

Appeal Decision

Site visit made on 17 September 2024

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2024

Appeal Ref: APP/U4230/W/24/3346294

4 Stapleton Street, Salford M6 7WG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Peter (Ben) Jones of Premier Building Services (Salford) Limited against the decision of Salford City Council.
 - The application reference is PA/2024/0113.
 - The development proposed was originally described as 'We have converted the property into a 4 bed HMO with en suite to each room. I had mis read the zoning area as per emails with James Bridgman and thought it was within permitted developments'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from single dwellinghouse (Use Class C3) to 4 bedroom House in Multiple Occupation (Use Class C4) at 4 Stapleton Street, Salford, M6 7WG, in accordance with the terms of the application, reference PA/2024/0113, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. In my decision at paragraph 1, I have used the description of development from the Council's decision notice, removing the word 'retrospective' as this does not describe an act of development. This clarifies the original description provided by the appellant.
3. I am advised that the use of the appeal property as a 4-bedroom house in multiple occupation (HMO) has already commenced. Nevertheless, I have assessed the proposal based on the plans before me.
4. A change of use from Class C3 (dwellinghouse) to Class C4 (HMO) could be permitted development under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, I am advised that the appeal property lies within an area covered by an Article 4 Direction which removes these permitted development rights.

Main Issue

5. The main issue is the effect of the development on the living conditions of occupiers of 2 Stapleton Street, with particular regard to noise and disturbance.

Reasons

6. Policy H10 of the Salford Local Plan: Development Management Policies and Designations, dated 18 January 2023, (LP) considers the conversion of existing houses to certain other uses, including HMO's. It specifies a number of criteria to be met, including that such proposals should not have an unacceptable impact on the positive residential character of the surrounding neighbourhood, including by way of noise and disturbance. Criteria 3) of the same policy requires that such conversions should not result in any house that is in use as a single dwelling being immediately adjacent to more than one property falling within those other uses listed at B) to G), which include HMO's and non-residential uses such as offices. For interpretation purposes, 'immediately adjacent' properties include those directly behind and opposite, as well as to either side. Additionally, LP policy D5 seeks to ensure that development does not have an unacceptable impact on the amenity of the users of other buildings and spaces.
7. The appeal scheme relates to a mid-terrace property approaching the eastern end of Stapleton Street. The neighbouring property to the east, 2 Stapleton Street, forms the end terrace. While No 2 fronts onto Stapleton Street, it has a further road to its side elevation, Claremont Road. These terraced houses have shallow front gardens, as well as a gated lane to the rear providing access to rear yards. Further residential uses are located to the north and south, with a commercial and electrical contractors unit located to the opposite side of Claremont Road.
8. There is no dispute between the main parties that 2 Stapleton Street is in use as a single dwelling. As a result of the appeal scheme, No 2 would have the proposed HMO adjoining it to the west, and the non-residential use of the commercial and electrical contractors unit to the east.
9. Criteria 3) of LP policy H10 seeks to resist this scenario. However, the existing commercial and electrical contractors at 11a Claremont Road is positioned some distance from 2 Stapleton Road. It is separated by the road initially and then a high wall forms the boundary to its car park. The commercial building itself is set back further, beyond the car park, some 35m from No 2. While I acknowledge that No 2 has habitable room windows to its side elevation which face towards this commercial building, and that there are general comings and goings associated with its use, there is no substantive evidence before me demonstrating that any associated activity is at a level that is harmful to the living conditions of occupiers of No 2 with regards to noise and disturbance.
10. The proposed HMO would physically adjoin No 2, sharing a party wall. Occupation of the proposal as an HMO could introduce different comings and goings to those typically associated with a family dwelling. However, the conversion of a family home to a 4-bedroom HMO, would not significantly increase the number of people occupying the property and there is limited

evidence before me to suggest that this change would result in any significant increase in noise and disturbance.

11. Conflict with LP policy H10 arises because of the resulting position of No 2 between the appeal scheme and the existing commercial unit. Nevertheless, there is no substantive evidence to suggest that the commercial premises to the east is causing any significant level of harm to the living conditions of No 2 by way of noise and disturbance, or that the appeal scheme would individually or cumulatively with this commercial use, result in a significant level of harm to the living conditions of the occupiers of No 2.
12. For these reasons, I conclude that the proposal would not result in harm to the living conditions of occupiers of 2 Stapleton Street by way of noise and disturbance. While there is some conflict with criteria 3) of LP Policy H10, the proposal complies with LP policies H10 and D5 when read as a whole, insofar as they collectively seek to ensure that the conversion of single dwellings to HMO's would not, either individually or cumulatively, have an unacceptable impact on the positive residential character of the surrounding neighbourhood, or have an unacceptable impact on the amenity of the users of other buildings.

Other Matters

13. A number of other matters have been raised by interested parties. I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above.
14. The Council's OR provides evidence of the number and location of HMO's in the area, which demonstrates that there is not a high concentration, indicating that housing mix and community stability would not be adversely impacted by the appeal scheme.
15. While the planning application for the appeal scheme was made retrospectively, it does not automatically follow that health and safety regulations would be overlooked by the appellant. Nor is there any substantive evidence that future tenants would not be as equally concerned as existing residents with security of the rear gate. While more refuse bins may be necessary for an HMO, space exists to the front and rear of this property for storage purposes and neighbouring properties appear to utilise these areas for this purpose. I acknowledge the number of problems reported with HMO's more generally, but there are other mechanisms to address such issues, namely the licencing regime managed by the Local Housing Authority.
16. The Highway Authority has not objected to the proposal on highway safety, and while the proposal may increase on street parking, the Council indicates that this would not have a noticeable effect on the surrounding highway network. I have not been provided with any detailed evidence demonstrating particular traffic safety or parking issues and so I have no reason to disagree with the Highway Authority or Council on these matters.
17. While a third party has raised concerns with the internal space provided by the HMO in relation to licence requirements, the Council has undertaken its own assessment and concluded that these space standards have been met.

The appellant has also provided a copy of the licence for the HMO from Salford City Council. The proposal does not include any external alterations and so there would be no external deterioration of original features of this terrace.

Conditions

18. I have considered the conditions put forward by the Council with reference to the National Planning Policy Framework and Planning Practice Guidance. The appellant has had the opportunity to comment.
19. I have imposed a condition specifying the approved plans as this provides certainty as to the layout of the HMO. I have also imposed a condition to limit the number of residents to 4, in order to regulate the living conditions of future occupiers, and the overall effect of the development on the locality.
20. There is no dispute between the main parties that the appeal scheme requires the provision of secure cycle parking. I am advised that cycle parking for 2 cycles would meet the minimum cycle parking standards of 1 space per 2 rooms for HMO properties as set out within Annex C of the LP. Both main parties indicate that this could be accommodated within the rear yard of the property, but no details are provided. A condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a timescale for compliance because the use has already commenced and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matter before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
21. I do not consider it necessary to impose a condition to secure any further details relating to bin storage. The available information suggests that existing residents generally store waste bins either within their small front gardens or to the rear. The Council indicates that the appeal scheme would require 3 x 240 litre bins for waste and recycling. There is sufficient space to either the front or rear of the property to accommodate this.

Conclusion

22. For the reasons outlined above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

S Brook

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Ground Floor Plan, First Floor Plan, Second Floor Plan.

- 2) The house in multiple occupation hereby permitted shall not be occupied by more than 4 residents at any one time.
- 3) Unless within 3 months of the date of this decision a scheme for secure cycle parking facilities is submitted to the local planning authority for written approval, including a timescale for its implementation, and unless the approved scheme is implemented in accordance with the approved timescales, the occupation of the dwelling as a House in Multiple Occupation for up to 4 people shall cease until such time as a scheme is approved and implemented. If no scheme in accordance with this condition is approved within 6 months of the date of this decision, occupation of the site as a House in Multiple Occupation for up to 4 people shall cease until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.