



Appeal Decision

Site visit made on 23 April 2013

by Beverley Doward BSc BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2013

Appeal Ref: APP/B4215/A/13/2191649

134-136 Seymour Road South, Manchester, M11 4PS

- 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 N Khan against the decision of Manchester City Council.
 - The application Ref 100698/FU/2012/N2, dated 12 October 2012, was refused by notice dated 28 November 2012.
 - The development proposed was described as "change of class to class C3 – HMO. Retrospective application".
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to a 13 no. bedroom house in multiple occupation (HMO) at 134-136 Seymour Road South, Manchester, M11 4PS in accordance with the terms of the application, Ref 100698/FU/2012/N2, dated 12 October 2012, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The application form gives the site address as 134 Seymour Road South. However, the plans and the appeal form indicate that the appeal site includes 134-136 Seymour Road South, as does the Council's decision notice. I have therefore amended the site address accordingly.
3. The application form and appeal form describes the development proposed as referred to in the heading above. However, it is clear from the plans submitted with the planning application, the Council's decision notice and the appellant's grounds of appeal, that the appeal proposal seeks the change of use to a 13 bedroom HMO, a sui generis use. Therefore, I have determined the appeal on this basis and used this description in my formal decision.
4. The use of the appeal property as a 13 bedroom HMO has already commenced.

Main Issues

5. The main issues in this case are:
 - the effects of the development on the mix of housing in this part of Manchester, having regard to the Council's regeneration policies;
 - whether the development amounts to an intensification of the use of the property which would adversely affect the living conditions of occupiers of the appeal property and neighbours; and

- the effect of car parking arrangements on highway safety and the free flow of traffic in Seymour Road South and the surrounding area.

Reasons

Mix of housing

6. The appeal property lies within East Manchester. It is a double fronted three storey detached building within a predominantly residential area. Access to the rear of the property, which is hard surfaced, is provided by a driveway along the western side of the property. Immediately adjacent to the appeal property is a church to the north, a community hall to the south and playing fields to the east. To the west, on the opposite side of the road, and in the surrounding area is housing.
7. Policy H4 of Manchester's Local Development Framework Core Strategy Development Plan Document 2012 (Core Strategy) seeks to prioritise the provision of family housing and other high value, high quality development in East Manchester in order to expand the housing offer in the city. However, whilst this is the priority it does not rule out other forms of development.
8. A significant proportion of the existing housing stock in East Manchester is made up of dwellings of 2 bedrooms or less. However, the residential properties on the street on which the appeal property is located and in the surrounding area are predominantly family dwellings. In this respect therefore, there would not appear to be the same over supply of one/two bedroom apartments and smaller units of accommodation in the locality of the appeal site as there may be in the wider East Manchester area. Furthermore, in so far as the appeal property was previously in use as a residential care home for the elderly, its use as a HMO would not result in the loss of a family dwelling.
9. Whilst I appreciate the Council's concerns that HMOs tend to attract transient occupiers with less interest in the well being of an area, there is nothing from the evidence before me or from my observations when I visited the area, to indicate that there is a high level of HMOs in the vicinity of the appeal site or in the surrounding area. It would seem to me therefore that the introduction of one HMO would not significantly affect the mix of housing types in the local area such as to cause material harm to its character or to affect the perception of the area in such a way as to undermine the Council's aim of creating a sustainable community and fostering regeneration in East Manchester.

Living conditions

11. The appeal property is a large property and is capable of accommodating the layout and accommodation proposed. Furthermore, there is no evidence before me to suggest that the living accommodation is sub standard or of an unsatisfactory quality. Therefore, I am not persuaded to accept the Council's claim that the development provides cramped accommodation.
12. It is not clear how many bedspaces there were in the previous use of the building as a residential care home. Nevertheless, it is not unreasonable to assume that a 13 bedroom HMO would be likely to generate a greater level of activity and more comings and goings than would have been associated with that use. However, with a church on one side and a community hall on the other, there are no residential properties immediately adjacent to the site. The nearest neighbours are separated from the site by Seymour Road South.

Therefore, any additional activity generated by the development is unlikely to materially add to noise and disturbance in the area so as to cause harm to the living conditions of neighbours. In this respect, I note that there is no evidence of any problems or complaints of noise and disturbance arising from the use, which is already in operation. Furthermore, any additional refuse beyond that which would have been created by the previous use is capable of being comfortably accommodated within the hard surfaced area at the rear of the property where the existing bins are stored.

13. Therefore, I consider that any intensification in the use of the appeal property that may have resulted from its use as a HMO is likely to be limited and consequently there would be no material adverse affect upon the living conditions enjoyed by the occupiers of the property or neighbours by its continued use as a HMO.

Highway safety

14. The development subject to the appeal provides for 4 car parking spaces and 10 cycle spaces on-site. In so far as the use as a 13 bedroom HMO could generate a demand for 13 parking spaces overall plus visitor parking any further demand would need to be accommodated on-street. However, there are currently no parking restrictions on Seymour Road South in the vicinity of the appeal property and at the time of my site visit (which took place on a weekday morning) the road was quiet and there was adequate on-street parking available, both in the parking lay-by on the opposite side of the road to the appeal property and further along Seymour Road South. I am mindful of the fact that traffic levels would be greater in the morning and evening peak hours, and demand for parking would be greater at the end of the working day. However, occupants of the appeal property are likely to have low incomes and consequently a low level of car ownership, as evidenced by the current occupants. In addition, I have seen no substantive evidence to support the claim that unacceptable levels of highway safety would result from this change of use. Therefore, I am satisfied that the requirement for car parking generated by the use is such as it would be unlikely to result in the creation of car parking difficulties within the local area which would cause material harm to highway safety or the character of the area.

Conclusion and Conditions

15. Taking all the above factors into account, I consider that any intensification in the use of the appeal property resulting from its use as a HMO is unlikely to be discernible and consequently the living conditions of the occupiers of the property or neighbours would not be adversely affected by its continued use. The continued use of the appeal property as a HMO is unlikely to cause material harm to highway safety and the free flow of traffic in Seymour Road South and the surrounding area. Furthermore, given that I have concluded that the appeal proposal has not significantly harmed the mix of housing types in the area, I consider that its continued use as a HMO would not adversely affect the residential character of the area such as to make it significantly less attractive to working families.
16. To conclude therefore, the development subject to this appeal does not conflict with policies H4 and SP1 of the Core Strategy in so far as they respectively seek to expand the housing offer and ensure that development in this part of the city has regard to the character, issues and strategy of the East Manchester

regeneration area. It would accord with policy DM1 of the Core Strategy in so far as it seeks to ensure that all development has regard to its effect on amenity, including noise, traffic generation and refuse storage and its effect on the character of the surrounding area. It would also comply with policy H11 of the Core Strategy in so far as it permits the change of use of existing properties, which are not dwelling houses, into HMOs, provided that the accommodation proposed is of a high standard and will not materially harm the character of the area.

17. The development supports the core planning principles of the National Planning Policy Framework which seek to take account of the character of different areas and to ensure a good standard of amenity for all existing and future occupants of land and buildings
18. The Council has suggested a number of conditions that it considers would be appropriate were I minded to allow the appeal. Where necessary, I have amended some of the Council's suggested wording for clarity, to more closely reflect the circumstances of the appeal proposal or to reflect the advice in Circular 11/95.
19. A condition is necessary to restrict the number of residents to be accommodated within the HMO in order to protect the living conditions of neighbours. In order to protect the living conditions of both existing and future occupiers, conditions are required to ensure that noise levels emanating from the road outside the appeal property are acceptable and that adequate provision is made for the storage and disposal of waste. The previous use of the appeal property as a care home would have been likely to have had different door locks to those needed for a HMO. Therefore, a condition is necessary to ensure that security measures meeting 'Secured by Design' specifications are provided in order to have regard to community safety and crime prevention. A condition requiring the on-site car parking spaces to be made available and retained is also necessary in the interests of highway safety.
20. In addition for the avoidance of doubt and in the interests of proper planning, a condition requiring the development to be carried out in accordance with the approved plan is necessary.
21. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Beverley Doward

INSPECTOR

Attached – schedule of conditions

CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing No. L01.
- 2) No more than 13 people shall permanently reside at the premises at any one time.
- 3) Within 3 months of the date of this permission a scheme for acoustically insulating the HMO against noise from Seymour Road South, shall be submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for implementation. The approved scheme shall be carried out and the measures implemented in accordance with the approved timetable and shall thereafter be retained for the lifetime of the development.

Noise survey data must include measurements taken during early morning rush-hour periods and night time to determine the appropriate sound insulation measures necessary. The following noise levels should be achieved:

Bedrooms (night time 23.00 – 7.00) 30dB LAeq

Individual noise events should not normally exceed 45dB LAmax (BS 8233:1999)

Living rooms (day time 7.00 – 23.00) 40dB LAeq

- 4) Within 3 months of the date of this permission a scheme for the storage and disposal of refuse shall be submitted for the written approval of the local planning authority. The scheme shall include a timetable for implementation and the approved scheme shall be carried out and the measures implemented in accordance with the approved timetable and shall thereafter be retained for the lifetime of the development.
- 5) Within 3 months of the date of this permission details of the security measures to be incorporated into the development, which shall be to 'Secured by Design' specification shall be submitted for the written approval of the local planning authority. The details shall include a timetable for implementation and the measures shall be implemented in accordance with the approved timetable and shall thereafter be retained for the lifetime of the development.
- 6) Within 3 months of the date of this permission, 4 car parking spaces shall be demarcated and made available for use at the site in accordance with a plan which shall have been submitted to, and approved in writing by the local planning authority. These spaces shall be permanently retained thereafter for the lifetime of the development.