



Appeal Decision

Site visit made on 4 July 2023

by M Clowes BA (hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Appeal Ref: APP/B4215/W/23/3317958

100 North Road, Clayton, Manchester M11 4LD

- 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 James Bunn against the decision of Manchester City Council.
 - The application Ref 134433/FO/2022, dated 17 July 2022, was refused by notice dated 9 September 2022.
 - The development proposed is the change of use of dwellinghouse (Class C3) to small house in multiple occupation for up to six people (Class C4).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Appellant's evidence and my observations during my visit indicate that the appeal property is already in use as a house in multiple occupation (HMO). Therefore, retrospective planning permission is sought. I have determined the appeal accordingly.

Main Issues

3. The main issues of this appeal are the effect of the proposal on i) the mix and balance of housing, with regard to the supply of family-sized dwellings, and ii) the living conditions of neighbouring occupants in respect of noise and disturbance, waste generation and the availability of car parking.

Reasons

Supply and Mix of Housing

4. The appeal site comprises a 2-storey mid-terrace property located in a predominantly residential area, characterised by terraced and semi-detached dwellings. The parties agree that the appeal property is not within an area with a high or significant concentration of HMOs.
5. Policy H11 of Manchester's Local Development Framework; Core Strategy Development Plan Document 2012 (Core Strategy), indicates that in locations where the lack of family housing has threatened the sustainability of the community to the extent where regeneration activity with the intention of increasing family housing has taken place, there will be a presumption against changes of use resulting in the loss of a dwelling suitable for a family. Being at least a 4 bedroomed property with a private rear yard, the appeal site would be one such dwelling.
6. The appeal site is located within East Manchester where Policy H4 of the Core Strategy, gives priority to family housing and other high-quality development where this can be sustained. The policy's explanatory text refers to the Housing Need and Demand Assessment (2010) which evidences the need for 3-4

bedroomed family housing in East Manchester. I acknowledge the age of this document.

7. Nevertheless, the Council has provided a copy of the more recent Housing Access Board Letting Performance: April–Dec 2022 report. It indicates a lack of family homes for rent, with the demand for 4 bedroomed or larger properties outstripping supply. Although this information is in relation to social housing, there will be a relationship between the availability of private homes for sale or rent, and the demand for social housing. There is no compelling evidence to the contrary before me, to demonstrate that family-sized homes are not in reasonable demand, for example market evidence¹.
8. It is suggested that there are only 8 licensed HMOs in the M11 postcode area. The Council has not disputed the low number of HMOs and I have no reason to take a different view. Even if there is a low proportion of HMOs locally, it is insufficient to justify permitting a HMO, when balanced against the clear policy direction to restrict the loss of family-sized dwellings.
9. Suggestion is made that the Council's policies are exclusionary resulting in smaller families, couples and individuals being excluded from the area. To the contrary, Policies H4 and H11 do not seek to prevent HMOs, but rather seek to address the balance of accommodation in areas identified as having a specific need for family-sized homes. I acknowledge that the HMO would serve a useful purpose in the community in providing accommodation for single people ineligible for affordable housing or, unable to afford a property of their own. However, in this case it is provided at the expense of losing a family-sized dwelling, for which it has been demonstrated that there is a clear need.
10. In the absence of any compelling evidence to the contrary, I find that the proposal would adversely affect the mix and balance of housing, with particular regard to the supply of family-sized housing. Consequently, it would be contrary to Policies H4 and H11 of the Core Strategy as set out above. Conflict is also found with Policy SP1 of the Core Strategy which, amongst other matters, seeks to meet local housing need.

Living Conditions

11. North Road is a well-trafficked, densely populated road that is also a bus-route. There are 2 commercial premises including an off-licence and convenience store on the opposite side of Viola Street in proximity to the appeal site, generating vehicular trips and a footfall of pedestrians into the evening. Given the active character of the surroundings, the HMO, even with a more transient population and pattern of use than a family, would not be particularly perceptible or materially add to noise and disturbance from comings and goings. Moreover, the HMO use has occurred for a period of 12 months and there is no evidence from the Council to suggest that complaints have been received regarding noise and disturbance during this time.
12. Notwithstanding the above, a HMO of up to 6 persons is likely to increase the number of cars kept, than if the property were to be occupied by a family. Cars are more likely to be shared within a family including older teenage or young adult children, than would be the case from occupation of unrelated adults. The proposal could therefore lead to increased demand for parking which is not catered for within the appeal site.

¹ As set out in paragraph 9.48 of the supporting text to Policy H11 of the Core Strategy.

13. Although there are some exceptions, the majority of properties along this section of North Road do not have private off-street parking provision. During my visit I observed some cars were parked on the pavements, and a number of properties were displaying 'no parking signs' on their frontages. This indicates that car parking may be a local cause for concern.
14. Whilst residents may understandably desire car parking as close as possible to their properties, at the time of my visit there was a good availability of on-street parking available along North Road. The adjacent Viola Street and Dreyfus Road directly opposite, are not subject to restrictions and could also accommodate a small amount of on-street parking. The situation may be different in the evenings and at weekends when residents are likely to be at home. However, from the evidence before me including the Highway Authority consultation response, on-street parking does not appear to have reached saturation point or caused significant disturbance to local residents.
15. Whilst acknowledging the concerns of an interested party regarding the demand for on-street parking during events at the Etihad Stadium, such occasions are likely to be episodic, and the resultant car parking pressures temporary. The lack of double yellow lines or use of permit parking in this area are also indicators that on-street parking is not a cause for significant concern in terms of safety or residential disturbance. The Appellant refers to a proposal for the potential expansion of a residents only scheme around the Etihad Stadium campus. However, I have no substantive evidence that this has been agreed, or that such a scheme would affect the area around the appeal site.
16. Moreover, whilst car ownership of the occupants of the HMO cannot be precluded, the appeal site is well served by public transport including buses that run along North Road as well as the Metrolink service at Clayton Hall which is within walking distance. Likewise, I observed that there are also a number of supermarkets within a short distance on Ashton New Road (A662). Occupants would not therefore be solely reliant on the private car for day to day needs.
17. Even with a lack of waste management details, the Council provides little substantive evidence that the HMO use would cause a nuisance arising from the inadequate storage of refuse. The appeal property benefits from a rear yard area where multiple bins were being stored securely on site. There is no evidence to suggest that waste generation would be problematic.
18. Reference is made to several previous appeal decisions where the creation of a HMO was found to be harmful to the living conditions of neighbouring occupiers². However, they all relate to different locations, sizes of HMO and different residential contexts. I have come to my own judgement based on the specific context of the appeal site, my observations and the evidence before me, for the reasons given above. I do not therefore find that the previous appeal decisions are wholly comparable.
19. In the absence of any evidence to the contrary I find that the proposed development would not adversely affect the living conditions of neighbouring occupants in respect of noise and disturbance, waste generation and the availability of car parking. It would therefore comply with Policies H11, DM1 and SP1 of the Core Strategy which seek amongst other things, to ensure new development is of a good design that has regard to residential amenity, refuse storage and collection and car parking.

² APP/B4215/W/15/3006637, APP/B4215/W/20/3253348, APP/B4215/W/3277884 and APP/B4215/W/22/3296860.

Other Matters

20. The Article 4 Direction removing permitted development rights for the change of use of Class C3 dwellings to Class C4 HMOs is said to fail the requirements of paragraph 53 of the National Planning Policy Framework because it applies city wide, rather than to the smallest geographical area possible. The details of the Article 4 Direction including how it came into being and any consultation exercise is not before me. Nevertheless, it exists. Whilst an Article 4 Direction does not preclude the granting of planning permission for a HMO, such proposals are required to comply with the provisions of the development plan.
21. Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998, states that everyone has the right to respect for his private and family life and his home. Should this appeal be dismissed, it is suggested a number of existing occupants would become homeless. Whilst I am sympathetic to the situation, there is no evidence before me of the circumstances of the tenants, including their income, formal rental agreements and duration, or their ability to access alternative forms of accommodation.
22. In the absence of any substantive evidence to the contrary, this right does not outweigh the harm identified to the supply of family-sized housing. Whilst the refusal of planning permission would potentially remove the current occupants' home, it would be a proportionate response, given the harm identified. It would be a matter for the Council to decide the next steps in relation to the use of the HMO. I see no reason why the occupants would not be given sufficient time to find alternative accommodation.
23. The appeal property would not become available for occupation by a family in the event that the appeal is dismissed, as the Appellant would continue to live there alone. Nevertheless, it would remain unfettered and available to rent or buy as a dwelling in the future, when the Appellant's circumstances change, that would not necessarily be the case if permission was granted for the HMO.
24. The Planning Practice Guide advises that planning permission usually runs with the land and that it is rarely appropriate to provide otherwise, other than in exceptional occasions³. In my view it would not be reasonable or relevant to the development permitted to grant a personal permission for the Appellant to operate an HMO, given that the proposal would still result in the loss of a family-sized dwelling for which there is a clear policy presumption against.
25. The provision of a HMO to a high standard is a neutral matter that weighs neither for, nor against the proposal.

Planning Balance and Conclusion

26. The HMO would not materially affect the living conditions of neighbouring occupiers with regard to noise and disturbance, waste generation and the availability of car parking. However, the absence of harm is neutral in the planning balance and thus does not outweigh the harm identified in respect of the mix and balance of housing, with regard to the provision of family-sized dwellings. There are no other material considerations that lead me to determine the proposal otherwise than in accordance with the development plan. Accordingly, the appeal is dismissed.

M Clowes - INSPECTOR

³ Paragraph: 015 Reference ID: 21a-015-20140306.