



Appeal Decision

Site visit made on 10 May 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2023

Appeal Ref: APP/B4215/W/23/3315981

157 Hamilton Road, Manchester M13 0PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr John Blaylock against the decision of Manchester City Council.
 - The application Ref 135124/FO/2022, dated 5 October 2022, was refused by notice dated 30 November 2022.
 - The development is described as 'the change of use, namely to a house in multiple occupation (Use Class C4 for 4-6 tenants)'.
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Decision

1. The appeal is allowed, and planning permission is granted for a change of use, to a house in multiple occupation (use class C4 for 4-6 tenants) at 157 Hamilton Road, Manchester M13 0PL in accordance with the terms of the application, Ref 135124/FO/2022, dated 5 October 2022, and the plans submitted with it.

Preliminary Matters

2. The change of use has taken place and tenants are living in the property. Therefore, the application is retrospective, and I have amended the description of development accordingly. I have dealt with the appeal on this basis.
3. Based on the evidence submitted, the appeal site is covered by an Article 4 Direction, which has the effect of requiring planning permission to be obtained for a change of use, which would otherwise be covered by "permitted development" rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This includes changes of use from Class C3 (dwellinghouse) to Class C4 (house in multiple occupation) (HMO).

Main Issues

4. The main issues are:
 - The effect of the development on the mix and balance of housing in the area, with particular regard to the supply of family housing; and,
 - The effect of the development on the living conditions of neighbouring occupiers, with regard to noise and disturbance, the availability of car parking and waste generation.

Reasons

Mix and Supply of Housing

5. Hamilton Road lies within a predominately residential area. There is a school

and nursery within close proximity of the site and a parade of shops, and other schools, in the wider area. Properties in the area are largely two storey, semi-detached and terraced properties. 157 Hamilton Road is a two storey, mid-terrace, property, with accommodation in the roofspace. The change of use to Class C4 has been accommodated within the confines of the existing property, without external alterations or extensions.

6. Policy SP1 of Manchester's Local Development Framework Core Strategy Development Plan Document 2012 (CS) sets out the spatial principles which will guide the strategic development of Manchester and requires development to make a positive contribution to neighbourhoods. CS Policy H5 requires new residential development within Central Manchester, to give priority to family housing and other high value, high quality development. The supporting text to this policy states, amongst other things, that the emphasis will be on increasing the availability of family housing and diversifying housing stock in mono-tenure areas, preserving and improving the quality of the existing housing stock and the management of areas where HMOs predominate. CS Policy H5, or its supporting text, does not distinguish between the size of family accommodation it would support. The emphasis is on increasing the availability of family housing and managing areas where HMOs predominate.
7. The Council state that there is high demand, in particular, for three bedroom properties. However, based on the evidence submitted, there appears to be demand across all tenures. I note that No 157 has in excess of three bedrooms and is therefore a larger family property. The demand for such a large family home, as indicated in the Council's evidence, is notably lower than properties with fewer bedrooms, albeit those waiting were mainly in the highest priority bands. The appellant has stated that No 157 was advertised for sale as a family home from January 2021 to March 2022. During that period, I understand that there were no viewings by, or offers from, families.
8. CS Policy H5 seeks to increase the supply of family homes and prevent further shortages of this tenure. However, although the loss of a family home would undermine these efforts, it is only by a small amount and in an area where there is not a predominance of HMOs. In this instance, the effect of the loss of a single, family home on the overall mix and balance of housing in the area is limited. In this respect, there is no clear conflict with CS Policy H5, which does not prevent the loss of family housing, but rather seeks to prioritise them.
9. Changes of use from Class C3 to Class C4 are controlled by CS Policy H11. This policy seeks to restrict the change of use from Class C3 to Class C4 in areas where there is a high concentration of HMOs or student housing. This policy goes on to state that in areas where the concentration of such properties is significant but less high, the Council will examine the property type and residential mix in more detail.
10. The Council have confirmed that the use of No 157 as an HMO does not increase the number of HMOs in the area to a level that would exceed the 10% threshold. Furthermore, there is no evidence before me that demonstrates the number of HMOs or student housing in the area is significant but less high. This is consistent with my observations of the surrounding area, where I saw little evidence of large numbers of properties being in multiple occupancy, or having been subdivided.

11. A further section of CS Policy H11 seeks to restrict the change of use of family housing to HMOs in areas that do not have a high concentration of HMOs or student housing. This only applies in areas 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. No information has been provided to me which demonstrates any such regeneration activity has taken place in this area. Based on the evidence before me, this section of CS Policy H11 is not relevant to the appeal site.
12. CS Policy H11 also requires that proposals for changes of use of existing properties to HMOs would only be permitted where they would provide accommodation of a high standard and would not materially harm the character of the area. This is also a requirement within CS Policies SP1 and DM1, amongst other things.
13. The change of use of No 157 has been carried out without the need for external alterations or extension. The internal layout of the property is such that the tenants are afforded large bedrooms, with a sizable reception room and kitchen. There is also an outdoor garden to the rear of the property. From my observations during my site visit, the property appeared well maintained. Having regards to this, the accommodation is of a high standard, and does not therefore materially harm the character of the area.
14. For the reasons given above, I conclude that the development does not harm the mix and balance of housing in the area, with particular regard to the supply of family housing. The development therefore complies with CS Policies SP1, H5, H11 and DM1 and the requirements in the National Planning Policy Framework (the Framework), which together seek, amongst other things, to create neighbourhoods of choice, prioritise family housing, ensure the provision of HMOs is controlled in areas where there is a higher concentration of HMOs, ensure development has regard to the character of the surrounding area and the size, type and tenure of housing need is considered.

Living conditions

15. No 157 has small front and rear gardens, with no off-street parking provision. Immediately to the rear of no. 157 is an alleyway that runs between Hector Road and Mentor Street.
16. The application form states that the use of the property as a HMO commenced in 2020. The occupants of the HMO are likely to be unrelated and, therefore, likely to create greater levels of comings and goings and differing patterns of behaviour than those associated with a single family unit. I understand that No 157 is occupied by 6 tenants, which is the maximum occupancy level sought by the appellant. Considering the spacious layout of the property and the maximum number of tenants, which has similarities to that of a single family, albeit larger. Thus, I do not find No 157 to be intensively occupied.
17. In addition, when considering the length of time that No 157 has been in use as a HMO, there is limited evidence before me that demonstrates neighbouring properties are experiencing unacceptable levels of noise and disturbance as a result of the use of the property as a HMO. As set out above, there is not an existing concentration of HMOs in the area. As a result, I am satisfied that the scheme is not harmful to the living conditions of neighbouring occupiers.

18. Hamilton Road is a relatively wide street, with space for on-street parking along both sides of the road. There is no off-street parking provision provided as part of the scheme. During my site visit, I observed that the majority of properties along Hamilton Road and adjacent streets do not have off-street parking spaces. I did observe that the section of Hamilton Road outside of No 157 was not heavily parked and there were no parking restrictions along it. I did note however that neighbouring streets had higher concentrations of on-street parking. I recognise that my visit was a snapshot in time and the on-street parking situation may change in the more competitive evening and weekend times. I also observed that the site is accessible to other sustainable modes of transport, including bus routes.
19. The Council have stated that neighbouring residents have identified problems with on-street parking. However, little evidence has been submitted to demonstrate these issues are as a direct result of the use of No 157 as a HMO. Furthermore, no substantive evidence, by way of a car parking survey or standards, has been submitted by either party. Based on the evidence before me, the proposal has not materially exacerbated on-street parking provision in the area.
20. Having regards to the maximum number of tenants, waste generation and management is not significantly different to that of a large family property. Adequate storage space is provided to the front of No 157 which, based on my observations during my site visit, is typical of other properties in the area.
21. For the reasons given above, I conclude the development does not harm the living conditions of neighbouring occupiers, with regard to noise and disturbance, the availability of car parking and waste generation. This complies with CS Policies SP1, H11 and DM1 and the requirements of the Framework, which together seek, amongst other things, to make a positive contribution to the health, safety and wellbeing of residents, to ensure development is of a high standard, would not materially harm the character and appearance of the area, have regard to effects on amenity including noise, litter and road safety and creates places with a high standard of amenity for existing users.

Conditions

22. It is not necessary to impose a commencement condition as the development has already been carried out and is in use. Additionally, the Town and Country Planning (Use Classes) Order 1987 (as amended) defines Class C4 as use of a dwellinghouse by not more than six residents as a "house in multiple occupation". Having regards to this definition and given the maximum number of tenants is explicitly referenced in the description of development, it is not necessary to restrict occupancy numbers by way of a condition.

Conclusion

23. Given my findings above, the proposal accords with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. The scheme also complies with the requirements of the Framework. For the reasons given, I conclude that the appeal should be allowed.

S Pearce INSPECTOR