



CAROLINE TAMWORTH PLANNING

Planning and Design Consultancy

TOWN AND COUNTRY PLANNING ACT 1990

**APPEAL AGAINST MANCHESTER CITY COUNCIL'S REFUSAL OF RETROSPECTIVE
APPLICATION 127550/FO/2020 RELATING TO
PROPOSED CHANGE OF USE OF DWELLING (PLANNING USE CLASS C3) TO 6
BED HOUSE IN MULTIPLE OCCUPATION (PLANNING USE CLASS C4)**

1 SPENCER AVENUE, MANCHESTER, M16 0AW

APPELLANT'S STATEMENT OF CASE

Prepared by Caroline Tamworth Planning

On Behalf Of

Mr K. Rashid

CT1018

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1.0 The Appeal Site

1.1 The appeal relates to a three storey red brick end of terrace property on Spencer Avenue, which is located to the south east of the Firswood area of South Manchester. The dwelling has an enclosed forecourt to the Spencer Avenue frontage and an enclosed rear garden area.

1.2 An alleyway runs along the northern boundary of the site, behind the properties on Clarendon Road. An alleyway serving the rear garden areas of No's 1 - 21 Spencer Avenue and No's 2 -22 Westminster Avenue also runs along the eastern boundary.

1.3 The surrounding properties are predominantly residential in character. However, there is a parade of commercial units to the north on Clarendon Road.

1.4 A site location plan is provided at Document No. 1.



2.0 The Proposal

2.1 Retrospective consent is sought for the change of use from a private dwelling to a small House in Multiple Occupation.

2.2 The accommodation to be provided includes a kitchen and two living/dining rooms to the ground floor, three bedrooms and a bathroom to the first floor and three bedrooms and a bathroom to the second floor.

2.3 Access to the rear garden area will be provided both from the kitchen and via patio doors in the living/dining room.

2.4 There are no external alterations proposed.

2.5 A copy of the planning application submission is included at Document No. 2.

3.0 Background

3.1 The works to the property were commenced in January 2017 and completed in June 2019. The appellant has invested considerable time and finances into the project and was unaware of the Article 4 Direction in place that means planning permission for the change of use was required.

3.2 Over several months the appellant corresponded with various departments of the Council about the matter and in response submitted a retrospective application in July 2020, in order to regularise the situation.

3.3 Following consideration of the proposal the Council refused the application on 1st October 2020 for the following reasons:-

1) The proposed change of use from a dwellinghouse to a 6 bedroom House in Multiple Occupation (C4) would create 3 additional bed spaces, resulting in an over-intensive use of the property due to 6 unrelated adult households living together. The consequential increase in the level of occupation, which would include increased comings and goings, noise levels, waste generation and demand for on-street parking, would be harmful to the amenity and living conditions of existing and neighbouring residential occupiers, contrary to policies H11, DM1, T2 and SP1 of the Manchester Core Strategy (2012), saved policy DC26 of the Unitary Development Plan for the City of Manchester and the National Planning Policy Framework (2019).

2) The change of use from a dwellinghouse (Class C3) to a House in Multiple Occupation (C4) at No.1 Spencer Avenue, would result in the loss of a dwelling house suitable for occupancy by a family, thereby reducing the availability of family housing. This would undermine the provisions contained within policies H6 and SP1 of the Manchester Core Strategy which seek to create an appropriate mix and balance of housing provision in the locality in order to create sustainable neighbourhoods of choice and to maintain the character of areas within the south of the city. The proposal is therefore be contrary to the provisions of policies SP1, H1, H6 and DM1 of the Manchester Core Strategy (2012) and the National Planning Policy Framework (2019).

3) The north-facing dormer window provided for bedroom 6, due to its position and proximity to the rear windows of flats above Nos. 209-211 Clarendon Road, would give

rise to intrusive overlooking opportunities which would be detrimental to the amenities of the occupiers of the flats, contrary to saved policy DC1 of the Unitary Development Plan for the City of Manchester and to Core Strategy policies SP1 and DM1.

3.4 A copy of the decision notice is provided at Document No. 3.

4.0 Planning Policy Context

4.1 The appeal site falls within South Manchester on the Core Strategy Development Plan Proposals Map but is unallocated for any primary purpose.

4.2 The following Core Strategy policies are relevant:-

- | | | |
|--------------|---|--|
| • Policy SP1 | - | Spatial Principles |
| • Policy H6 | - | South Manchester |
| • Policy H11 | - | Houses in Multiple Occupation |
| • Policy DM1 | - | Development Management |
| • Policy T2 | - | Accessible Areas of Opportunity and Need |

4.3 It is assumed that the Council will provide a copy of the relevant Core Strategy policies as part of its appeal questionnaire.

4.4 Advice contained within the National Planning Policy Framework (NPPF) is also relevant.

5.0 Justification

5.1 The first reason for refusal of the application sets out the Council's opinion that the proposed change of use from a dwelling to a 6 bedroom House in Multiple Occupation (HMO) would result in an over-intensive use of the property which would have a detrimental impact of the amenity and living conditions of the occupants of surrounding properties. The Council refers to increased comings and goings, noise levels, waste generation and demand for on-street parking as potential issues.

5.2 The dwelling offers accommodation over three floors and, with six bedrooms each capable of accommodating two people, there is currently the potential for a large family with up to 12 members of a multi-generational household to occupy the property. As such, it is maintained that the use of the property as a small HMO will not lead to an over-intensive use of the building over and above what could take place under the original private dwelling use. Whilst one or two of the bedrooms may be occupied by two people, it is unlikely that this will be the case with all of the bedrooms and therefore the total number of occupants associated with the small HMO use would be less than that of a fully occupied large family dwelling.

5.3 Within the planning officer's delegated report it is stated that internal and external works have taken place in order to accommodate the HMO use. However, under different circumstances, it is quite feasible that the works could have taken place in order to accommodate a larger family within the dwelling had it remained in private use. A copy of the planning officer's delegated report is provided at Document No. 4.

5.4 There are many examples of small and larger HMOs within Manchester. These HMOs operate successfully alongside other HMOs and dwellings falling within planning use Class C3 without undue noise and disturbance, excessive waste generation or significant demand for car parking.

5.5 Whilst there is no off-street parking provided, there should be no highway safety concerns as the proposed use is unlikely to generate a significant demand for car parking spaces on Spencer Avenue. The accessible location of the site means that future occupants are unlikely to rely upon the use of a car for travel and therefore levels of traffic generation associated with the use will be minimal.

5.6 In the event of the use requiring occasional car parking there is ample on-street car parking within the area. The existing dwelling does not have any off-street parking and the likelihood of a 6 bedroom HMO generating more demand for on-street car parking than a large family sized private dwelling is very slim.

5.7 Detailed waste storage arrangements will be provided in response to an appropriate condition. However, there is adequate space within the rear yard area to accommodate sufficient waste bins to serve the proposed development. The Council accepts this by stating in the delegated report:-

"The proposal is accompanied by a waste proforma which states that 6no. waste containers (2 x black, 2 x blue and 2 x brown) for general and recyclable waste are provided. The application has not been assessed by Environmental Health for the adequacy of these arrangements but this level of waste provision is considered acceptable for the proposed level of occupancy."

5.8 The second reason for refusal refers to the loss of a dwelling suitable for occupancy by a family and thereby reduce the availability of family housing.

5.9 The Council goes on to state that the proposal would undermine the provisions of Core Strategy policies H6 and SP1. This is wholly disputed.

5.10 Whilst it is acknowledged that policy H6 seeks to increase the choice of housing available within South Manchester by adding to the stock of larger homes, this should not mean that all future proposals for housing within that area must be solely for this type of dwelling. This is unrealistic and exclusive.

5.11 The planning officer's delegated report states that:-

"Approval of the proposal would contribute to a further imbalance of the housing mix in the area and undermine the Council's long term sustainable housing objectives which promote diversity and choice in the housing market,....".

5.12 The proposal would seek to do the opposite; to help to provide a better mix of housing types within the area to offer diversity and choice and seek to assist in achieving the Council's housing objectives.

5.13 Policy H6 recognises that there is still a need for higher density and affordable housing development in the area. Paragraphs 4.15 to 4.21 of the Planning Statement submitted with the planning application (Document No. 2) set out the reported concerns regarding the lack of provision of housing for lower cost incomes. The planning officer, within the delegated report, states that:-

"The intensification of a former family house to an HMO would conflict with this aspiration and increase the threat of families being driven out of the area due to not only a shortage of appropriate accommodation,..".

5.14 However, the approach taken to not allow any future HMO accommodation within the area could be seen to be creating a situation where single persons or small households on lower incomes are being driven out of the area due to a shortage of suitable and affordable accommodation. The evidence put forward clearly suggests that the continued provision of HMO accommodation is essential in ensuring that all sectors of Manchester's population are able to access suitable and affordable accommodation, not just families.

5.15 The proposed development will provide newly refurbished accommodation for single or small households who require shared accommodation within an accessible location.

5.16 Policy H11 states that:-

"In cases where the concentration of such properties is significant but less high, the Council will examine property type and resident mix in more detail when considering an application for a change of use."

5.17 Detailed information on the Council's list of licensed rented homes within the 'M16' post code area was provided within the Planning, Design & Access statement (paragraphs 4.12 to 4.13) submitted with the planning application, a copy of which is included within Document No. 2. The findings showed that of the 31 licensed rented homes listed within the 'M16' postcode; 24 were located within the 'M16 8' postcode area, 4 within the 'M16 7' postcode area and 3 within the 'M16 0' postcode area.

5.18 Whilst it is acknowledged that not all HMOs within Manchester are known and registered, the above figures do suggest that there is not currently an over-concentration of HMO accommodation within the area surrounding the application site. As such, the proposed change of use will not lead to an unacceptable level of concentration of HMOs within the area and thereby protect the balanced and mixed residential character of the area. Paragraph 9.48 of policy H11 states that sustainable communities must provide opportunity for a mix of households and the proposal is considered to contribute towards this aim.

5.19 As there is an absence of evidence to suggest that there is a significant concentration of HMO properties within the area, this is all the more reason for the Council to assess the application on its merits.

5.20 Spencer Avenue appears to be dominated by family housing which will ensure that the Council's strategy to retain a predominance of family accommodation within the area, in order to support a range of local facilities, including schools, will not be undermined.

5.21 Policy SP1 promotes the creation of neighbourhoods of choice with high quality development focussed within district centres. There is an emphasis on accessibility, in particular walking, cycling and public transport and improving sustainable access to jobs, services and education.

5.22 Whilst the site does not fall within a district centre, it is less than 1km away from Whalley Range district centre. The site is located close to the local shopping parade on Clarendon Road and there is good access to community facilities, places of employment and areas of recreational open space. In line with local and national policy, the site is well connected to public transport and walking and cycling are also feasible modes of transport.

5.23 The Council's third reason for refusal refers to a perceived adverse impact upon the amenity of the occupants of the flats above No's 209 – 211 Clarendon Road as a result of the window with the rear dormer serving bedroom 6.

5.24 The extension and dormer was carried out using permitted development rights. Regardless of whether or not the property is used as a HMO, the dormer will remain and serve a bedroom. There is no evidence to suggest that the occupants of the flats on Clarendon Road would suffer any significant loss of amenity as a result of the occupation of the room bedroom under either a private residential use or HMO use. The Council agrees that:-

"Due to the design, size, projection and position of the roof extension, it is not considered that there would be any significant, adverse impact upon either the appearance of the streetscape or the visual amenity of adjoining residential occupiers. Provision exists in the current GPDO for a similarly scaled roof extension provided any openable window parts are 1.7 metres above ground level with the lower light obscurely glazed."

5.25 In line with the provisions of Core Strategy policy DM1, the layout of the internal accommodation and floor areas of the rooms are compliant with guidance contained within the Council's Houses in Multiple Occupation Guidance and Amenity Standards document.

Conclusion

The proposed small HMO will make a positive and balanced contribution to the housing stock within the area. There is not an over-concentration of such uses within the vicinity of the site and the remainder of Spencer Avenue will remain as family housing.

The level and type of activities associated with the proposed HMO will not lead to unacceptable levels of noise and disturbance to existing surrounding residents or lead to a substantial increased demand for on-street car parking. The residential use is compatible with the character of the area and the presence of the small HMO is unlikely to be apparent from the public domain.

The use of the rear dormer extension will not have an unacceptable adverse impact on the amenity of the occupants of the properties on Clarendon Road and is similar to many other examples within the area.

For the reasons stated above it is considered that the proposed development is fully compliant with local and national planning policy and it is respectfully requested that the Inspector allows the appeal.

November 2020