bear in mind that the lawful use of the premises is as a public house and the frequency of comings and goings, particularly in the more sensitive evening hours, at a residential premises is likely to be less than that which could be experienced under the existing lawful use.
- 3.10 The Amenity of potential occupiers:
- 3.10.1 The internal amenity for potential future occupiers is good and the space standards exceed the minimum requirements set by the Council's housing team when they are considering the grant of a mandatory HMO licence. All bedrooms exceed the minimum size limit of 10.21 metres and therefore separate communal living rooms are not required at this property. Each floor has access to its own communal kitchen/dining space which is appropriately sized for the number of expected users. All bedrooms except two are en-suite whilst the two without private facilities have access to a bathroom on the same floor. The outlook from all bedrooms is reasonable and none are lit solely by roof lights or are in close proximity to gables or high boundary walls.
- 3.10.2 UDP Policies HS4 and HS14 require adequate provision of private or communal gardens with access from each flat. Residents will have access to a small, private communal yard to the rear of the building. Whilst this particular case the outdoor space is smaller in size than some HMO proposals that come before the Local Planning Authority, Officers note that the property is within 400 metres safe walking distance of Birkenhead Park. Taken together, the ability of residents to access private or communal outdoor amenity space for health and wellbeing purposes is considered acceptable.
- 3.11 Access, Parking and Servicing:
- 3.11.1 The application does not make provision for off-street car parking and this does not attract objection from the Local Highway Authority. When considering the provision of off-street parking, saved UDP policy TR9 will assess the contribution the proposal makes to the general locational policies of the UDP and the accessibility of alternative modes of transport, amongst other requirements. The policy seeks to reduce reliance on the private car in locations which are well served by public transport and allows for the reduction in parking standards in appropriate parts of the inner urban areas of the Borough where this would aid affordable, high density development in locations where there is good access to other modes of transport. In this case the site is within 400 metres of Birkenhead town centre and high frequency bus routes linking Birkenhead with regional centres. This is a highly accessible site where residents would have access to a wide range of shops, services and transport choices without reliance on the private car.
- 3.11.2 All properties within Warwick Close benefit from in-curtilage car parking space, as do the dwellings on Westbourne Road directly opposite the site. As such any on-street car parking by tenants of the proposed HMO should not restrict the ability of neighbours to park outside their properties. In addition, on-street parking on Warwick Close is restricted by double yellow lines which will prevent indiscriminate and obstructive car parking. On street car parking is available directly in front of the public house and to the west on Westbourne Road and this will allow those residents of the proposed HMO who have access to a car (and it is commonly agreed that not all will) to park safely in front of the building.
- 3.11.3 Representation has been made that this proposal, in combination with a recently approved scheme of 15 apartments on the site of the former Atherton Hall will cause competition for the available on-street parking. That permission requires the construction of 10 on-site car parking spaces to serve the 15 apartments and again it does not follow that all residents will be car owners. It is the adopted policy of this Council to allow reductions in off-street parking in sustainable urban locations to reduce reliance on the private car and to require



development in such locations to accommodate additional car parking would run contrary to the wider sustainability objectives of the Council.

- 3.11.1 Cycle parking facilities will be provided within the enclosed rear yard and these can be secured by condition to enable cycling to be an attractive option for local journeys by residents of the proposed HMO. Bin storage will also be provided within the rear yard with direct access to the street, allowing refuse serving to take place from the highway as per the existing arrangements for the public house.
- 3.12 Crime and Anti-Social Behaviour:
- 3.12.1 Saved policy HS4 of the UDP seeks to ensure development contributes to a secure environment and reduces the likelihood of crime but seeks to do this through the 'appropriate provision of design features.' The National Planning Policy Framework at paragraph 91(b) requires planning decisions to ensure places are safe and accessible so that crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. However, it seeks to do this through layout and design with such relevant matters as safe pedestrian routes and active high quality public open spaces. What the planning system does not seek to do is control the occupancy of dwellings or tread on the toes of other legislation which allows for crime and disorder to be managed.
- 3.12.2 The representation made by Sgt McKeon references two other properties in Birkenhead which have been converted to residential use from public houses and which have suffered an increase in reports of crime and anti-social behaviour. These buildings are not HMOs as believed by Sgt McKeon but self-contained flats, with planning permission granted in 2014 for the conversion of the former Carlton public house to 14 self-contained flats (APP/14/00073) and in 2015 for the conversion of the former Vale Hotel on Oxtown Road to nine self-contained flats (APP/15/01399). This is a material difference as self-contained flats are not subject to mandatory licensing, whilst HMO premises are. The mandatory HMO licensing scheme administered by the Council's Housing team includes conditions on the management of anti-social behaviour, requiring landlords to have procedures in place to reduce the risk of anti-social behaviour and manage it should it occur. Failure of the landlord to manage the behaviour of tenants can result in the licence for the premises being revoked, preventing its operation as a HMO and in extreme circumstances, working alongside Merseyside Police, the housing team can issue closure orders requiring the use of the premises to cease. The ability of the Council to control the risk of crime and anti-social behaviour is much greater with HMO premises than for self-contained flats and it is not for the planning system to seek to impose controls over the use of land on the basis of risks which can be adequately mitigated by other legislation.
- 3.13 Other Material Considerations:
- 3.13.1 Loss of the Public House - The UDP does not contain policies seeking to protect community facilities, such as public houses, from conversion to alternative uses. Neither has any representation been made to suggest that the public house is a valued community facility, and its loss would reduce the community's ability to meet its day to day needs. As such there is no objection to the loss of the public house and conversion to other uses can be acceptable without first seeking any alternative operator for the business.
- 3.13.2 Potential alternative uses - representation has been made that, instead of a HMO, conversion of the building into self-contained flats, or use as a 'community hub' may be preferable for neighbouring residents. No such proposals are before the Local Planning Authority and members are required to determine this application on its own merits.

### **Summary of Decision:**

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following: -

The proposed development comprises the conversion of a vacant public house to an

11-person house in multiple occupation. This is an acceptable land use in principle within a Primarily Residential Area and has economic and social benefits through bringing a vacant building back into an active use and making a modest contribution to the housing supply within the Borough, providing affordable accommodation to those unwilling or unable to access larger, self-contained dwellings. The proposed scheme does not result in a detrimental change in the character of the area and will not result in an adverse effect on the amenity of neighbours, whilst the standard of accommodation provided for potential future occupiers is acceptable. The site is in a highly sustainable and accessible urban location where it is not necessary in policy or highway safety terms to provide off-street car parking, and the risk of crime or anti-social behaviour arising from the activities of potential future occupiers can be adequately mitigated by other legislation. As such there are no adverse environmental effects of development that would significantly or demonstrably outweigh the benefits and the scheme accords with the relevant requirements of the development plan as a result.

**Recommended Decision:** **Approve**

**Recommended Conditions and Reasons:**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

**Reason:** To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 28 August 2020 and listed as follows:

(20)A001 Revision E (Proposed Plans) dated 16/07/20

(20)A002 Revision A (Proposed Elevations) dated 16/07/20

**Reason:** For the avoidance of doubt and to define the permission.

3. Prior to the development hereby permitted being first brought into use, the bin storage area and cycle stands, as shown on approved drawing (20)A001 Revision E (Proposed Plans) shall be constructed and made available for use. Thereafter the bin storage area and cycle stands shall be retained.

**Reason:** To ensure adequate provision is made for bin storage and cycle parking in the interests of the amenity of the area and sustainable transport and to accord with the objectives of saved policies HS4, HS14 and TR12 of the Wirral Unitary Development Plan and Policy WM9 in the Joint Merseyside & Halton Waste Local Plan.

4. The house in multiple occupation hereby permitted shall not be occupied by more than eleven people.

**Reason:** To ensure an acceptable standard of amenity for occupiers and avoid harm to the amenity of neighbouring residents in accordance with the objectives of saved policy HS14 of the Wirral Unitary Development Plan.

**Further Notes for Committee:**

**Last Comments By:** 04/10/2020

**Expiry Date:** 15/10/2020