
Appeal Decision

Site visit made on 27 June 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 5 July 2017

Appeal Ref: APP/B4215/W/17/3174035

24 Clare Road, Levenshulme, Manchester M19 2GP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Lau Grady against the decision of Manchester City Council.
 - The application Ref 114044/FO/2016, dated 27 September 2016, was refused by notice dated 7 December 2016.
 - The development proposed is the change of use of a C3 dwelling house to a Class C4 house in multiple occupation (HMO).
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Decision

1. The appeal is allowed and planning permission is granted for change of use of a C3 dwelling house to a Class C4 house in multiple occupation (HMO) at 24 Clare Road, Levenshulme, Manchester M19 2GP in accordance with the terms of application 114044/FO/2016, dated 27 September 2016, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr Lau Grady against Manchester City Council. The application is the subject of a separate Decision

Procedural Matters

3. The appeal building is already in use as a house in multiple occupation (HMO). There is a HMO license for the property which was issued by the Council in October 2015 for occupation by up to five persons. The HMO license is valid until 29 October 2020. For the avoidance of doubt, the planning application is submitted for use of the property by up to five occupants. I have determined the appeal on the basis of such occupation.

Main Issues

4. The main issues are (i) the effect of the proposal upon the standard, availability, mix and choice of housing in the area; (ii) whether or not there is adequate and useable outside amenity space for the proposed development and (iii) the effect of the proposal upon the living conditions of the occupiers of neighbouring residential properties in terms of noise and disturbance.
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Reasons

Site and proposal

5. The appeal property comprises a brick built two storey mid-terraced house in a predominantly residential area. The site is in close proximity to Levenshulme District Centre and the A6 Stockport Road which includes public transport provision.
6. My site visit revealed that to the ground floor there is a lounge and a dining room, a kitchen and one bedroom. To the first floor there are three bedrooms and a bathroom. In the attic there is a fifth bedroom and en-suite bathroom. The property has front and rear amenity space and there is a rear gated ginnel which is used for the storage of communal refuse bins. There is no on-site car parking space.
7. The proposal is retrospective and seeks to continue to use the property as a HMO for up to five occupants.

Housing impact

8. The appeal site falls just outside the District Centre for Levenshulme. Policy H6 of the Manchester's Local Development Framework Core Strategy Development Plan Document 2012 (CS) states that *"outside the district centres priorities will be for housing which meets identified shortfalls, including family housing and provision that meets the needs of elderly people, with schemes adding to the stock of affordable housing"*. The policy is a presumption in favour of housing types that meets shortfalls, but it does not specifically exclude HMOs. I do not consider that there is direct conflict with Policy H6 of the CS and, in any event, it should be read alongside Policy H11 (Houses in Multiple Occupation) of the CS which requires decision makers to consider the effect of the loss of a dwelling upon the sustainability of communities. I deal with this issue later on in this decision.
9. Policy H11 of the CS states that change of use from a C3 dwelling house to a C4 HMO will not be permitted where there is a high concentration of residential properties within a short distance of the application site falling within one or more of the following categories: Exempt from paying Council tax because they are entirely occupied by full time students; Recorded on Private Sector Housing's database as a licensed HMO and any other property which can be demonstrated to fall within the C4 or sui generis HMO use class.
10. The appellant has submitted an email from a Council Senior Planning Officer, dated 9 September 2016, which states that *"as discussed, here is a larger scale version of the Core Strategy map. Focusing on Clare Road in Levenshulme. As you can see, concentrations of properties falling within the first two categories listed in Policy H11 are less than 10% on Clare Road"*.
11. In the Council's delegated officer report it states *"the application site is located in an area with a high concentration of shared accommodation including student HMOs. Estate agents letting boards and websites indicate that there are a large number of houses available to rent for such purposes"*. Even if a web site did show that there were HMOs being offered on a rental basis it would have been also incumbent upon the Council to have differentiated between authorised and unauthorised HMO establishments. I have taken into account the Council's email and attached documentation dated 9 September

2016 as well as paragraphs 9.46 to 9.54 of the reasoned justification to Policy H11. On the evidence that is before me, I do not consider that there is a high concentration of C4 or sui generis HMO accommodation within a short distance of the appeal site. In this regard, the proposal does not conflict with Policy H11 of the CS.

12. Policy H11 also states that in areas which do not have a high concentration of HMO/Student housing but *"where the lack of family housing has threatened the sustainability of the community to the extent that regeneration activity with the specific intention of increasing the amount of family housing has taken place, there will be a presumption against changes of use which would result in the loss of a dwelling which is suitable for a family"*.
13. The appellant has submitted an email dated 22 September 2016 from the Council's Housing Commissioning Manager which states *"there has been no regeneration activity in the area of Levenshulme around Clare Road that we have been able to ascertain. Back in the 1970s there was a Housing Action Area on the other side of Stockport Road, south of Broom Lane, but this was not specifically related to the issue of family housing as far as I am aware"*. Taking this into account, and a lack of contrary evidence from the Council's Local Planning Authority, I do not consider that there is any evidence to suggest that the loss of the family dwelling house would threaten the sustainability of the community.
14. Policy H11 states that *"changes to alternative uses, including C4 and HMOs with more than six occupants, will only be acceptable where it can be demonstrated that there is no reasonable demand for the existing use"*. As the proposal is for up to five occupants there is no requirement for the appellant to provide information relating to the demand for use of the property as a family dwelling house.
15. Policy H11 states that all HMO proposals *"would be permitted only where the accommodation to be provided is of a high standard and where it will not materially harm the character of the area, having particular regard to the criteria in policy DM1"*. I was able to see as part of my site visit, that the property had been refurbished internally to a high standard. When viewed from outside the property continues to have the appearance of a single dwelling house and in this respect no harm has been caused to the character of the terrace or locality. Policy DM1 includes development management assessment criteria for planning applications and in respect of the other main issues, I have found that material harm has not been caused as a result of the development proposal.
16. In view of my conclusions on the other main issues, I do not consider that the proposal conflicts with Policy DM1. Given these conclusions, and the conclusions reached about the remainder of Policy H11 of the CS, I conclude that the proposal would not conflict with the housing choice, mix and quality and sustainable neighbourhood aims of Policies SP1, H6, H11 and DM1 of the CS and the National Planning Policy Framework.

Outside amenity space

17. The appeal property includes a reasonably sized rear outside amenity space. The proposal is to use the property as a HMO for up to five occupants. I do not consider that this level of occupation would be materially different from use of

the property as a single dwelling house. I am satisfied that the outside amenity space would be of a sufficient size and quality for use by up to five occupants. In addition, I note that Cringle Field Public Park is located about 100 metres from the appeal site. Hence, the occupiers of the property would have convenient access to both private and public amenity space.

18. For the above reasons, I conclude that the proposal includes adequate and useable outside amenity space and therefore accords with Policies H11, DM1 and SP1 of the CS.

Living conditions

19. The Council has raised concerns about the intensification of the use and its effect upon the living conditions of neighbouring residential properties in respect of noise and disturbance. I do not consider that use of the property by up to five occupants would be significantly different to use of it by a single family. I note that the Council is concerned that as the HMO has five bedrooms there is potential for it to be used by ten occupants. However, the planning application has been submitted on the basis of occupation by up to five persons only. This would accord with the HMO license issued by the Council and the Council's Environmental Health service raised no objection to the planning application.
20. I do not consider that it would be reasonable to refuse planning permission on the basis that the building might be used in a more intensive manner. I reach this conclusion on the basis that it would be possible to impose a planning condition which restricted use of the HMO to no more than five occupants. Whilst the appellant has questioned the need for such a condition, given the existence of the HMO license, I consider that there are legitimate planning reasons for imposing such a planning condition, not least in terms of ensuring that adequate controls are in place to protect the amenities enjoyed by the occupiers of neighbouring residential properties in respect of levels of noise and disturbance. Furthermore, these are not necessarily matters that would be considered in terms of any potential future renewed or altered HMO license for the property.
21. Subject to the imposition of a planning condition which restricts use of the HMO to up to five occupants, the proposal would not cause significant harm to the occupiers of neighbouring residential properties in terms of levels of noise and disturbance. Therefore, the proposal accords with the noise and amenity aims of Policies H11, DM1 and SP1 of the CS and saved Policy DC26 of the adopted Unitary Development Plan 1995.

Other Matters

22. The Council has referred me to several appeal decisions relating to the change of dwelling houses to flats. However, these appeals do not relate to HMOs and the sites are in different locations. Furthermore, they are not directly comparable in terms of the consideration of planning policies. I acknowledge that in these cases the Inspectors' concluded that there would be conflict with the overall aims of the CS which is to maintain and increase the availability of housing. However, I have considered this proposal against the specific HMO policies in the CS and do not consider that the proposal would cause harm to overall housing objectives.

23. None of the other matters raised outweigh or alter my overall conclusion on the main issues.

Conditions

24. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary, I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
25. As the proposal is retrospective it is not necessary to impose the standard three year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect. In the interests of the living conditions of neighbouring residential properties, it is necessary to impose a planning condition which restricts use of the HMO to up to five occupants.
26. In the interests of the character and appearance of the area and the living conditions of the occupiers of immediate area, it is necessary to impose a planning condition relating to the provision of waste and recycling facilities.

Conclusion

27. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Daniel Hartley

INSPECTOR

Schedule of Conditions

(1) The development hereby approved shall be carried out in accordance with the following plans: Site location plan with a red edge reference 12585-1 and ground, first and second floor layout drawings referenced 12585-2 to 12585-4 (inclusive).

(2) The HMO hereby approved shall at no time be occupied by more than five occupants.

(3) Within 1 month of the date of this planning permission details of waste and recycling facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved waste and recycling facilities shall be provided within 1 month of the Council's approval and thereafter retained as approved.