
Appeal Decision

Site visit made on 4 January 2017

by B.S.Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 January 2017

Appeal Ref: APP/B4215/C/16/3153196

5 Beckhampton Close, Longsight, Manchester, M13 9EL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Darren McGonigle against an enforcement notice issued by Manchester City Council.
 - The enforcement notice, numbered ENF/13143/16, was issued on 5 May 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use from a dwellinghouse (Class C3) to a house in multiple occupation (Class C4).
 - The requirement of the notice is to cease the use of the property as a House in Multiple Occupation (Class C4).
 - The period for compliance with the requirement is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) & (d) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
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Formal Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (d)

2. The appellant appears to have mistakenly interpreted the enforcement notice as applying to the erection of the rear extension to the dwelling. The Council has not disputed that the rear extension was constructed in 2004/05. Therefore, even had it required planning permission, it has been complete for more than 4 years and is exempt from enforcement action.
3. With regard to the material change of use, the Council issued an Article 4 Direction on 8 October 2010 (which took effect from 8 October 2011) removing the permitted development right to change from Class C3 use to Class C4 use. The appellant claims he was never informed of this Direction. However, even if that were so, it would have had little bearing on an appeal on ground (d). The appellant acknowledges that the use of the property changed from C3 to C4 in July 2014. As the change of use occurred within the last 10 years, it was not too late for the enforcement notice to be served and the appeal on ground (d) accordingly fails.

The appeal on ground (a) and the deemed application

4. The appeal property is a refurbished, modern 2 storey town house within an area known as "Grove Village", an area subject to a major housing regeneration programme by a consortium acting on behalf of the Council. In this area, the Council's objective is "to create a well-managed, mixed tenure urban village, transforming not only the physical environment through housing refurbishment, clearance, new builds and environmental creativity, but also through community engagement, targeting unemployment and increasing the life chances and integrity of the diversely rich community".
5. The main issues are the impact of the use on the housing strategy for the area and on the living conditions of neighbouring residents.
6. The Council's Core Strategy aims to deliver thousands of additional homes, with a priority given in Policy H5 to family housing. Policy H11 would resist the change of use from a C3 dwelling house to a C4 HMO in areas where there is a high concentration of HMO and student occupation. A stringent approach is to be applied to locations such as this which have benefitted from specific regeneration activity aimed at increasing the provision of family housing. The Council's Article 4 Direction, removing permitted development rights for the conversion of C3 dwellinghouses to C4 HMO reflects this approach.
7. There is clear evidence from the Council of very substantial unmet demand for 3 and 4 bedroom housing from eligible families on the social housing register. In addition to those households which are in need, there are many others who want, but do not need, to move.
8. The continuing use of the appeal property as a house in multiple occupation would result in the loss of a 3/4 bedroom dwelling that is suitable for family housing in an area where the Council has the specific policy intention of increasing the amount of family housing and controlling the loss of such housing. Allowing this appeal would be contrary to this policy and would also be likely to be seen as a precedent which would encourage other such changes of use.
9. The appellant indicates that he was never informed of the requirement to obtain planning permission. However, that is not a matter to which I can attach much weight. It is the responsibility of the appellant to ensure he obtains any required permission. I have no information to be able to judge whether the case he refers to in Leeds is comparable to the present situation.
10. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found no material considerations of sufficient weight as to alter my conclusion that the use of the appeal premises as a house in multiple occupation unacceptably conflicts with the aims of the development plan and, in particular, Policies H5 and H11.
11. The occupation of the appeal premises by multiple, unrelated tenants, and their visitors, appears to me likely to result in a greater intensity of activity than would be expected from single family occupation. There is the potential for residents with different patterns of work, such as shift work, and varying social/leisure activities to cause disturbance to neighbouring residents. I note

that the appellant seeks to manage his tenants in a responsible way but this may not be the case in the event that the property was to be disposed of.

12. To my mind, the use conflict with Core Strategy Policies SP1, H11 and DM1 which seek to ensure a high standard of development that makes a positive contribution to neighbourhoods.

13. I conclude that the appeal on ground (a) and the deemed application should fail.

B.S. Rogers

Inspector