# Planning

## Growth & Development

## Delegated officer report for planning application

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| **Application no.** | 141128/FO/2024 |
| **Date registered valid:** | 29 October 2024 |
| **Proposal:** | Change of use from dwellinghouse (C3) to House in Multiple Occupation (C4) |
| **Address:** | 16 Kensington Avenue, Manchester, M14 5PG |
| **Ward(s):** | Rusholme Ward |
| **Applicant:** | Mr Qasim Ali |
| **Agent (if any):** | |
| **Case officer:** | Steven McCoombe<br>Tel: 0161 234 4607<br>Email: steven.mccoombe@manchester.gov.uk |
| **Recommendation:** | Refuse |
| **Date of recommendation:** | 20 November 2024 |

**Application details**

**Type of application:** Full Application Consent

**Development type:** Change of use

**Standard consultations:**
Printed: 30 October 2024 Expired: 20 November 2024

**Neighbour notifications**
Printed: 30 October 2024 Expired: 20 November 2024

**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 relates to a two storey, Victorian dwellinghouse with basement.

The 4-bedroom dwellinghouse comprises 4 bedrooms to the first floor, with living space to the ground floor. The basement is presently not used for habitable living space.



**View of application property**

The property incorporates a stepped access with canopy above. To the front and rear are small garden/yard areas. The rear garden includes gated access onto an adjoining alleyway.
Due to site constraints, the property does not include any off-road parking provision.

**Listed building:** Not applicable

**Conservation area:** No

**Tree Preservation Order:** No

## Description of area

The immediate area is predominantly residential in character, largely comprising two storey, terraced dwellinghouses. Further to the west, are a number of student halls of residences and Xaverian College, beyond which is the Oxford Road corridor – a main north/south arterial route.

## Description of development

Planning permission is sought for a change of use from a dwellinghouse (C3) to House in Multiple Occupation (C4). The submitted drawings show 4 bedrooms, comprising 1 bedroom to the ground floor and 3 bedrooms to the first floor. No off-road parking is proposed.

## Consultations & Notification Responses

Local Residents/Occupiers – No representations received.

Environmental Health – No comments.

Highway Services - In comparison to the former use, the level of trips generated is not anticipated to be dissimilar and as such no highways concerns are expected

There is no on-site car parking associated with the development and as such, all vehicular demands associated with the site are anticipated to contribute to the level of vehicles parked on-street.

It is noted that Kensington Avenue has existing on-street parking in place due to a number of the existing properties having no off-street parking in place.

secure and sheltered cycle parking provision should be made, within the curtilage of the site, at a provision of one-per-unit.

A refuse storage area is noted in the front garden of the site. Kerbside collection will be from Kensington Avenue. This is considered to be appropriate in ensuring no obstruction on the adjacent highway.

## Planning History

There have been no previous planning applications at this property.

## Policy

Local Development Framework

The principal document within the framework is the Manchester Core Strategy which sets out the spatial vision for the City and includes strategic policies for development during the period 2012 – 2027.

'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.

Policy SP1 (Spatial Principle) - refers to the key spatial principles which will guide the strategic development of Manchester together with core development principles. It is stated that developments in all parts of the city should create well designed places which enhance or create character, make a positive contribution to the health, safety and well-being of residents, consider the needs of all members of the community and protect and enhance the built environment. Further, development should seek to minimise emissions, ensure the efficient use of natural resources, reuse previously developed land wherever possible, improve access to jobs, services and open space and provide good access to sustainable transport provision.

Policy DM1 (Development Management) - states that new development should have regard to more specific issues for which more detailed guidance may be given within supplementary planning documents. Issues include: the appropriate siting and appearance of development, the impact upon the surrounding area, the effects on amenity, accessibility, community safety and crime prevention, health, the adequacy of internal accommodation and amenity space and refuse storage/collection.

Policy H5 (Central Manchester) - Central Manchester, over the lifetime of the Core Strategy, will accommodate around 14% of new residential development. Priority will be given to family housing and other high value, high quality development where this can be sustained.

Policy H11 (Houses in Multiple Occupation) - states that changes 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:

- Exempt from paying Council tax because they are entirely occupied by full time students.
- Recorded on Private Sector Housing's database as a licensed HMO.
- 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 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.

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.

Place for Everyone (Joint Development Plan) - The Places for Everyone Plan is a strategic plan for nine of the 10 boroughs in Greater Manchester and forms part of the city's development plan.

National Planning Policy Framework

The central theme to the revised NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, a social role and an environmental role.

Section 4 provides guidance on the decision-making process and mirrors legislation in stating that planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Section 5 refers to the need to deliver a sufficient supply of homes and states that strategic policies should be informed by a local need assessment and the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.

Paragraph 60 states:

> *'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community'.*

**Issues**

Permitted Development Rights

Ordinarily the change of use from Class C3 to Class C4 would constitute permitted development in accordance with the Town and Country Planning (General Permitted Development) Order 2020 (as amended).

Due to concerns regarding an oversupply of such accommodation and the impact that such accommodation was having on the character of areas throughout the city, as well as upon residential amenity, the City Council introduced an Article 4 GPDO Direction to remove permitted development rights for changes use from C3 to C4. The Direction was adopted on 11th October 2011.

Principle

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that decisions are to be made in accordance with the development plan, unless material considerations indicate otherwise.

The NPPF at paragraphs 2 and 47 reinforces this requirement and at paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as a starting point for decision making, and that where a planning application conflicts with an up-to-date development plan, permission should not normally be granted.

In the case of this application, the principle of the proposed change of use is not considered acceptable and is in conflict with the aforementioned development plan policy and associated guidance.

It is considered that the proposed change of use to a house in multiple occupation (sui generis) would result in the loss of family sized accommodation, in an area where it is desirable to retain such properties, so to contribute to the Council's housing supply.

It is further maintained that the proposed usage would facilitate an over intensive use of the property and would lead to problems associated with increased levels of activity formed by people with different lifestyles and patterns of behaviour, increased noise, disturbance, waste storage demands and car parking requirements.

On this basis, the proposal in considered to conflict with policies H5, H11 and SP1 of the Manchester Core Strategy and the National Planning Policy Framework (NPPF). There are no material considerations to indicate otherwise.

The principal issues of concern are outlined further below.

Housing Balance and the loss of family accommodation

Policy H5 of the Core Strategy set out requirements for new housing development in central Manchester, giving priority to family housing and other high value quality development. This reflects the findings of the Housing Need and Demand Assessment 2010 which identifies a need for larger family housing. Whilst this study is now some years old, the demand for larger family accommodation is still evident.

The justification text for this policy promotes the need to encourage a mixed and diverse community by retaining or attracting economically active households.

There is huge demand across the city for larger homes, demonstrated by the waiting list for social housing, highlighting that demand significantly outstrips supply.

The Manchester Move website provides advice on available properties in Manchester and is used by the City Council's Housing and Residential Growth service as a data source, reflecting the Manchester Housing Register. The latest figures extracted from the website shows an extremely high demand for social housing in Manchester with over 15,000 live applications on the Manchester Housing Register.

The table below highlights the number of households on the Manchester Housing Register, by their band and the size of property applicants need.

For example, without internal modifications to the floorplan, the application property was originally built as a 4-bedroom property. Figures show that for this type of property 1,198 applicants were waiting for a 4-bedroom property on 1 February 2024. The application property is therefore a dwellinghouse suitable for a family and the proposal in this case would see the loss of such.

| Bedroom Need | Band 1 | Band 2 | Band 3 | Band 4 | Band 5 | Total |
|---|---|---|---|---|---|---|
| 1 | 591 | 2438 | 116 | 3899 | 154 | 7198 |
| 2 | 188 | 2774 | 44 | 1928 | 40 | 4974 |
| 3 | 83 | 1491 | 929 | 927 | 20 | 3450 |
| 4 | 144 | 692 | 251 | 109 | 2 | 1198 |
| 5 | 40 | 134 | 8 | 11 | 0 | 193 |
| 6 | 17 | 7 | 0 | 0 | 0 | 24 |
| Total | 1063 | 7536 | 1348 | 6874 | 216 | 17037 |

'Information correct as at 01/02/2024

**Extract taken from Manchester Move website**

Whilst these figures are based on the supply of social housing, there is inevitably an intrinsic relationship between the availability of family homes for sale or rent in the private sector, and the demand for housing.

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 though a range of accommodation. This would allow for more balanced and cohesive neighbourhoods that provide for stronger and safer communities.

The loss of a further family house in this area would conflict with this aspiration, undermine the policy objectives for the area and increase the threat of existing families being driven out of the area, or from being attracted to the area, due to a shortage of appropriate accommodation. Whilst the effect of the loss of a single home on the overall mix and balance of housing in the area would be limited, it would nevertheless contribute to the short fall.

Policy H11 of the Core Strategy is concerned specifically with changes of use to houses in multiple occupancy. The policy sets out different approaches for different parts of the city, depending on the extent to which HMOs are already concentrated and seeks to manage changes of use from C3 dwellinghouses to houses in multiple occupation (HMOs).

The policy states within the text states that a change of use from a dwelling to a HMO will not be permitted where there is already a high concentration of properties nearby which are occupied by full time students, are recorded as licensed HMOs, or can be demonstrated to fall within a C4 or sui generis use class.

Figure 9.6 associated with Policy H11 the Core Strategy highlights areas in the city with high concentrations of HMOs and where concentrations of Council tax exempt student households combined with non-student licensed HMOs exceed 10% of total household based on 2010 data.

It can be seen that the application property is situated in an area where 30-39% of properties are Council tax exempt student households or non-student licensed HMOs.

Whilst the figures provided within the policy could now be considered out of date, figures obtained from the Council's Strategic Housing section indicate that of 1 May 2024 there were 598 Council tax exempt households (student Council tax exemption) in the Rusholme ward – making up 9.9% of the total households in the ward. This figure therefore aligns with the policy H11 narrative.

The current proposal would tip the balance of acceptability and would significantly undermine the concept of a sustainable neighbourhood. The proposal would also serve to intensify the concentration of HMO properties in the immediate area, further unbalancing the house mix, with the resultant effect that the area will continue to be less attractive to families and more permanent residents, due to a shortage of appropriate accommodation.

In light of the above, the proposed development would result in the loss of a family dwellinghouse, further eroding the balance of housing provision in the locality. The proposed change of use therefore conflicts with the development plan when considered as a whole with respect to delivering a sufficient supply of homes. It is not therefore believed there are any other considerations, either individually or in combination that outweigh the harm and associated development plan conflict.

Residential Amenity

Policies DM1 and SP1 of the Core Strategy indicate that consideration should be given to the effects of development upon the amenity, living conditions and the well-being of residents

Paragraph 135(f) of the NPPF also states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

HMO accommodation in particular, can often cause problems in residential neighbourhoods due to the levels of activity associated with unrelated people living together, as opposed to traditional family occupancy, which normally involves the manifestation of different patterns of behaviour and less frequent levels of activity.

A collective group of individuals with different lifestyles and different patterns of behaviour can result in frequent comings and goings, with associated noise and disturbance. This in turn can have an adverse impact upon the living conditions of neighbouring residential occupiers, to the detriment of their amenity.

The principal effects include, noise nuisance, negative impacts upon the physical environment and streetscape due to inadequate management of refuse storage and pressure upon local parking provision.

In this case, the lack of off-road car parking provision also forms a particularly harmful factor.

Notwithstanding the relative accessible location of the property, car ownership by prospective occupants cannot be precluded.

Policy DM1 in particular states, that for all development, regard should be made to parking provision.

The increased occupancy of the property would undoubtedly lead to increased competition for on-street parking spaces along Kensington Avenue.

The proposed use could quite feasibly generate demand for up to 6 parking spaces by the definition of the Class C4 use class. Particularly if the first floor store room and basement area was converted into additional bedrooms.

This in turn could cause competition for on-street parking spaces. It is believed therefore that the lack of off-road car parking provision would have a harmful impact upon highway users and neighbouring occupiers due to increased competition for on-street spaces. It is therefore maintained that the lack of off-road parking provision for the number of prospective occupiers and likely car ownership is unacceptable.

**Other Legislative Requirements**
**Equality Act 2010**
Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

**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 polices 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**

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Officers have communicated their concerns about this proposal to the applicant during the course of the planning application, but these concerns have not been overcome. The proposal is considered to be contrary to the development plan and therefore refused in a timely manner.

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

1) The proposed change of use would result in the loss of a family sized dwellinghouse which would reduce the standard and availability of such housing in the area, undermining the provisions of policies H5, H11 and SP1 of the Manchester Core Strategy, which seek to provide

an appropriate mix and balance of housing provision in the locality, in order maintain a sustainable neighbourhood and cohesive housing market.

2) The proposal would result in an over intensive use of the property, with a consequential increase in the levels of activity, noise and disturbance levels, waste generation and demand for parking. This in turn would have a detrimental impact upon the amenity of neighbouring residential occupiers, contrary to policies H11, DM1 and SP1 of the Manchester Core Strategy and the National Planning Policy Framework (NPPF).

**Appendix 1 – List of consultees & neighbours notified**

Highway Services
Environmental Health
Rusholme, Fallowfield & Moss Side Civic Society

18 Kensington Avenue, Manchester, M14 5PG
23 Kensington Avenue, Manchester, M14 5PG
21 Kensington Avenue, Manchester, M14 5PG
19 Kensington Avenue, Manchester, M14 5PG
17 Kensington Avenue, Manchester, M14 5PG
15 Denison Road, Manchester, M14 5PB
12A Denison Road, Manchester, M14 5PB
15 Kensington Avenue, Manchester, M14 5PG
14 Kensington Avenue, Manchester, M14 5PG

**Appendix 2 – Planning constraints**

Article 4 Direction - Removal of PD Rights Change Of Use From Class C3 To Class C4
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: NORTH AREA