

Planning

Growth & Development

Delegated officer report for planning application

Application no. 127550/FO/2020
Date registered valid: 30 July 2020
Proposal: Retrospective application for the change of use from a dwellinghouse (Class C3) to a House in Multiple Occupation (Class C4)
Address: 1 Spencer Avenue, Manchester, M16 0AW
Ward(s): Whalley Range Ward
Applicant: Mr K Rashid, 18 Gildridge Road, Manchester, M16 8PS
Agent (if any): Mrs Caroline Tamworth, Caroline Tamworth Planning, 39 Lee Street, Oldham, OL3 6AE
Case officer: Linda Marciniak
Tel: 0161 234 4636
Email: l.marciniak@manchester.gov.uk
Recommendation: Refused
Date of recommendation: 30 September 2020



Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: None due to Covid-19 restrictions

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 6 August 2020 Expired: 27 August 2020

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

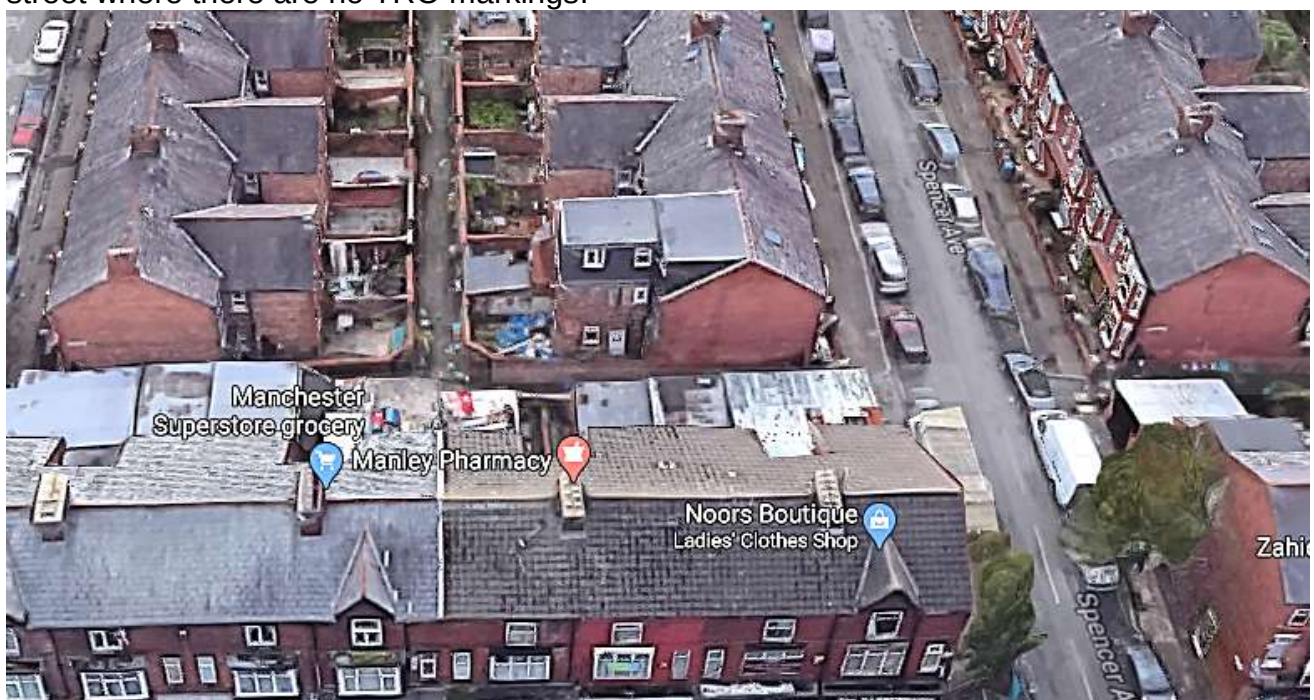
Environmental Statement: Not required

Description of site/building

The application site is a 2-storey red brick Edwardian end of terrace property situated on the eastern side of Spencer Avenue, close to the junction with Clarendon Road in the Whalley Range ward.

The property has a small palisade garden at the front and yard area to the rear to the north of a 2-storey outrigger.

Gated alleyways run along both the north and eastern boundaries of the site and parking is on street where there are no TRO markings.



It is understood that this house type in Spencer Avenue was originally designed as a 3-bedroom property. Drawings submitted with the application show it is laid out as a 6-bedroom HMO with 2 living rooms and 2 bathrooms. Accommodation is provided over 3 floors, including within a rear L-shaped dormer over the outrigger and rear roof slope.



The Planning, Design and Access Statement submitted with the application notes that works to convert the property commenced in 2017 and were completed in June 2019.

The property was assessed by the Council's Private Landlord HMO team in September 2019 who found that no mandatory HMO licence was needed on the basis that the owner was resident at the address along with less than 3 lodgers.

The application is also accompanied by a Waste Proforma which shows 6no. waste bins which are provided for in the rear yard area.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The surrounding area is mainly C3 residential land uses. The exception is the parade of shops between 197-211 Clarendon Road to the north, although these 8 properties are all registered for residential Council Tax having flats above the ground floor retail units.

No.3 Spencer Avenue adjacent has an historic (1983) consent for use as 2 flats (Ref: 019126). However, current Council Tax records show the 2 units at this address as being deleted and replaced by a single dwelling valuation suggesting the property is currently in use as a single family dwelling house.

There is a park close to the site on the north side of Clarendon Road and both Chorlton and Whalley Range District Centres are located a short distance away offering a range of shopping and commercial amenities.

Description of development

Retrospective application for the change of use from a dwellinghouse (Class C3) to a House in Multiple Occupation (Class C4).

Consultations & Notification Responses

Neighbour notifications. 1 objection. Comments:

As a whole we object to this, as on the third and second floors there are numerous windows which are intrusive on our property. This is especially the case when it comes to the third floor dormer he has already built.

The third floor dormer also blocks the sun between the hours of 4-8pm.

POLICY

The National Planning Policy Framework

The NPPF was revised and published in February 2019. It replaces and revokes all Planning Policy Guidance (PPGs) and Planning Policy Statements (PPSs) previously produced by Central Government. It states that the planning system must contribute to the achievement of sustainable development encapsulated into three categories: economic, social and environmental.

Article 4 Direction

The Council introduced a direction under Article 4 of the GDPO on the 11th October 2011, which removed permitted development rights to change a family dwelling house to a house in multiple occupancy. This measure was introduced to enable the Council to manage the impacts on the sustainability of neighbourhoods as well as on residential amenity.

Core Strategy 2012 - 2027 (adopted July 2012)

Manchester Core Strategy - The Core Strategy Development Plan Document 2012-2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development. A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents.

The Core Strategy includes the provision of a policy specific to Houses in Multiple Occupation, policy H11, which is included alongside others of relevance to this application.

Policy SP1 - Spatial Principles

The Core Development Principles of policy SP1 stipulate that development in all parts of the City should:-

- o Make a positive contribution to neighbourhoods of choice including:-

- o creating well designed places that enhance or create character.
- o making a positive contribution to the health, safety and wellbeing of residents
- o considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income.
- o protect and enhance the built and natural environment.
- o Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible.
- o Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

Core Strategy Policy DM1 - Development Management.

Policy DM1 provides specific guidance in the Development Management decision making process and provides that:

All development should have regard to the following specific issues relevant to this application:-

- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.
- Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- Community safety and crime prevention.
- Adequacy of internal accommodation and external amenity space.
- Refuse storage and collection.
- Vehicular access and car parking.
- Effects relating to biodiversity, landscape, archaeological or built heritage.

Core Strategy Policy H11- Houses in Multiple Occupation

Change of use from a C3 dwelling house 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:

- o Exempt from paying Council tax because they are entirely occupied by full time students.
- o Recorded on Private Sector Housing's database as a licensed HMO.
- o Any other property which can be demonstrated to fall within the C4 or sui generis HMO use class.

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.

In areas of high concentration, extensions to HMOs (as defined in the Housing Act 2004) would not be permitted where this could reasonably be expected to lead to an increase in the level of occupation.

In parts of Manchester which do not have a high concentration of HMO/student housing but 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, there will be a presumption against changes of use which would result in the loss of a dwelling which is suitable for a family. Changes to alternative uses, including C4 and HMOs with more than six occupants, will only be acceptable where it can be demonstrated that there is no reasonable demand for the existing use.

The approach above will also be used for change of use to a HMO which is classified as 'sui generis'.

Notwithstanding the policy requirements set out above, all proposals for change of use of existing properties into houses in multiple occupation, and all proposals for conversion of existing properties into flats (which might not necessarily fall within Class C4), would be permitted only where the accommodation to be provided is of a high standard and where it will not materially harm the character of the area, having particular regard to the criteria in policy DM1.

Core Strategy Policy H6 – South Manchester

The priorities for housing in the H6 Core Strategy policy area of South Manchester are to provide housing to meet identified shortfalls; this includes family housing and additions to the stock of larger housing units.

Core Strategy Policy T2 – Accessible Areas of Opportunity and Need

This transport policy states that the Council will actively manage the pattern of development to ensure that new development manages parking with the proviso that all new development should provide appropriate car parking facilities.

Unitary Development Plan

Saved policies within the UDP which carry weight as material considerations in this application include:

Policy DC26.1 – Noise

The Council intends to use the development control process to reduce the impact of noise on people living and working in, or visiting, the city. In giving effect to this intention, the council will consider both:

- a) the effect of the new development proposals which are likely to be generators of noise and;
- b) the implications of new development being exposed to existing noise sources which are effectively outside planning control.

ISSUES

Principle of Use

The application site has undergone internal and external works to convert it from a 3-bed family house to a 6 bed house in multiple occupancy. The property is located in a residential area comprising 3-bed terraced dwellings close to a local park, shops and schools. The works to the property create 2 living / dining rooms and a kitchen at ground floor, 3 bedrooms with 1 bathroom at first floor and a further 3 bedrooms with 1 bathroom in the dormer at second floor.

Having regard to the existing policy framework, the principle of the development is considered unacceptable due to the proposed intensification of the property and the problems that this would cause to the amenity of nearby residential occupiers.

It is also believed that any approval of the application would help further imbalance the housing mix in the area and undermine the long term housing objectives of the City Council which seeks to retain housing for families.

The adopted Core Strategy sets out the housing objectives for Manchester and recognises the need to provide additional housing for families.

Loss of Family Housing

The Council introduced an Article 4 Direction removing Permitted Development rights for the change of use from a C3 dwelling house to a C4 House in Multiple Occupation, in 2012. This

move responded to the need to manage the loss of family housing and to create more sustainable communities where key services such as schools are supported.

An important policy objective of the City Council is to improve the quality of housing stock in the City and to deliver a more sustainable housing market. This can be achieved by increasing the amount of family housing stock on offer and by providing for choice through a range of accommodation. This would allow for more balanced and cohesive neighbourhoods that provide for stronger and safer communities as well as supporting local infrastructure.

To allow further intensification of a house in multiple occupation clearly contravenes City Council policy which should be taken into account as an important material consideration. 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, as well as the protection of residential amenity. As such, it is considered that the proposed change of use is contrary to the provisions contained within the Unitary Development Plan and the Manchester Core Strategy.

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, but also due to the risk of adverse living conditions caused by a loss of residential amenity.

Residential amenity

The proposal, to create a dwelling occupied by 6 unrelated adults represents an over-intensification of the use of the dwelling. An intensified use arising from a collective group of individuals with different lifestyles and different pattern of behaviour can result in frequent comings and goings with associated noise and disturbance and parking demands. This in turn can have an adverse impact upon the amenity of other nearby residential occupiers.

It is believed that to allow the use of the property as an HMO as opposed to a family house, would result in the over intensive use of the traditional residential dwelling.

In amenity terms the main concerns relate to noise nuisance from the activities of different occupiers' patterns of comings and goings which could include different shift patterns and the movement of a larger than average number of vehicles associated with one dwelling parking around the site which is close to a busy junction.

The proposal has the effect of 'shoe-horning' occupants into a property not originally designed to accommodate 6 separate adult households. The lack of storage space within the converted dwelling indicates that realistically, the property would only appeal to short-term tenants with few possessions suggesting that the dwelling would attract a transient population; this would be out of character with the immediate context made up of established family households which the Council supports as an objective towards community cohesion and long-term sustainability.

Furthermore, the rear dormer has introduced a bedroom window on the north-facing side elevation which is within 10 metres of the rear bedroom windows of the flats at 209-211 Clarendon Road, giving rise to the perception of being overlooked which has been raised by an objector. A second window in the L-shaped dormer serves the second bathroom. Saved UDP policy DC1 and Core Strategy policy DM1, require that development does not result in harm to existing levels of amenity. This element of the proposal is contrary to these policy objectives and also out of character with the pattern of development in the local area.

The objectors has also referred to some overshadowing of his property towards the afternoon as a result of erecting the dormer. This however amounts to a partial overshadowing which is not a substantial reason for refusal.

Car Parking

Given that there is the potential demand for 6 car parking spaces, the proposed development could exacerbate existing on-street car parking difficulties in the immediate area and Spencer Avenue / Clarendon Road in particular.

Visual Amenity

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.

Waste management

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.

Human Rights Act 1998 considerations

This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: Refuse

Article 35 Declaration

The local planning authority in making its decision has had due regard to paragraph 47 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations and has refused the application for the reasons outlined in the delegated report. The agent was advised of the Council's concerns and recommendation before the decision was made and given the opportunity to withdraw the application. No response was received in that time and the application has therefore been determined in accordance with the above policies of the development plan.

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

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.

Appendix 1 – List of consultees & neighbours notified

Rear, 211 Clarendon Road, Manchester, M16 0EH
Front, 211 Clarendon Road, Manchester, M16 0EH
205A Clarendon Road, Manchester, M16 0EH
Top Flat, 209 Clarendon Road, Manchester, M16 0EH
213 Clarendon Road, Manchester, M16 0AY
4 Westminster Avenue, Manchester, M16 0AN
Flat 2, 213 Clarendon Road, Manchester, M16 0AY
209 Clarendon Road, Manchester, M16 0EH
211 Clarendon Road, Manchester, M16 0EH
Flat 3, 213 Clarendon Road, Manchester, M16 0AY
2 Westminster Avenue, Manchester, M16 0AN
205 Clarendon Road, Manchester, M16 0EH
207 Clarendon Road, Manchester, M16 0EH
4 Spencer Avenue, Manchester, M16 0AW
2 Spencer Avenue, Manchester, M16 0AW
3 Spencer Avenue, Manchester, M16 0AW

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M
Area Team Boundary - Name: SOUTH