



Appeal Decision

Site visit made on 10 March 2020

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2020

Appeal Ref: APP/B4215/W/19/3241184

284/286 Great Western Street, Moss Side, Manchester M14 4LP

- 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 Mahamed Idris against the decision of Manchester City Council.
 - The application Ref 124128/FO/2019, dated 5 July 2019, was refused by notice dated 28 August 2019.
 - The development proposed is the change of use of first floor of number 284 and ground and first floor of number 286 Great Western Street with associated internal alterations to form a 5 bedroomed house in multiple occupation (C4 Use).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development is taken from the Council's decision notice as this provides a more accurate description of the proposed development. It does not change the development for which planning is sought. The appellant uses the same description on their appeal form and the application was notified using the amended description. Consequently, I am satisfied that no party will be prejudiced by my use of it.

Background and Main Issues

3. The appeal site is made up of two existing residential units, a two storey mid-terraced dwelling at 286 Great Western Street and a flat above a retail premises at 284 Great Western Street sited adjacent to its junction with Maine Road. There is disagreement between the main parties as to the lawful planning status of 286 Great Western Street and whether it constitutes a family house under Class C3 of the Town and Country Planning Act (Use Classes) Order 1987 (as amended) (UCO), or an existing small house in multiple occupation (HMO) under Class C4 of the UCO.
4. During my site inspection I saw that No286 was a traditional terrace building that was built as a single dwelling, however, within the building individual doors were padlocked suggesting that it may now be used as an HMO as identified by the appellant. The Council advises that its Council Tax records indicate that No286 is a Class C3 dwellinghouse, although no specific evidence is submitted in this respect. Additionally, it has provided a copy of a previous signed application¹, dated April 2019, which identifies within sections 3, 14 and 17 of the application form, that the existing accommodation is a house. It is notable

¹ ref. 123357/FU/2019

that the completed form also makes a clear distinction in its references between a house and an HMO.

5. There is little contrary evidence submitted by the appellant to demonstrate the use of No286 is an established use, moreover, in the absence of any planning record to demonstrate its status, it is not for me to determine under a s78 appeal as to whether or not a use has subsisted for sufficient time to become lawful. To that end it is open to the appellant to apply for a determination under sections 191/192 of the Act². My determination of this appeal under s78 does not affect the issuing of a determination under s191/192 regardless of the outcome of this appeal.
6. Given the above, and on the balance of evidence before me, I conclude that starting point in this appeal can only be that No286 is a single dwellinghouse. Subsequently, the main issues are the effect of the development on:
 - maintaining sustainable communities; and,
 - the living conditions of nearby residents with respect to noise and disturbance and local parking pressure.

Reasons

Sustainable communities

7. Policy H11 of Manchester's Local development Framework Core Strategy Development Plan Document (2012) (CS) states that a change of use from a C3 dwellinghouse 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.
 - Any other property which can be demonstrated to fall within the C4 or sui generis HMO use class.
8. The policy post-dates the making of an Article 4 Direction restricting the change of use of dwellinghouses to HMOs. This was effective from 8 October 2011 and remains so.
9. The Council's evidence indicates that in 2010 the location of the appeal site had between 10% and 19% of properties in HMO use and that the area, being located close or easily accessible to a number of educational establishments, has a high concentration of students. These are matters which are not contested by the appellant.
10. During my site inspection I noted the area included subdivided properties and recent purpose-built student accommodation facilities. The Council's report indicates that the level accommodation falling within the identified categories is considered high in the context of Policy H11.
11. The policy seeks to prevent high proportions of HMOs which have been found to be damaging to a street or neighbourhood and to protect levels of family

² Town and Country Planning Act 1990 (as amended)

housing in areas where they are under threat from conversion to other house types. The Council's evidence advises that the Article 4 Direction preventing the change of use from Class C3 dwellings to houses in multiple occupation was justified based on evidence which demonstrated that higher concentrations of HMOs suffer from higher levels of noise and anti-social behaviour, increased levels of crime and a range of environmental problems. The supporting text of Policy H11 advises that within a healthy community mix of households, family accommodation is significant as it contributes to maintaining services that are not generally supported by other types of accommodation and tends to be of a less transient nature.

12. The Council's policy accepts that the calculation of the proportions of non-family dwellings is not an exact science. However, in the absence of evidence to demonstrate that the appeal site falls outside a high-density area, the loss of a C3 dwelling at No286 to form part of a HMO would be contrary to the Council's aim of creating and protecting neighbourhoods of choice which meet local needs.
13. Furthermore, the change of use would result in the loss of a family-sized dwelling. Based on housing need and reflecting regeneration objectives by encouraging economically active households, Policy H5 of the CS seeks to prioritise the delivery of family housing. Consequently, any loss of the existing family housing stock would be contrary to those aims and that of providing balanced and sustainable communities in the longer term.
14. In support of the appeal, the appellant refers to a high demand for HMO properties in the locality based on the local demographic and due to its proximity to the Manchester University campus and accessibility to jobs in the city centre. It is also submitted that the proposal would contribute to alleviating housing supply and avoid unhealthy or substandard types of accommodation.
15. Whilst the standard of accommodation is not under question, the net loss of an independent residential unit would not, to my mind, contribute to the overall housing supply in the locality. Furthermore, the claimed housing need is not supported by objective evidence to demonstrate such a demand, or, that it could not be met elsewhere in accordance with the Council's strategy for housing delivery.
16. For the above reasons, I conclude that the proposed development would fail to contribute to the Council's aim of achieving sustainable communities. It would therefore conflict with Policies H5, H11, SP1 and DC1 of the CS which, amongst other things, seek that development contributes positively to neighbourhoods of choice, including prioritising family housing within a balanced, sustainable and cohesive housing market, and protecting existing communities.

Living conditions of nearby residents

17. The description of the proposed development and submitted plans indicate that the proposal would combine existing residential units to form a new small HMO. Notwithstanding that the proposed plans show a total of five bedrooms, under Class C4 of the UCO this would be defined as a small shared house occupied by up to six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

18. In the current arrangement of accommodation, the occupation of the units for families would be open to accommodating more than the maximum number of tenants proposed. It would not be unusual to see a three-bed family unit occupied by four people or more, or a two-bed flat by three or more. The likely levels of occupancy of the existing units would therefore be similar or greater than the Class C4 HMO proposal.
19. However, I acknowledge the Council's concerns in relation to the potential effects of occupancy arising from the greater likelihood of the cumulative effect of individual activity in contrast to that of a single-family unit. The different work and social patterns of HMO occupiers, their more transient nature and potential to draw more visitors are recognised concerns.
20. I also note that the internal rearrangement of the buildings would result in the loss of the existing access serving the flat at No284. Consequently, any comings and goings of the occupants would be concentrated about the existing front and rear entrances to No286 which lie in close proximity to the neighbouring property at 288 Great Western Street. However, the level of accommodation proposed is limited and there is no objective evidence to suggest that the behaviour of 'individual' residents would be disrespectful. The occupancy of the combined units by up to 6 residents – the level of current occupancy of No286 according to the appellant's evidence, does not appear to have resulted in any actual complaints to the Council or from third parties.
21. I do not doubt that students or others residing in HMOs attend late night events (as do others) and there may be some occasional disturbance about the entrances. However, in the context of the high density housing area with a high proportion of students and in close proximity to the late opening store, the general environment is likely to be one of relatively high levels of activity where the effect of localised noise would be less pronounced. For those reasons, and being mindful of the limitation on occupancy under Class C4, I conclude it is unlikely that the development would materially change the impact on the living conditions of nearby residents in that respect.
22. Due to the predominance of terraced housing, parking is generally limited to on-street provision in the locality. The Council's highway advisor confirms that there is significant parking demand in the locality and that demand could be increased by the proposed development. The occupation of the combined premises by five or six adults may give rise to greater demand than that arising from a family dwelling and small flat. However, it is not possible to accurately predict parking demand as this would be dependent on the level, nature and age group of the occupancy of the premises in either scenario.
23. In the absence of evidence to suggest that parking within the vicinity is at saturation point such that additional demand would demonstrably affect living conditions of nearby residents in the locality, or that it would be contrary to meet a specified parking standard set out within the development plan, it is not possible to draw a firm conclusion on this matter.
24. Noting that the area is reasonably served by local bus services, the potential limited change in occupancy numbers and that the area accommodates a high proportion of students who are less likely to be car owners, I conclude, on balance, that the effect of the proposal is unlikely to cause significant harm to living conditions of nearby residents in the locality as a consequence of parking demands.

25. For the above reasons, I am not persuaded that the overall intensity of activity would be so great as to adversely impact the living conditions of nearby residents. I therefore conclude that the proposed development would be consistent with the aims of Policies SP1, DM1 and H11 of the CS as they seek to protect the living conditions of communities as they relate to matters of noise, disturbance and parking.

Conclusion

26. Whilst I have found in favour of the appellant with respect to the matter of living conditions, I do not consider this outweighs the identified harm in relation to the Council's policies for managing housing to provide balanced provision and promoting sustainable communities. I therefore conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR