



Appeal Decision

Site visit made on 23 March 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2021

Appeal Ref: APP/B4215/W/20/3261807

78 Braemar Road, Manchester M14 6PG

- 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 Ms F Ali against the decision of Manchester City Council.
 - The application Ref 126551/FO/2020, dated 18 March 2020, was refused by notice dated 6 October 2020.
 - The development proposed is described as: 'continuation/reuse as a small house in multiple occupation (Use Class C4¹) (HMO).
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of dwelling house (C3) to small HMO (C4) at 78 Braemar Road, Manchester M14 6PG in accordance with the terms of the application, Ref 126551/FO/2020, dated 18 March 2020, subject to the following conditions:
 - 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location / Site Plan SK15.02.19 and Existing Ref: SK18.02.09_01.
 - 3) The planning permission hereby granted relates to the formation of a 3no. bedroom HMO.
 - 4) The development shall be implemented in accordance with the submitted waste management arrangements received on 20 April 2020 comprising: Waste Management Proforma and photograph and plan showing location of waste and recycling containers.

Procedural Matters

2. For clarity, I have taken the description in the banner heading above from the application form, but I have used the description given on the Council's decision notice and appeal form in my decision, as it more accurately reflects the proposal, in light of the comments from the appellant in her Grounds of Appeal².
3. Whilst not cited on the Council's decision notice in respect of its first refusal reason, Policy H11 of the Council's Core Strategy Development Plan Document 2012 (CS) has been cited in respect of its second refusal reason. I will

¹ Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO)

² Section 1.0

therefore not prejudice any party, by taking CS Policy H11 into consideration on the first refusal reason.

Main Issues

4. The main issues are the effect of the proposal on:

- i. the supply of family housing and the formation of cohesive and sustainable neighbourhoods; and,
- ii. the living conditions of the occupants of nearby dwellings with particular reference to noise and disturbance.

Reasons

Supply of family housing

5. The appeal site is a mid-terraced property, where there is no dispute between the main parties that the site is within an area with a high or significant concentration of HMOs. The site is also subject of an Article 4 Direction, which came into force in 2011, removing permitted development rights in respect of a change of use from C3 to C4.
6. CS Policy SP1 seeks to meet local housing need and for development in all parts of the City to consider the needs of all members of the community. CS Policy H1 relates to overall housing provision in the City and identifies a need to increase the availability of family housing, and the mix within each area will depend on the management of areas where HMOs predominate, amongst other things. Furthermore, CS Policy H6 identifies a need for family housing in the south of the City, where the site is located.
7. CS Policy DM1 seeks regard to the impact of all development on the surrounding areas and its character, amongst other things. CS Policy H11 seeks to restrict changes of use from a dwelling house to a HMO where there are a high proportion of HMOs in the surrounding area. In this instance, there is already a very high concentration of HMOs in the vicinity which the proposal would contribute towards. This would conflict with this part of CS Policy H11.
8. The appellant has drawn my attention to a survey (the survey) of surrounding properties within a 100m radius of No 78. The concentration of HMOs in the survey identifies that of the 169 properties within a 100m radius, only 42no. properties within the survey area are occupied as single dwelling houses, equating to less than 25% of the stock. The remaining residential units are in multiple occupation, including HMOs, with a significant number comprising student accommodation. Therefore, HMOs form a notable proportion of the survey area, which in turn significantly dominates the character of the area surrounding No 78. Thus, the proposal would not significantly alter the existing balance of housing in the area or its character.
9. Whilst one of the properties adjoining the site is a dwelling house, the former public house is now a pair of flats, and the site faces a number of HMOs. I note that only taking the eastern section of Braemar Road into consideration the percentage of HMOs is lower than on other surrounding roads, but it is still notable. Additionally, I note the limitations of the property as a family home, particularly with regard to its rear yard and its 2no. bedrooms at first floor (if used as a single dwelling), but I find that the site is located in proximity of

public parks, such as Platt Fields Park and Highfield Country Park, both of which are within walking distance of the site. I therefore accept that the change of use of No 78 to a HMO would result in the permanent loss of a home for a small family. However, in addition to the physical limitations of No 78, I consider that the high number of HMOs in the area surrounding the site and the notable amount of student accommodation, would likely form a deterrent to families choosing to live at No 78.

10. I acknowledge that the formation of cohesive and sustainable neighbourhoods requires provision for a mixture of households, and this includes families. I also recognise the wider objectives of the CS, particularly to increase the provision of family housing. I have noted the letter from an estate agent³, and whilst it is of limited content and refers to the lack of a Lawful Development Certificate, it does indicate that all viewings were from investors looking for a HMO. The appellant has also provided a number of appeal decisions to support her submission, which I have had regard towards.
11. The Council has provided a copy of the Manchester Housing Demand Study 2010, along with a number of appeal decisions⁴ to support its submission. The study⁵ confirms the demand profile of South Manchester and indicates the need for a balance of family homes, particularly for owner occupation and 2no. bedroom housing. It also identifies the importance of developing lower cost options for the Excluded Middle Market and the need for additional social rented accommodation in the South Manchester Strategic Regeneration Framework Area. The full evidence that was before the Inspectors in the referenced cases is not before me. Nonetheless, the property at 17 Northern Grove and 31 Northdale Road comprised 5no. bedroom semi-detached houses, 11 Tarleton Street comprised a 3no. bedroom town house, all of which are in different parts of the City. 41 Station Road is also in a different part of the City. The appeal at 59 Egerton Road involved an extension to an existing 9no bed HMO.
12. Therefore, although I have had regard to the above schemes as material considerations, I conclude that they all illustrate that every proposal has to be considered on its own particular merits. Accordingly, I find little within these cases which would lead me to alter my conclusions in this case. In the case before me, the concentration of HMOs already present in the area surrounding the site, and the apparent focus of the existing housing market towards HMOs represents a material consideration of significant weight. Thus, I am not convinced that the proposal would adversely affect the character or sustainability of the area surrounding the site or undermine the Council's strategic objectives to form inclusive, mixed and cohesive communities.
13. For the reasons given above, I find that the proposal would not conflict with local and national planning policies, which seek to achieve cohesive and sustainable neighbourhoods, or the supply of family housing. Although there would be conflict with CS Policy H11, I have found that there would be no conflict with the Council's overall development strategy in CS Policies SP1, H1, H6 and DM1. Therefore, when the development plan is taken as a whole, I find the conflict with CS Policy H11 is clearly outweighed. Furthermore, the proposal

³ JP & Brimelow Sales, dated 16 March 2020

⁴ APP/B4215/W/19/3234087; APP/B4215/W/16/3163382; APP/B4215/W/16/3149338; APP/B4215/A/13/2199702 and APP/B4215/A/13/2195179.

⁵ Section 5.27 and Appendix E

would accord with the requirements of the National Planning Policy Framework (the Framework).

Living conditions

14. The description of the proposal and submitted plans indicate that the HMO would comprise 3no. bedrooms, one of which would be on the ground floor and 2no. on the first floor. Notwithstanding the submitted drawings, 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. In this instance, a living room and a rear yard would be shared by future residents also.
15. The Council have asserted to a limited amount of usable outdoor amenity space on its decision. However, although the rear yard is modest, it would represent a reasonable private outdoor space for the level of accommodation proposed. Additionally, similar to the reasons on the previous main issue, I consider that future residents of the HMO would be able to easily walk to, and access the nearby public parks. I acknowledge the Council's concerns in relation to the potential effects of occupancy arising from the cumulative effect of individual activity in contrast to that of a single dwelling. Additionally, I accept, that the occupiers of HMOs are likely to have different work and social patterns and be more transient in nature.
16. Due to the constraints within No 78, the level of accommodation proposed is limited and the maximum occupancy of the HMO would be for up to 6no. residents. On the details before me, there is no substantive evidence to suggest that the behaviour of future residents of the HMO would be inconsiderate or discourteous towards neighbouring occupiers. An objection from a local Councillor has been received who states that she has been asked to represent a local residents association, which covers the area from which the site is within. However, I note that No 78 does not appear to have resulted in any actual complaints to the Council when it was previously used as a HMO, or from interested parties, such as residents from Braemar Road, including the occupiers from No 80, which is a single dwelling house.
17. Therefore, on balance, I am not convinced that the occupancy level that would be achieved at No 78 through the proposal would be markedly different to that of a C3 dwelling house. Thus, in this instance and in the absence of any substantive evidence to the contrary, I do not consider that the proposal would have a detrimental impact on the living conditions of neighbouring occupiers or on the sustainability of the wider community.
18. For the above reasons, I am not persuaded that the overall intensity of the site would be excessive for future occupants of No 78 as a HMO, nor do I consider the activity at the site would be so great or different, to adversely impact the living conditions of nearby residents or the sustainability of the wider area. I therefore conclude that the proposed development would accord with the amenity aims of CS Policies SP1, H11, DM1. Furthermore, the proposal would comply with the requirements of the Framework.

Other Matters

19. There is a dispute between the main parties about the lawful use of the appeal property. In 2013 the Council asserts that a change of use occurred

back to a dwelling house (C3). The appellant disputes that a material change of use has occurred and that the host property still comprises a HMO (C4). Nonetheless, whilst I have noted the above matter, the lawful status of No 78 was not for my consideration under this appeal, neither has it been in isolation, a determinative factor. I have considered this appeal on its own merits and concluded that it would be acceptable for the reasons set out above.

Conditions

20. The Council has suggested conditions which I have considered, making amendments, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 55 of the Framework and the Planning Practice Guidance (PPG).
21. In addition to conditions relating to the time limit for implementation and the approved plans for certainty. It is reasonable and necessary to also impose a condition restricting the use of the property to an HMO with 3no. bedrooms in order to achieve control over the development, ensure a suitable quality of accommodation and safeguard the living conditions of neighbouring occupiers. Finally, a condition is reasonable and necessary to require that the proposed waste management facilities are implemented in the interests of residential amenity and to ensure the provision of satisfactory arrangements for the collection and storage of segregated waste.

Conclusion

22. Taking all matters into consideration, I conclude that the appeal should succeed.

W Johnson

INSPECTOR