

PLANNING APPEAL STATEMENT OF CASE

Change of Use of 100 North Road, Clayton from
dwelling house (Class C3) to Small House in
Multiple Occupation (Class C4).

MPD Built
Environment
Consultants Ltd

1. INTRODUCTION

This statement has been prepared to support the planning appeal against the refusal of planning permission by Manchester City Council under planning application 134433/FO/2022 to change the use of 100 North Road, Clayton, Manchester from a dwelling house (Class C3) to a Small House in Multiple Occupation (Class C4).

The application was refused by the local planning authority for the following reasons:

- 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 H4, H11 and SP1 of the Manchester Core Strategy, which seeks to provide an appropriate mix and balance of housing provision in the locality, in order to maintain a sustainable neighbourhood and cohesive housing market.*
- 2. 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.*

This application seeks retrospective planning permission for the use of the property as a five-bedroom house in multiple occupancy. The applicant is the owner of the property and is a resident at the property.

The occupants of the property are all working persons of varying ages with the youngest being in their mid-twenties, the occupants therefore have very different characteristics in terms of their demographic compared to a student HMO and this is an important and significant difference in the context of this proposal.

2. THE SITE AND LOCATION

The application site comprises a traditional two storey red brick mid terraced property located in Clayton, East Manchester. The property is situated on North Road close to the junction with Viola Street and opposite Dreyfus Avenue.

The accommodation is spread over the ground floor and first floor comprising a shared kitchen/diner and lounge with a bedroom downstairs with 4 bedrooms and 2 bathrooms/toilets on the first floor.

The property also has a loft which is accessible via a ladder and has natural light via skylight to it as well as a basement which could be utilised to provide cycle parking and storage for residents of the property.

There is a garden to the front and also a rear yard area which can be utilised by residents for siting out. The property is situated within walking distance of local amenities including public open space, shops, schools etc;

Whilst, the property does not have any dedicated off-street parking, on street parking is available on both North Street and Viola Street which have no parking restrictions in place.

The property is situated around 2 miles from the City Centre and is situated on a bus route. It is also within walking distance of the Metrolink tram service.

3. THE PROPOSALS

The application seeks retrospective planning permission for the change of use of a large terraced dwellinghouse to a Small House in Multiple Occupation (HMO) comprising five bedrooms. All bedrooms are served by their own window(s) providing a source of natural light and ventilation to the rooms and their occupants. There are two bathrooms with toilet facilities provided on the first floor and communal facilities comprise a spacious kitchen/diner and a living room on the ground floor to the rear of the property.

There are two access points provided for in the building; the main entrance facing on to North Street and a rear entrance door from the outside rear yard area to Viola Street.

The highly sustainable location of the site and its accessibility to the city centre and other amenities means that car ownership is low in the area and the occupants of the property are no exception to this as owning a car is seen as an unnecessary expense given the proximity of the property to all amenities and public transport infrastructure.

4. PLANNING HISTORY

There is no planning history relating to this property according to the City Council's online records.

There are no records of HMO's in the immediate area except for a single HMO license at 46 North Street.

5. PLANNING POLICY AND GUIDANCE

National Planning Policy Framework (2021)

The proposal is not considered to be contrary to the objectives of either national or local planning policy and in the following section we will set out the rationale for this reaching this view.

In the first instance it is necessary to consider the national planning policy context which is the National Planning Policy Framework (NPPF) published in July 2021. The NPPF is clear that Planning Permission should be granted for development where it accords with planning policy. To this end in **paragraph 7** of the NPPF the point is made that the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

At **Paragraph 8** the Framework identifies three dimensions to sustainable development: economic, social and environmental, which provide a holistic approach to development that will help to deliver balanced communities. The Framework, states that to deliver these dimensions, the following roles need to be performed by the planning system:

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

Paragraph 9 reinforces the point that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. This is particularly relevant in relation to this proposal.

The National Planning Policy Framework in **paragraph 11** makes it clear that a presumption in favour of sustainable development is at the heart of national planning policy and where a proposal accords with planning policy then it should be permitted without delay.

Further attention is drawn to **Paragraph 38** of the NPPF which encourages local planning authorities to approach decision-taking in a positive and creative way by looking for solutions rather than problems. Decision-takers at every level should seek to approve applications by using the full range of planning tools available to them and working proactively with applicants. In this particular case it is submitted that given the nature of the proposal the Local Planning Authority could mitigate any future harm they deem may be created by the proposal by using appropriate conditions and this is further supported in **Paragraph 53** of the NPPF, which identifies local circumstances as a relevant factor to take into account when making decisions. However, it also suggests that the removal of nationally prescribed permitted development rights through the use of an article 4 Direction should be restricted to the smallest possible area and should certainly not cover the whole city as is currently the case in Manchester. Further **Paragraphs 55 and 56** makes it clear that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

The Government at **Paragraph 60** places great importance on significantly boosting the supply of homes both in terms of numbers and the variety in order to meet the needs of groups with specific housing requirements are addressed. This proposal will assist in meeting this objective in an area which has very little shared accommodation available to meet the needs of single working people.

Within this context, **paragraph 62** identifies that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Many single and young people require affordable accommodation with good transport links to access their work and HMO accommodation can help meet this need.

Paragraph 119: Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. The applicant is also the owner of the subject property and were consent to be refused then this would make the existing tenants homeless, resulting in existing accommodation being left empty and unused as the owner would still live at the property as the sole occupant.

Paragraph 120 makes clear that planning policies and decisions should promote and support the development of under-utilised buildings, especially if this would help to meet identified needs for housing where land supply is constrained. In East Manchester the conversion of residential dwellings (Class C3) to small HMO's (Class C4) is restricted by a city-wide article 4 direction which is unjustified in this locally given there are only 8 licensed HMOs in the whole of the postal district of M11. Preventing this change of use on the grounds of preventing loss of family accommodation would actually serve to exacerbate the housing crisis in this case as the applicant would

remain resident at the property, but would not be able to utilise the accommodation available to provide a home to others, which is clearly contrary to the NPPF which encourages efficient use of buildings to tackle homelessness.

Planning policies and decisions should support development that makes efficient use of land according to **paragraph 124** taking into account the identified need for different types of housing having regard to availability and local market conditions. Currently, we are in the midst of a cost-of-living crisis, yet house prices remain at unaffordable levels for many to get on the owner/occupier level, therefore it is important that all sectors of society are catered for through policies designed to deliver an approximate mix of housing types and tenures to meet the needs of everyone.

Local Planning Policy

The site falls within East Manchester on the Core Strategy Development Plan Proposals Map but is unallocated for any primary purpose.

The following Core Strategy policies are relevant: -

- Policy SP1 - Spatial Principles
- Policy H4 - East Manchester
- Policy H11 - Houses in Multiple Occupation
- Policy DM1 - Development Management
- Policy T2 - Accessible Areas of Opportunity and Need

Policy SP1 promotes the creation of neighbourhoods of choice with high quality development focussed within district centres. There is an emphasis on accessibility, in particular walking, cycling and public transport and improving sustainable access to jobs, services and education.

The site is located within easy reach of the City Centre, and the locality also contains a variety of shops, community facilities, places of employment and areas of recreational open space. In line with local and national policy, the site is well connected to public transport and walking and cycling are also feasible modes of transport.

The site is therefore considered to be a highly sustainable location and compliant with the aims of policy SP1.

Policy H4 is a spatial policy relating to housing in East Manchester. It states that the area consisting of East Manchester, over the lifetime of the Core Strategy, will accommodate around 30% of new residential development in the city. Priority will be given to family housing and other high value, high quality development where this can be sustained. High density housing will be permitted within the parts of East Manchester that fall within the Regional Centre which are adjacent to the City Centre. These neighbourhoods include Ancoats, New Islington, Holt Town and

Chancellor's Place; to the west of Alan Turing Way, and within Eastlands, Newton Heath, Openshaw and Gorton district centres as part of mixed-use schemes.

The site is located within Openshaw within the area identified for high density housing, it is therefore considered that the proposals for a small HMO (Class C4) use do not conflict with the aims of Policy H4. The policy positively encourages the diversification of the housing offer in the locality and this proposal will assist in realising this objective where shared accommodation is extremely limited. The policy also specifically refers to "a need to retain graduates and provide a housing offer accessible to the "excluded middle market" (defined as those households on low or average income who cannot acquire a mortgage for a suitable family house)." It is clear that the policy is not an inclusive policy and fails to take account of the needs of single working people who are generally excluded from affordable housing and are therefore faced with having to pay unaffordable rents for apartments or seek accommodation in a shared house with other professional or skilled/semi-skilled workers close to their employment.

Policy H11 is particularly relevant to this proposal as it specifically relates to Houses in Multiple Occupancy. It states that changes of use from dwellinghouses (Class C3) to a small HMO (Class C4) will not be permitted where there is a high concentration of properties which are 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 and any other property which can be demonstrated to fall within the C4 or sui generis HMO use class.

The policy goes onto state that 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.

The property is situated within an area of the city where there is no real student population and very few registered HMO's or other properties in such use. Therefore, it is considered that the proposal is compliant in terms of this part of Policy H11 as it will not contribute towards a concentration of such uses as HMO's are few and far between in East Manchester.

In areas which do not have a high concentration of HMO 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 City Council has imposed a blanket Article 4 direction across the City removing national prescribed permitted development rights to change the use of a property between Class C3 and C4. Paragraph 53 of the NPPF is extremely clear on this

point and states *“The use of Article 4 directions to remove national permitted development rights should: be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area in all cases, be based on robust evidence, and apply to the smallest geographical area possible.”* The removal of such PD rights in the M11 postcode area is clearly unjustifiable and is not based on any robust evidence produced by the City Council. (As per Figure 9.6 of the Core Strategy Clayton is not identified as an area with a significant amount of shared accommodation).

Whilst, there may be demand for family housing in the area this should not be at the exclusion of all other types of housing which seems to be the policy being pursued by the City Council. Different sections of society have different housing needs and these will change throughout people’s lifetime and planning policies should be reflective of this and be flexible enough to respond to these (As per Figure 9.6 of the Core Strategy Clayton is not identified as an area with a significant amount of shared accommodation).

The aim of creating a balanced neighbourhood which is reflective of society is not best served by policies which seek to stigmatise certain types of residential accommodation and therefore to deliver a balanced community there must be an acceptance that HMO’s have a role to play in meeting the housing needs of individuals within society.

It is submitted that the proposals will result in a high standard of accommodation to meet the needs of the residents and will not materially harm the character of the area, having particular regard to the criteria in policy DM1.

Whilst it is acknowledged that policy H4 seeks to increase the choice of housing available within East Manchester by adding to the stock of larger homes, this should not mean that all future proposals for housing within that area must be solely for this type of dwelling. The policy recognises that there is still a need for higher density and affordable housing development in the area. The proposal relates to an existing HMO and will not result in the loss of family housing as the owner of the property lives at the address and does not have a family. Therefore, were consent to be refused to use the property as a small HMO (Class C4) all this would result in is existing tenants being made homeless. It would not result in the property being given over to family accommodation as the applicant would still require a place to live, therefore the property which currently provides accommodation for five single persons working in the city would end up being significantly underutilised in terms of the residential accommodation it could provide. Clearly, this would be contrary to Government policy whose aim is to boost the supply of housing across the spectrum to address the housing crisis.

The site is in a highly sustainable location with excellent access to local shops and services, places of employment and public transport. The proposed development will provide a place to live for five single working persons who require affordable shared accommodation within an accessible location.

In line with the provisions of policy DM1, the layout of the internal accommodation and floor areas of the rooms are compliant with guidance contained within the Council’s Houses in Multiple Occupation Guidance and Amenity Standards

document. Private amenity space, of a size and type consistent with the likely demand for usage, is available within the rear yard area. Details of refuse storage and collection will be provided in response to an appropriate condition. However, the existing storage arrangements will be sufficient to serve the needs of the occupants.

6. STATEMENT OF CASE

This appeal seeks retrospective planning permission for the use of No.100 North Road as a small HMO (Class C4). The property has been in use as a small HMO for over a year without any complaints. The City Council has introduced an article 4 direction to control the proliferation of HMOs across the whole city as a result of problems that have occurred in other parts of the city namely the student corridor which extends along Wilmslow Road through Rusholme, Fallowfield and Withington.

The problems that have occurred in these neighbourhoods are specific to a certain type of HMO namely student houses and it is right that the City Council should seek to control the over concentration of C4 uses in this part of the city given the amenity and parking issues that residents have encountered in these localities.

However, the blanket coverage of the city as a whole with an article 4 direction removing the ability of property owners to change use between Class C3 and C4 is wholly unjustified and is clearly contrary to **paragraph 53** of the NPPF which makes clear that the removal of nationally prescribed permitted development rights should be a last resort and should only be done where fully justified. The City Council has however in this instance identified a significant issue in one part of the city and then imposed restrictions across the whole of the city including areas which exhibit very different characteristics to the locality where the problem was first identified.

The Council has sought to justify these restrictions across East Manchester as a way to ensure that properties remain available for occupation by larger families, however this policy effectively ignores the needs of other sections of society which is a primary requirement of planning policy for housing as set out in **paragraphs 60 and 62** of the NPPF. The property in question is occupied by single key workers and young professionals who struggle to find affordable housing options in the city as the Council planning policies fail to recognise that single people on limited income also need to have a place to live.

Appendix A of this statement includes details of all the licensed HMOs in the M11 postcode area in which the application site is located. There are 8 licensed HMO properties within the area and a search of the planning register did not reveal any planning permissions having been granted for Class C4 or larger HMO (sui generis) uses in the district. This would therefore suggest that there is a distinct under provision of shared accommodation in this particular area of the city and it is therefore considered that the current policies rather than delivering a mixture of housing types and tenures to meet the needs of the population is actually restricting access to housing for many single people at the lower end of the housing market, which is contrary to the aims of the NPPF and overarching aims of the Core Strategy.

It is noted that Appendix B of the Core Strategy sets out parking standards for various land uses, but does not include a standard for residential use. Whilst no standard is set out for Class C4 uses, it can be assumed that the parking requirement would be similar to that of a Class C3 use. As no on-site parking is available any parking demand is provided on-street on North Street and Viola Street. Car ownership is low in the area according to the last census and there is no evidence to suggest that this has changed dramatically in the intervening period.

The proposed development consists of five bedrooms would have a parking requirement the same as a five bed dwellinghouse. However, HMO uses tend to have low car ownership levels than other forms of residential accommodation with occupants often relying on public transport. It should also be noted that the site is highly accessible by sustainable means of transport and given there is plenty of available on street parking in the vicinity of the site it is not considered that the use will detrimentally impact the existing limited demand for parking in the locality.

It is also submitted there would be no adverse impacts to neighbouring properties as a result of the proposed development. The building whilst being a mid-terraced property has been occupied for 2 years as a small HMO without any issues in terms of noise and disturbance being experienced by the neighbours. The occupants of the property are all working people including the applicant who owns the property and lives on site. Therefore, the demands of the existing residents as working people are far removed from those that one might see from a household consisting exclusively of students. The residents are all employed and their need for peace and quiet so they are able to sleep and rest properly ensures that occupants behave in an appropriate and respectful manner thus ensuring there are no detrimental impacts on the amenities of the locality as a result of the use.

It should be noted that no changes to the elevations of the building are proposed, and the impact of a small HMO would not be any greater in terms of comings and goings of people, and noise and general disturbance than that of a family group consisting of two parents with three or four children.

7. CONCLUSION

The appeal site is within walking distance of the necessary day to day shops, services and facilities. The site is highly accessible and sustainable in terms of access and transportation, resulting in limited need for a private vehicle. The occupants of HMO's tend to choose this type of accommodation as it is seen as affordable and they are often on limited incomes so owning a vehicle is often not a viable option.

The property is situated in an area where HMO accommodation is extremely limited with there being only 8 licensed HMOs within the M11 postcode area which has a population in excess of 20,400 people.

The full occupation of the property will add to the local population which would be to the betterment of locality helping to sustain local shops and services.

The proposed development provides much-needed accommodation for single persons in an extremely sustainable location within walking distance of local amenities and with easy access to public transport to the City Centre and beyond. Demand for family accommodation within such large properties is limited and the use of the property as a House in Multiple Occupancy is consider the optimum use which best utilises the accommodation available within the property to its full potential.

It is therefore submitted that the proposals are in compliance with NPPF policies, as well as the Core Strategy policies of the City Council. There have not been any demonstrable adverse impacts in relation to residential amenities or parking demand as a result of the use which has been ongoing for in excess of a year. The use meets provides an important type of housing for single people which is significantly under provided for in the M11 postcode area.

The Inspector is therefore respectfully requested to allow this appeal and grant planning permission for the continued use of the property as a small HMO (Class C4).

APPENDIX A

List of HMO's in M11 Postcode which covers the Openshaw, Clayton and Beswick. It has a population of 20,443 in 2011 Census. The area of the M11 postcode district is 2.41 square miles which is 6.25 square kilometres or 1,543.98 acres



- 1384 Ashton Old Road, Manchester, M11 1JU
- 1440 Ashton Old Road, Manchester, M11 1HL
- 1502 Ashton Old Road, Manchester, M11 1HN
- 3 Gransmoor Avenue, Manchester, M11 1HR
- 46 North Road, Beswick And Clayton, Manchester, M11 4NG

- 57 Ackroyd Street, Manchester, M11 1NT
- 8 Gransmoor Avenue, Manchester, Greater Manchester, M11 1HR
- Flat Above Venus Foods Ltd, Ferris Street, Manchester, M11 1AF