
Appeal Decision

Site visit made on 4 December 2018

by Sarah Manchester BSc (Hons) MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 28 December 2018

Appeal Ref: APP/B4215/W/18/3210218
42 Schuster Road, Manchester M14 5PE

- 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 D Puskaric against the decision of Manchester City Council.
 - The application Ref 118909/FO/2018, dated 22 January 2018, was refused by notice dated 27 March 2018.
 - The development proposed is described as 'a change of use to house in multiple occupation Class C4 (reversion to previous use)'.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use to house in multiple occupation (Class C4) at 42 Schuster Road, Manchester M14 5PE in accordance with the terms of the application, Ref 118909/FO/2018, dated 22 January 2018, subject to the following condition:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.

Procedural Matters

2. There is a dispute between the parties about the lawful use of the appeal property. The appellant claims that No 42 was in use as an HMO from 2008 until 2016, prior to its unauthorised use as a hotel. The Council's statement suggests that there is insufficient evidence to support this claim. However, the appellant's final comments include correspondence from the Council's Development Compliance Manager, apparently dated 28 December 2017. This confirmed that, as a matter of fact and degree, No 42 was in use as a C4 HMO but that this use was terminated by unauthorised use as guesthouse. It also stated that the Council would not take formal action if the property was returned to a C3 family dwellinghouse, but that planning permission would be required for a C4 use. The letter also noted the appeal property appeared to be in use as an HMO prior to the Article 4 Direction coming into force in October 2011, which removed permitted development rights in respect of a change of use from C3 to C4. On the basis of the evidence before me I am satisfied that the appeal property has been used as an HMO in the past and I have determined the appeal on that basis.

Main Issue

3. The main issues are the effects of the proposed change of use on i) the concentration of Houses in Multiple Occupation (HMOs), and ii) the supply of family housing.

Reasons

The Concentration of HMOs

4. No 42 Schuster Road is a modern 2 storey dwelling on a residential estate in the Victoria Park Conservation Area, to the south of Manchester City centre. As a consequence of the popularity of the area with students, many properties are already in multiple occupation.
5. Policy H11 of Manchester City Council's Local Development Framework Core Strategy 2012 to 2027 sets out that change of use from C3 dwellinghouse to C4 HMO will not be permitted where there is already a high concentration of HMOs within a short distance. The prohibition on the creation of further HMOs in areas of high concentration supports broader policy objectives of maintaining sustainable communities with a mix of households that are committed to the neighbourhood and support local facilities. When the Core Strategy was published, it was the Council's intention to prepare a Development Plan Document to define 'high concentration' and 'short distance'. These terms have not been defined and there is no current information about the number of HMOs in the immediate area around No 42. However, Figure 9.6 of the Core Strategy indicates that Schuster Road is in an area where HMOs make up 40-49% of properties and neither party disputes that there is a high level of HMO use in Schuster Road. As this area is heading towards a position where half the properties would be HMOs, the proposal could exacerbate the problems associated with overconcentration of HMOs. The proposed change of use is therefore theoretically in conflict with Policy H11.
6. I acknowledge concerns in respect of the detrimental effects that increasing concentrations of HMOs can have in terms of nuisance, community cohesion, the delivery of local services and the character of an area. However, while Schuster Road may contain a high number of HMOs, there is no evidence that this number has been increasing to the detriment of community sustainability or the provision of local services, or that the character of the area is being harmed as a result. Moreover, the proposal would not in fact result in the creation of an additional HMO since No 42 has, to all intents and purposes, previously operated as an HMO apparently without any resulting nuisance. Given the particular circumstances, neither allowing nor dismissing this appeal would be likely to have any significant effect on the concentration of HMOs.
7. The Council has drawn my attention to an appeal decision¹ where the Inspector concluded that one more HMO would not make a difference. However, it maintains that the cumulative impact of even small changes in areas of high concentration can contribute to the creation of unsustainable communities. In this case, No 42 was used as an HMO prior to its unauthorised use as a hotel. I therefore see no reason why the proposal would contribute to any cumulative impact on community sustainability. The proposed change of use in an area with already high concentration of HMOs would not therefore 'tip the balance' in favour of unsustainable neighbourhoods.
8. In conclusion, the proposed change of use would not result in an increase in the concentration of HMOs in this area. It would not result in any discernible effects on community sustainability or the provision of local services. It would not result in harm to the appearance of the area or to the living conditions of

¹ APP/B4215/A/14/2211026

neighbouring occupants. Therefore, although there is an apparent conflict with the requirements of Policy H11, there are specific circumstances which justify a departure from the Policy in this case.

The Supply of Family Housing

9. Policy H1 of the Core Strategy relates to overall housing provision. It identifies that the housing mix will be influenced by a range of factors including local housing need and economic viability, the management of areas where HMOs predominate, and the need to increase the availability of family housing.
10. The proposed change of use to an HMO would result in the permanent loss of family accommodation in an area where there is a demand for family accommodation. However, No 42 was in use as an HMO prior to the unauthorised use as a hotel and has not therefore been used as a family home for many years. Thus although suitable to be used as a family home, the proposed change of use would not result in the loss of a property currently occupied by a family.
11. The Council has drawn my attention to several appeal decisions² dismissing proposed changes of use to an HMO and where the loss of a family home was identified as an issue. However, my impression is that there are key differences between those schemes and the appeal before me. These include the existing use of the property, evidence of the impact of a high concentration of HMOs on community sustainability, the effect on living conditions of neighbours, and a lack of evidence of previous use as an HMO. I therefore do not consider that any of those schemes is directly comparable with this case, which I have considered on its individual merits.
12. I therefore conclude that the proposed change of use would not result in an unacceptable loss to the supply of family housing. It would not give rise to a conflict with Policy H1.

Other matters

13. The appeal site is within the Victoria Park Conservation Area. However, the proposed change of use does not require any external alterations, and would not therefore have an impact on the character or appearance of the conservation area.

Conclusion and Conditions

14. For the reasons above, I conclude that the appeal should be allowed.
15. Aside from the standard time limit, the Council has suggested a condition requiring a scheme for the storage of refuse. No 42 is a 4 bedroom property with storage space adjacent to the property for bins as are necessary for the separation of household waste and recycling. On this basis the proposed condition does not appear necessary to make the development acceptable.

Sarah Manchester

INSPECTOR

² APP/B4215/W/17/3189101; APP/B4215/C/17/3182684; and APP/B4215/W/17/3189061