

TOWN AND COUNTRY PLANNING ACT 1990
APPEAL PURSUANT TO SECTION 78

Appeal by Mr. Andrew Leung
against the Decision of Manchester City Council to Refuse Planning
Permission for Conversion of Dwellinghouse into 5 No. Self-Contained
Flats, together with a Two Storey Rear Extension and Associated Car
Parking, Bin Store and Amenity Space

Property Situated at 4 Rowsley Avenue, Manchester M20 2XD

WRITTEN REPRESENTATIONS
ON BEHALF OF THE APPELLANT



Serviam Planning

1. **INTRODUCTION: -**

- 1.1 This Appeal takes place as result of the decision of Manchester City council (hereinafter referred to as ‘The Local Planning Authority’) to refuse planning permission for the conversion of dwellinghouse into 5 No. Self-contained flats, together with a two storey rear extension and associated car parking, bin store and amenity space.
- 1.2 The planning application was submitted on behalf of Mr. Andrew Leung (hereinafter referred to as ‘The Appellant’). The planning application was registered by the Local Planning Authority on the 17th January 2023 and was given Local Planning Authority Planning Application Reference No. 131091/FO/2021.
- 1.3 The planning application was refused by the Local Planning Authority by way of Notice dated 31st February 2023. The two stated reasons for refusal of planning permission are: -
- (i) ***“The conversion of 4 Rowsley Avenue into 5 no. self contained flats would result in the loss of family accommodation, thereby reducing the availability of family housing, and undermine the formation of sustainable communities. The proposal would therefore be contrary to the provision of policies SP1, H1, H6 and H11 and DM1 of the Manchester Core Strategy (2012) and DC5 of the Unitary Development Plan, the Guide to Development in Manchester Supplementary Planning Document (2007) and the National Planning Policy Framework (2019)”, and;***
- (ii) ***“The proposed use would result in an over intensive use of the property. The consequential increase in the levels of activity, noise, disturbance levels, waste generation and demand for parking, 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 DC5 of the Unitary Development Plan for Manchester”.***
- 1.4 Copies of the Planning Application Form, Site Ownership Certificate, Agricultural Holdings Certificate and the Local Planning Authority’s Decision Notice are provided at Appendix I to these Representations.

2. **THE APPEAL SITE AND ITS SURROUNDINGS: -**

- 2.1 The application relates to a large detached Victorian villa of red brick and terracotta roof tiles, set within a generous plot which includes a walled front and rear garden, driveway and double garage. The Eucalyptus tree in the front garden is subject to a tree preservation order.
- 2.2 Rowsley Avenue is a short residential road connecting Barlow Moor Road to Darley Avenue within the Didsbury West ward. Rowsley Avenue comprises of predominantly large Edwardian Villa type family dwellings. The remainder are semi-detached family dwelling houses. The residential area is characterised by car parking and garden area facing the highway.
- 2.3 Consent is sought to convert the property into 5 self-contained flats. On the ground floor would be a 2 x 2 bed flats, the first floor would have 2 x 2 bed flats and the second floor would have 1 x 2 bed flats. The proposal consists of a two-storey rear extension to create additional floor space. All the flats would be accessed from the front of the property and part of the rear garden area provides car parking spaces for 5 vehicles.
- 2.4 A plan detailing location of the Appeal Site is provided at Appendix II to these Representations.

3. **PLANNING HISTORY: -**

3.1 Enquiries of the Local Planning Authority have revealed the following planning history: -

102158/TPO/2013/S2 Works to tree [Approved];

124846/FO/2019 Change of use from single dwellinghouse to five self-contained flats.
[Returned];

125529/LP/2019 Certificate of lawful proposed development for the erection of a single-storey rear extension and alterations to garage roof. [Refused], and;

126164/LP/2020 Certificate of lawful proposed development for the erection of a single-storey rear extension. [Approved].

4. **THE APPELLANTS PROPOSALS**

AND EVENTS LEADING UP TO THE APPEAL: -

- 4.1 The Appellant proposes Conversion of Dwellinghouse into 5 No. Self-Contained Flats, together with a Two Storey Rear Extension and Associated Car Parking, Bin Store and Amenity Space
- 4.2 Copy of proposed elevations and floor plans, site plan and location plan are provided at Appendix III to these Representations.

Events Leading Up to the Appeal: -

- 4.3 In response to consultation and publicity carried out by the Local Planning Authority, the planning application was determined by way of decision as issued on the 17th February 2023. During such consultation period, three No. objections were received from local residents, such related to: -
- The development would be out of character with the area.
 - The proposal would increase comings and goings, creating noise due to heightened levels of activity at the premises.
 - The increase in cars would impact on ecology and wildlife at the site.
- 4.4 In conjunction, Councillor Deborah Hilal objected to the proposal on the following grounds.
- Flats change the character of the road.
 - Lack of car parking should more than 5 car parking spaces be required.
 - Car parking at the rear of the site would create noise nuisance for the occupiers of the neighbouring properties.
 - The area has a lack of family dwelling houses.
 - Should the property be used as a HMO create uncertainty for local residents due to high number of transient occupiers.

4.5 The Highways Team- commented It would appear from the basic site plan provided that the existing vehicle access is being retained which leads to an area of on-site parking to the rear with five car parking spaces. They requested clarification regarding: -

- o Car parking bay sizes

- o Verification through vehicle swept path submission that the necessary vehicle manoeuvres can be undertaken when entering and exiting the development and when entering and exiting each parking space assuming that others are utilised.

- o Electric vehicle charging (minimum 7kW) is required for each space in line with new building regulations.

4.6 It was considered that It was not clear from the submission whether the existing boundary treatments are being retained and, in this regard, clarification is sought. With regard to waste management no details have been provided in relation to waste transportation and collection and in this regard, details are sought. It is recommended the guidance is followed.

4.7 In relation to cycle storage, the submission provided insufficient details. We require clarification that secure and sheltered cycle parking is provided for each unit.

4.8 Furthermore, it was considered that insufficient access details were submitted to allow Highways to provide any meaningful comments, however, it was proposed that should the planning application be approved it is required that a Construction Management Plan be conditioned which shall include, where appropriate the following details:

- The routing of construction traffic;
- Detail the vehicular activity associated with the construction including appropriate swept-path assessment;
- Details of the location and arrangements for contractor parking;
- The identification of the vehicular access points into the site;
- Identify measures to control dust and mud including on the surrounding public highway including details of how the wheels of contractor's vehicles are to be cleaned during the construction period;

- The details of an emergency telephone contact number for the site contractor to be displayed in a publicly accessible location;
- For large schemes a highway dilapidation survey including photographs and commentary on the condition of carriageway/footways on construction vehicle routes
- surrounding the site.

4.9 The highways team also requested a construction management plan condition should the proposal be supported.

4.10 Environmental Health commented, should the proposal be supported a construction management plan, noise attenuation, waste, air quality and external plant and equipment noise condition be attached to the consent.

4.11 West Didsbury Residents Association were consulted, and no representations were received.

5. **PLANNING POLICY: -**

- 5.1 The Statutory Development Plan relating to the site currently comprises the Manchester Core Strategy which sets out the spatial vision for the City and includes strategic policies for development during the period 2012 - 2027.
- 5.2 '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. Core Strategy
- 5.3 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.
- 5.4 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.
- 5.5 Policy H6 prioritises housing that meets identified shortfalls, including family housing.
- 5.6 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:

- 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.

5.7 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.

5.8 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.

5.9 Saved Policy DC5 Flat Conversions. DC5.1 In determining planning applications to convert property to flats, the Council will have regard to:

- d. general effects on the character of the neighbourhood, including the extent to which flat conversion schemes are a new or an established feature of the immediate area, avoiding the loss of front gardens and the retention of existing trees and shrubs;

- 5.10 DC5.3 Notwithstanding policy DC5.2, the Council will normally refuse permission for any developments in this category which:
- 5.11 DC5.4 In determining applications of this kind, the Council will give particularly careful consideration to situations where a scheme is the first in a street of otherwise single family dwellings, the Council will give weight to the desirability of maintaining the character of the street in that respect.
- 5.12 National Planning Policy Framework
- 5.13 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.
- 5.14 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.
- 5.15 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.
- 5.16 Copy of Planning Policies are provided at Appendix III.

6. **PLANNING CONSIDERATIONS: -**

- 6.1 Core Strategy policies H1 and H6 and the supporting text to the housing policies identifies a shortage of family housing in the south of the City. As a family dwelling the property would have good access to local facilities, including shops, healthcare, schools, parks and public transport. Further its retention as a dwellinghouse would help to maintain the diversity of accommodation available in the area that is important in ensuring that communities remain sustainable. However, the property has been in family ownership for over a decade and council tax records indicate that such has been vacant since 2012. Therefore, the perceives 'loss of a family dwellinghouse' is considered negligible.
- 6.2 Although it is considered by the Local Planning Authority that the proposed change of use of a house to flats 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, given the size of the property, such has proved too large for meaningful retention as an open-market property.
- 6.3 The Local Planning Authority maintains that the proposal 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. This position is not supported and is not accepted. There is a recognised housing shortage within Manchester and decisions, such as this one, preclude development on the basis of such being suitable for families, which is to the detriment of single individuals. Also, the Local Authority is of the stance that flats do not constitute family dwellings. However, many families (particular new families with newborn/young children) utilise one bedroom accommodation.
- 6.4 It is acknowledged that flat 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. However, the Local Authority has other powers within its means to control such events.

- 6.5 Five parking spaces have been proposed and although this is below the standards expected, the nature of the proposed development is unlikely to attract occupants whom rely on the private motor car in any event. The property is also located in a highly sustainable location in terms of public transport and it is not considered that the proposals would cause undue harm to highway safety,
- 6.6 Although the proposed car parking within the rear garden area could be considered to result in the reduction of amenity currently enjoyed by the local residents, due to heightened noise levels of comings and goings associated with car use in close proximity to neighbouring amenity space, such is considered highly unlikely and again, the Local Authority have other powers within its means to control such.
- 6.7 It is stated by the Local Planning Authority that the proposal would also result in the loss of 2 No. Trees to the rear garden area. Upon inspection, it would appear that these trees have suffered significant damage in the past and, indeed, one appears to be entirely deceased. The loss of these trees, in any event, are nominal and further planting measures could have been requested by the Local Planning Authority to mitigate against such loss.
- 6.8 The Local Planning Authority approved Planning Application Reference No. 126497/FO/2020 following submission of an amended planning application which resulted from the Appellant failing to secure permission by way of Appeal. The inspectors decision took consideration of the loss of a family dwellinghouse and the time in which the property had been vacant. The Appellant affirms that the property subject to this appeal has been vacant since 2012 as demonstrated by way of council tax exemption and therefore, the proposals to convert the dwelling into flats is not considered to be a loss of a family dwellinghouse such that it affects the Local Authority's housing supply.

7. CONCLUSION: -

- 7.1 It is considered that the Local Planning Authority's reasons for refusal, on balance with other Policies contained within its Local Plan are not considered of such weight that permission ought to be refused.
- 7.2 Although the property could be considered of importance with regard to loss of a family dwellinghouse and the Local Authority housing supply, such has remained vacant for a significant period of time. It is believed that the property is simply too large for average market conditions and demand is minimal if not non-existent.
- 7.3 The creation of 5 No. Flats would not cause significant harm to the amenity of neighbouring occupiers by way of occupation, nor would the proposed parking adversely affect neighbouring occupiers either. The parking provision is considered more than adequate, given the target market of individual flats and the unlikelihood that such would attract owners of private motor cars in any event.
- 7.4 Accordingly, we respectfully request on behalf of the Appellant that the appointed Inspector grants planning permission by allowing this Appeal.

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