



Appeal Decision

Site visit made on 23 July 2019

by David Storrie DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2019

Appeal Ref: APP/B4215/W/19/3222029

22 Lees Hall Crescent, Manchester, M14 6YA

- 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 G Rafferty against the decision of Manchester City Council.
 - The application Ref 121650/FH/2018, dated 20 September 2018, was refused by notice dated 17 December 2018.
 - The development proposed is the retention of single storey rear extension to existing House in Multiple Occupation (C4).
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The parties agree that the submitted plans were incorrect in showing a hipped roof as opposed to the as built pitched roof. An amended plan was submitted by the appellant with the appeal to rectify this error. For the avoidance of doubt, it is the corrected plan that I have considered.
3. From my site visit I saw that the extension had been built. Notwithstanding this, I have considered this appeal on its individual planning merits.

Main Issues

4. The main issues are the effect of the proposal on the living conditions of neighbouring occupiers and the wider area having specific regard to overbearing and increased activity at the property, and the effect of the proposal with regard to planning policies that relate to houses in multiple occupation.

Reasons

Living conditions

5. The proposed extension as constructed, projects some 6m from the rear of the property and extends across the rear wall of the property. It is set some 150mm in from the boundary with the adjoining semi-detached property to the east. A rear window to the adjacent semi-detached property exists at ground floor level in close proximity to the side boundary with the appeal site. Given the juxtaposition of the proposed extension to this ground floor rear window, it would present a rather stark and imposing view which, coupled with its scale and projection from the common rear wall would present an overbearing

appearance for the occupiers of the neighbouring property and consequently adversely affect their living conditions.

6. I have had regard to the appellant's suggested fallback position that an extension of a similar depth could be built under permitted development. This is presented on the basis that the adjoining occupiers would not object and that a previous objection to an earlier prior approval application was withdrawn. I have seen the objections submitted to the appeal proposal but have not seen information in respect to any withdrawn objection in respect of an earlier prior approval application. Where the prior approval process would need to be followed to exercise the fallback position, any neighbour representations made would then need to be taken into account. As this process carries a degree of uncertainty regarding neighbour comments, I consider that it cannot be relied upon as a fallback position. I therefore give this no weight in consideration of the appeal.
7. Turning to the issue of any adverse impact on the living conditions of the occupiers of neighbouring occupiers from any increase in activity from the proposed development, the property, when considered as part of the Certificate of Lawfulness application for a C4 use in April 2016 (reference 111223/LE/2016/S1), provided a layout for 4no bedrooms. The proposed layout with the proposed extension would increase the number of bedrooms to 6. Use Class C4 permits the use of a dwellinghouse by 3-6 residents as a 'house in multiple occupation' (HMO). Any occupation of more than 6 people is unclassified and therefore sui generis. Planning permission would be required for occupation of the property by any more than 6 people.
8. The appellant has not applied for a change of use from C4 to sui generis and has made it clear that no more than 6 people will occupy the property with the proposed extension. On the face of it, the proposed extension would potentially attract an additional 2 people to the property although the existing authorised C4 use of the property with 4 bedrooms could also have accommodated up to 6 people. Whilst there may be an increase in comings and goings as a result of the two additional bedrooms, I do not consider that this would be discernible in general day to day activities and comings and goings from the property such to cause harm to the living conditions of the occupiers of neighbouring properties.
9. I note the concerns from third parties about noise nuisance they have already experienced from parties at the appeal property at unsociable hours. These are matters that appear to have been dealt with by the Council through their Noise Nuisance procedures, and that is the correct way for dealing with such issues. Furthermore, I note that the proposed extension provides two additional bedrooms rather than additional communal space in the property.
10. Taking all the above into account, and notwithstanding my conclusion on the impact of any increased activity on the living conditions of neighbouring occupiers, I conclude that the proposed development would adversely affect the living conditions of the occupiers of the adjoining semi-detached property having regard to overbearing. This would conflict with CS policies SP1 and DM1 that, amongst other things, seek to ensure that new developments make a positive contribution to the health, safety and wellbeing of residents and do not adversely affect amenity of existing properties.

Houses in multiple occupancy

11. The appeal site is a two-storey semi-detached property located within a residential area of similar properties. A Certificate of Lawful Use was granted in April 2016 for the use of the property as a small house in Multiple Occupation (HMOs) (Class C4) under application reference 111223/LE/2016/S1. In October 2016, Prior Approval was granted for a larger homes extension projecting some 6m with maximum eaves height of 3m and a total height of 4m, under application reference 114089/PDE/2016. It is this extension that is the subject of this appeal as the Council say that it subsequently transpired that the extension did not meet the requirements for larger homes extensions as it failed to take into account an existing lean to extension to the rear of the property. No plans were submitted with this prior approval application.
12. The appeal site falls within an area where the Council has designated an Article 4 Direction to provide control over HMOs, and Policy H 11 of the Manchester Local Development Framework: Core Strategy (2012) (CS) states that the change of use from a C3 dwelling house to a C4 house in multiple occupation (HMO) will not be permitted where there is a high concentration of residential properties within a short distance of the site which are already occupied as HMOs. The Council say that the property is located in an area where there is a high concentration of houses in multiple occupation but have provided no specific up to date information or evidence to substantiate this claim. Figure 9.6 of CS Policy H 11 shows where concentrations of council tax exempt student residential properties, combined with non-student licensed HMOs exceed 10% of total residential properties, but this is based on 2010 data and it is unclear as to how it relates to the appeal site.
13. Furthermore, during my site visit it was not possible to distinguish nearby properties in the street in use as HMOs from those in use as dwellings (Class C3). Given this, the lack of up to date evidence to clearly demonstrate that there was a high concentration of properties already within HMO use within a short distance of the site, and the fact that it is already being used as a HMO, I conclude that the proposed development would not have a significant impact on the mix and supply of housing in the area and would not conflict with Policy H 11 of the CS or Policy SP1 that, amongst other things, seek to create neighbourhoods of choice, providing high quality and diverse housing which meets local needs.

Planning balance and conclusion

14. Whilst I have found that the proposed development would not significantly increase activity from the appeal property nor conflict with planning policy that specifically relates to HMO's, this does not outweigh the concern I have identified regarding the overbearing effect of the proposed extension on the living conditions of the occupiers of the adjoining semi-detached property.
15. On balance, for the above reasons, I conclude that the appeal is dismissed.

David Storrie

INSPECTOR