The Planning Inspectorate

Appeal Decision

Site visit made on 26 February 2011

by Elaine Benson BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 March 2011

Appeal Ref: APP/B4215/A/10/2139091
32 Heaton Road, Withington, Manchester, Lancashire M20 4PU

- 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 Mr Peter Quinn against the decision of Manchester City Council.
- The application Ref 092218/FU/2010/S1, dated 18 March 2010, was refused by notice dated 29 July 2010.
- The development proposed is described as "retrospective change of use four flats multiple occupation to ten bedroom HMO".

Procedural matters

1. The development applied for has already been carried out. The Council described the development as 'retrospective change of use from 4 flats to 10 bedroom house in multiple occupation'. I have dealt with the appeal on this basis as it more accurately reflects the nature of the proposed development than the description set out above.

2. The Council states that although there are no planning records to verify the initial conversion of the appeal house to 4 two-bedroom flats, it determined the planning application on this basis. Accordingly I have decided the appeal on the same basis.

Decision

3. I dismiss the appeal.

Main Issues

4. The main issues are firstly, whether the continued use of the property as a house in multiple occupation (HMO) would undermine the Council's aim of achieving an appropriate balance of housing provision in the locality and a sustainable and cohesive housing market; and secondly, whether its continued use for this purpose amounts to an over intensive use of the property which harms the living conditions of neighbouring occupiers.

Reasons

5. The appeal property is within a predominantly residential area. Heaton Road contains properties of various architectural styles and sizes, including large houses, some of which have been converted to multiple occupation or flats. A significant amount of accommodation caters for students. It is proposed to continue the use of the appeal house as a 10 bedroom HMO, a sui generis use.

6. Representations focus on the occupation of the premises by students. However, there is no evidence that the accommodation has a management or any other link to a university, which might guarantee its future occupation by students. I recognise that the City's universities make an important contribution to the Manchester economy. However, there is a range of accommodation available for students in the City, including purpose built student accommodation and private sector housing types. There is no specific or identified need for the appeal property for student housing. Moreover there are few material differences in planning terms between a house in conventional multiple occupation and a house in multiple occupation by students.

Policy considerations

7. Saved Policy DC3 of the Unitary Development Plan for the City of Manchester (UDP) sets out a general presumption in favour of HMOs in residential areas, subject to other plan policies and compliance with criteria including adequate standards of internal accommodation, garden space, access and parking and refuse storage. The objective of saved UDP Policy H2.2 is to maintain and where necessary improve housing stock and residential environments.

8. I have also had regard to the South Manchester Strategic Regeneration Framework which was published in October 2007, following a period of public consultation. It sets out the Council's comprehensive policy framework to guide long-term regeneration and neighbourhood renewal. This includes the improvement of the quality of housing stock and providing a choice of housing types to allow for a more balanced and cohesive neighbourhood, resulting in stronger and safer communities.

9. The Council has designated a City-wide Article 4 Direction (Direction) which will come into force on 8 October 2011. Its aim is to prevent the unrestricted change of use, under permitted development rights, of dwellinghouses to HMOs falling under Use Class C4 of the Use Classes order. Whilst the appeal proposal falls outside the C4 Use Class because there would be a higher number of occupants, the relevant issues are similar.

10. The emerging policies of the Draft Core Strategy have developed from a series of initial consultations and a detailed evidence base. By using a 10% threshold approach, draft policy H11 seeks to control the creation of additional HMOs in areas where they are already found in high concentrations, and to restrain their displacement to neighbouring areas. Although it in the early stages towards adoption, I have given some weight to this emerging policy as it is based on recent local assessments and a substantiated evidence base, including that obtained during the preparation of the Direction.

11. One of the Government's strategic housing policy objectives set out in Planning Policy Statement 3 *Housing* (PPS3) is to create sustainable, inclusive, mixed communities. It also requires that local policies are informed by a robust, shared evidence base with regard to housing need and demand. In respect of the appeal proposal, I consider that the approach of the Core Strategy meets these objectives.

12. House conversions can provide an important source of new housing. However, the Council identifies the area around the appeal site as one where 10-19% of properties within a 100m radius of the appeal site are student households or non student licensed HMOs and that the actual figure is likely to be close to the upper range, well above the 10% threshold set out in draft policy H11. The

Council's recent assessments indicate that the need for HMO accommodation is well served. In the Withington ward in which the appeal site is located, the acceptable number of HMOs in the area has now reached the tipping point beyond which maintaining a sustainable community attractive to permanent residents would be difficult.

13. The Council has provided sufficient evidence to demonstrate that the continued rate of conversion to such uses in this area would harm its housing objectives, including for the creation of balanced communities. Furthermore, the conversion of the appeal property to an HMO would reduce the amount of housing stock available to small families or couples requiring two-bedroom flats and contribute towards an imbalance in housing stock in the area.

14. On the basis of the evidence before me, I consider that the proposed change of use to a 10 bedroom HMO would conflict with the Council's existing and emerging policies which set out its objectives to provide diversity and choice in the housing market whilst seeking to achieve a sustainable, inclusive local community with a mix of household types. A further HMO would contribute to the identified imbalance of the housing mix in the area which is changing its character and making the area a less attractive place to live for permanent residents.

15. I conclude that the proposed development would take the number of HMOs in the locality beyond an acceptable level and would contribute towards an erosion of the balance of the local community, contrary to the objectives of PPS3. These factors justify dismissing the appeal. Policy DC3 supports the creation of HMOs in residential areas in principle. However, in this case there are material considerations which indicate that this policy of the development plan should be departed from. Furthermore, HMO residents are more likely to be transient, with less interest in the well-being of the general area. As demonstrated by the Council's evidence, the effect of their increased number would also conflict with the objectives of UDP policy H2.2.

Effect of the proposed use on neighbouring occupiers

16. The maximum number of occupiers at the premises permitted by its Mandatory House in Multiple Occupation Licence is 10. The appellant suggests that the 4 flats could potentially accommodate between 12 and 16 tenants. Although I consider this unlikely, the flatted use would accommodate 4 households whose residents could be expected to share a lifestyle. The level of activity resulting from a group of 10 unconnected people is likely to result in more frequent comings and goings and differing patterns of behaviour. The resulting potential for noise and disturbance to neighbouring occupiers is increased by the high number of occupants. Local residents also comment that there are frequent incidences of antisocial behaviour, including disruption such as late-night parties, at HMOs in the area. I conclude that permitting the intensity of the use to continue would harm the living conditions of neighbouring occupiers and would not maintain the residential environment as required by UDP policy H2.2.

17. There is little evidence that use of the appeal house as an HMO has harmed the appearance of the road. I note that it has recently been refurbished and is in good order and the garden well-maintained. From my observations, the standard of maintenance of properties does not necessarily relate to the form of occupation. I am not satisfied that there is sufficient evidence to substantiate an objection on this ground.

18. The appeal site is a short distance from Withington District Centre with its various facilities and services and has good access to public transport. In such a sustainable location I do not consider that a high level of car ownership is likely, particularly if the occupiers are students, even with 10 individuals living in the property. Although off-street parking for cars at the appeal premises is limited, in such a location, I am not convinced that renting to working tenants would lead to more demand for parking, as the appellant states. Parking is available on Heaton Road close to the appeal property, and the lockable gates and CCTV provided enable tenants to keep bicycles and motorbikes securely.

19. I have had regard to these factors, the volume of traffic using nearby roads and the existing parking situation, noting that parking is more difficult during term time due to the nearby primary school. Having considered all the evidence I conclude that the proposed development would not lead to additional demand for on-street parking which would adversely affect the existing character of the area or cause highway dangers.

20. Notwithstanding my conclusions that visual appearance and parking matters are unobjectionable, these factors do not outweigh the concerns I set out.

Other matters

21. Having regard to their need for term-time accommodation for only a limited period, I do not consider that my decision would be an infringement of the human rights of the student occupiers. In terms of the management of refuse storage and collection, whilst it might be easier for the landlord to liaise with a lead person of 10, rather than with the occupiers of 4 flats, this would depend on a level of cooperation which may not always be present. Whilst the operation of a single boiler rather than one for each flat would produce fewer emissions, this does not outweigh my conclusions. I note that by remaining as one unit, the house could be easily converted back into a family home. However, as the agreed planning history is that the house was previously in 4 flats, I consider this to be an unlikely scenario.

Conclusion

22. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Elaine Benson

INSPECTOR