

<b>Application Number</b>	<b>Date of Appln</b>	<b>Committee Date</b>	<b>Ward</b>
094551/FO/2010/N2	4th Nov 2010	20th Jan 2011	Levenshulme Ward

**Proposal** Change of use from A3 (Public House) to C3 (Residential) Dwellinghouse.

**Location** 74-76 Braemar Road, Levenshulme, Manchester, M14 6PG

**Applicant** M20 Property LLP, 111-112 Timber Wharf, Manchester, M15 4NX

**Agent** Kath Ludlam, Ludlam Associates, The Bank, 99 Palatine Road, Didsbury, Manchester, M20 3JQ

### **Description**

The application relates to a vacant and disused 2-storey public house, at the south side of Braemar Road at its junction with Lindleywood Road. The application property lies within a residential area comprising of red-brick 2-storey terraced houses. The application site is situated at the end of such a terrace, presenting frontages to both Braemar Road and Lindleywood Road. It is separated from neighbouring terraced houses along Brailsford Road by an alleyway providing access to the rear of the site.

The application building comprises of a part-hipped roof as it terminates at the end of the terrace fronting Lindleywood Road. The elevations are of red-brick demarcated by vertical and horizontal stone banding and a continuous fascia separating the ground and first floor. The building frontage to Braemar Road incorporates a pair of projecting dormers, with hipped ridges which extend from the eaves and terminate below the main ridge line. The eaves line to the western and southern elevations is broken by ornate chimney features.

A flat roof extension has been constructed to the rear of the premises, which has been constructed up to the eastern boundary with No78 and the southern boundary with the alleyway; allowing the retention of a small yard area enclosed by a red-brick wall (to the rear of No74). The perimeter of the roof of the flat roof extension is enclosed by approximately 1.8 metre high black painted 'hit and miss' fencing, to facilitate the formation of terrace, which may have been used as a smoking area associated with the previous use. Internally, the layout of the premises is related to the former pub use and comprises of: bar areas, toilets and store room on the ground floor, with 4 bedrooms, kitchen, bathroom and WC on the first floor.

The proposed use does not involve external alterations but the reconfiguration of internal spaces to form the following:

- i. Ground Floor - Lounge, dining room, kitchen, store, utility and bathroom/ WC accessed by a central hallway leading to an existing front door.
- ii. First Floor - 5 bedrooms, bathroom and WC.

The applicants have indicated that the development will facilitate the use of the premises as a Class C3 (Residential) use, i.e., occupied by people living as a single family or up to 3 unrelated people.

The following application has been submitted (since the submission of planning application 094551/FO/2010/N2) and is currently under consideration:  
095295/LE/2011/N2 Application for Lawful Development Certificate for the use of first floor above former public house as a self-contained residential apartment.

### **Consultations**

**Local Residents** - One email has been received from a local resident, expressing concern regarding the potential use of the premises as student accommodation. The loss of the public house is considered to be regrettable as it represented a community facility that facilitated social cohesion.

**Head of Highway Services** - The site is located in an area with high demand for on-street car parking. However, as the proposals relate to a single dwellinghouse, there are no objections to the development.

**Head of Street Management and Enforcement (Environmental Health)** - Any planning permission should be related to the submitted waste management strategy by condition.

**South Manchester Regeneration** - Initially objected to the proposals on the basis that the development would be potentially converted in to a HMO accommodating up to 6 unrelated people, which is considered to be inappropriate in an area with an excessive proliferation of student accommodation. The objection to the proposed development was removed on the basis that a condition could be recommended to remove the permitted development right, which usually relate to dwellinghouses, i.e. to prevent its conversion from a Class C3 use to a Class C4 (small scale HMO). This issue is discussed below.

**'Design for Security' (Greater Manchester Police)** - No objection to the proposed change of use but it is recommended that any new windows should meet 'secured by design' standards. 'Secured by design' accreditation will not be achieved unless all of the windows are replaced.

### **Issues**

**Unitary Development Plan** - The following policies are relevant:

Policy H1.2 - Discusses the need to provide a varied housing stock, including the accommodation for disabled people and has been related to the accommodation resulting from the development.

Policy H2.2 - Requires consideration of the impact of development on residential areas. In this case consideration has been given to matters of noise, traffic generation and road safety.

Policy E3.5 - The noise, activity and transience associated with the proposed use has been given consideration in relation to the safety of existing and potential residents. Reference has therefore been made to policy E3.5 and its requirements to promote

measures, which will lead to a safer environment for all people living in and using the City, including that new development is designed with safety in mind and, amongst other things, improves road safety.

Policy LL1 - An overarching policy affecting the City Councils attitude to proposals within Longsight and Levenshulme requires that regard is given to the general policies in Part 1 of the Plan in order to improve the quality and range of housing to meet the needs of the local community and improve the quality of the local environment.

**Guide to Development in Manchester: Supplementary Planning Document and Planning Guidance** - The Guide aims to support and enhance the on going shaping of the City by providing a set of reasoned principles which will guide developers, designers and residents to the sort of development we all want to see in Manchester.

The following policies are of particular relevance:

Policy 2.57 - Has been related to the development when assessing the size, appearance, location and means of access to waste storage areas.

Policies 4.11 - Outlines the requirements for waste management.

Policy 8 - Promotes measures to improve community safety and prevent crime.

**Planning Policy Statement 1: Delivering Sustainable Development (PPS1) -**

Encourages the promotion of urban and rural regeneration to improve the well being of communities, improve facilities, promote high quality and safe development and create new opportunities for the people living in those communities. In addition to this PPS1 clearly outlines the importance of creating sustainable communities.

**The Regional Spatial Strategy (RSS) for North West England** - The RSS was adopted in September 2008 and replaces the previously published Regional Planning Guidance. The RSS provides a framework for development and investment in the region over the next fifteen to twenty years.

Policy DP 1 - Spatial Principles - Identifies the principles underpinning RSS (incorporating RTS). All may be applicable to development management in particular circumstances: promote sustainable communities; promote sustainable economic development; make the best use of existing resources and infrastructure; manage travel demand, reduce the need to travel, and increase accessibility; marry opportunity and need; promote environmental quality; mainstreaming rural issues; reduce emissions and adapt to climate change.

Policy DP 2 - Promote Sustainable Communities - Building sustainable communities - places where people want to live and work - is a regional priority in both urban and rural areas. Sustainable Communities should, amongst other things, meet the diverse needs of existing and future residents, promote community cohesion and equality and diversity, be sensitive to the environment, and contribute to a high quality of life.

**Principle** - The proposed development will provide an active use for a building which, whilst not being listed, is of some historical and architectural interest. Given

the nature of the surrounding area, a residential conversion would be the most appropriate use in this context.

However, the proliferation of house conversions to provide student accommodation has adversely affected the character of the area and its amenities. The application site is located in an area that has a particularly notable concentration of multiple occupancy accommodation, which is predominantly occupied by students. The proliferation of student accommodation appears to have reduced the availability of accommodation for families, which has created a narrow form of housing occupancy in the area. This form of occupancy has resulted in the construction of numerous extensions within close proximity of the application site, which has served to emphasise the density of development in the locality and the highly intensive nature of its occupation.

It is considered that the concentrations of HMOs have affected the population mix in the locality adversely affecting residential amenity and social cohesion. There is concern that areas with high proliferations of HMO accommodation experience higher levels of anti-social behaviour, noise, nuisance and crime than would be encountered in areas with more conventional, family housing.

It is recognised that the above application relates to the formation of a single dwellinghouse (Class C3) and makes no reference to its use as student accommodation. However, it is also recognised that the bedrooms are large and would lend themselves to multiple occupancy. A condition is therefore recommended to remove permitted development rights, which would ordinarily allow the proposed dwellinghouse to be converted into a Class C4 (small scale HMO). This condition is recommended to address the issues outlined above, which relate specifically to the application site.

It should be noted that in response to the impact of the HMOs across Manchester, the City Council made a Direction on 7th October 2010, under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995, as amended. The Direction relates to development comprising change of use from a use falling within Class C3 (dwellinghouses) of the Town and Country Planning (Use Classes) Order 1987 (as amended) to a use falling within Class C4 (Houses in Multiple Occupation) of that Order and removes permitted development rights for this type of development from the date when the Direction comes into force in October 2011. Planning permission will therefore be required for change of use from Class C3 to Class C4 once the Article 4 Direction is in force. The Article 4 Direction applies to the whole of the Manchester City Council area.

The applicant strongly objects to the imposition of the recommended condition. The applicant notes that the proposals to introduce Article 4 Direction, which will come into force on 8th October 2011. It is considered that until the Direction is confirmed by the City Council, applications should be determined on the basis of current adopted policies in the Unitary Development Plan. The applicant also argues that, whilst the emerging Core Strategy contains a draft policy, which adopts a threshold approach to control further HMOs within areas with high concentrations of such uses, it would

be premature to apply this policy until it is formally adopted following the appropriate consultation and adoption process.'

It is further argued that any conditions should comply with the guidance in Circular 11/95 The Use of Conditions in Planning Permissions, and should meet the tests set out in paragraph 14. The applicant does not consider that these 'tests would be met as there is no demonstrable need for the condition in the absence of any specific evidence relating to alleged potential harm to amenity which has been put forward.' The applicant therefore considers such a condition to be onerous as it would remove the benefits afforded by the Use Classes Order.

The applicants comments have been fully considered. In response reference has been made to the emerging Manchester Core Strategy, which states that changes of use from C3 to C4 will not be permitted where over 20% of households fall within various categories, including households with student council tax exemptions. An assessment of Braemar Road has revealed that 35% of households, within close proximity of the site have student council tax exemptions. Such a high concentration of student residencies is considered to be significant and demonstrates the exceptional circumstances that are required to warrant a condition restricting the usually permitted change of use from Class C3 to C4.

A further condition restricting permitted development rights relating to the construction of extensions to a dwellinghouse (Class C3) is also considered necessary to: safeguard the limited amenity space; ensure that any further extensions do not unduly affect residential amenity and ensure the waste and recycling containers can be stored within the curtilage of the site.

With regard to the conditions 'tests' as specified in Circular 11/95, it is considered that the application premises has an 'exceptional' character by virtue of its size. As the premises are larger than any of the neighbouring terraced houses, it is considered that the potentially adverse impact of its multiple occupancy would be commensurately greater than would be usually expected, in terms of: undue noise disturbance; activity and traffic generation. Given these particular characteristics, it is considered that a condition is required to prevent a change of use from C3 to C4, as a necessary safeguard of residential amenity in the area. It is also considered that the recommended condition meets other the 'tests' (for conditions) as specified in Circular 11/95, i.e., it is relevant to planning and the proposed development, enforceable, precise and reasonable in all other respects.

**Existing single storey rear extension** – The rear extension to the premises appears to have been constructed many years ago. However, there is no record of a planning permission relating to its construction or the erection of fencing around the perimeter of its roof (associated with its use as a balcony or smoking area in association with the previous public house use). However, it is considered that the use of the roof as an amenity area should not be continued as it may adversely affect residential amenity and result in undue overlooking. A condition is therefore recommended to prevent its use for such purposes but allows access for maintenance and emergency access and egress.

**Car Parking** – The proposed development is not supported with any off-street car parking provision. However, it is noted that the former use of the public house was not supported with any areas for parking or servicing, which thereby established a certain level of activity within the street. Whilst there is a notable level of on-street car parking within the vicinity of the site, it is considered that the level of traffic generated by a dwellinghouse (Class C3) would not be potentially significantly greater than that associated with the previous use. It is considered, however, that the formation of a HMO (Class C4) would have a greater potential for the generation of traffic and the subsequent demand for car parking as a result of the number of individual residing at the premises.

**Disabled Access** – The applicant does not propose any external alterations and consequently the existing stepped entrance to the premises would be retained. It is noted that internally, the ground floor layout incorporates a wide corridor and provides circulation spaces to substantial habitable rooms and bathroom.

**Conclusion** - Given the nature of the surrounding area, it is considered that the proposed use is appropriate. However, the nature of the proposed residential use has been considered in the context of the surrounding proliferation of HMO. The approval of planning permission is considered acceptable subject to the conditions outlined above. Whilst noting the applicant's objection to the above condition it should be emphasised that the planning process allows the removal of this condition through an appeal to the Planning Inspectorate, if it is considered to be unduly onerous.

**Human Rights Act 1998 considerations** – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Protocol 1 Article 1 and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. He believes that any restriction on these rights posed by the approval of the application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

## **Recommendation    APPROVE**

on the basis that the proposal is in accord with the City Council's Unitary Development Plan in particular policies E3.5; H1.2; H2.2; LL1 and DC26 and other material considerations of material weight including in particular, Guide to Development in Manchester 2: Supplementary Planning Document and Planning

Guidance policies 2.57, 4.11, 8; RSS policy DP1; DP2; PPS1 and in that the development would positively contribute to the local environment by securing an active use for the site to the benefit of the visual and residential amenities of the area; provide a sustainable development, which would reflect the residential character of the surrounding area thereby promoting the continuing regeneration of the locality.

### **Conditions and/or Reasons**

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the City Council as Local Planning Authority: Site location plan received 20 October 2010; Drawings: R2393; R2393/2 received 20 October 2010; Design and Access Statement received 18 October 2010

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to policy H2.2 of the Manchester Unitary Development Plan.

3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 (or any order revoking and re-enacting that Order with or without modification) no part of the premises shall be used for any other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) other than the purpose(s) of C3(a).

Reason – In the exceptional circumstances of a proliferation of HMOs restricting housing choice and adversely affecting sustainability and in the interests of residential amenity, to safeguard the character of the area and to maintain the sustainability of the local community through provision of accommodation that is suitable for people living as families pursuant to policies E3.5, H1.2 and H2.2 of the Unitary Development Plan for the City of Manchester and policy 7.4 Guide to Development in Manchester: Supplementary Planning Document and Planning Guidance.

4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no garages or extensions, including dormer

extensions, shall be erected other than those expressly authorised by this permission.

Reason - In the interests of residential amenity pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester.

5) Before the commencement of the use hereby authorised a scheme shall be submitted to and approved in writing by the City Council as Local Planning Authority relating to the comprehensive arrangements for the storage of waste and recyclable material, including a plan showing the storage of related bins and containers within the curtilage of the site. The scheme shall then be implemented in full and remain in place whilst the use continues unless otherwise agreed in writing.

Reason - In the interests of residential amenity pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester and policies 2.57 and 4.11 of the Guide to Development in Manchester: Supplementary Planning Document and Planning Guidance.

6) The roof to the single storey extension shall only be used for the maintenance purposes or for emergency access and egress and for no other purposes unless agreed in writing by the City Council as Local Planning Authority.

Reason - In the interests of residential amenity pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester.

### **Local Government (Access to Information) Act 1985**

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 094551/FO/2010/N2 held by planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions on other applications or appeals, copies of which are held by the Planning Division.

### **The following residents, businesses and other third parties in the area were consulted/notified on the application:**

Head of Highway Services  
South Manchester Regeneration  
Design for Security Greater Manchester Police  
Head of Street Management and Enforcement (Environmental Health) Environmental Health  
69 – 79 Braemar Road, Manchester, M14 6PQ  
70- 72 Braemar Road, Manchester, M14 6PS  
The Old House At Home, 74-76, Braemar Road, Manchester, M14 6PG  
78 - 82 Braemar Road, Manchester, M14 6PG  
69 -83 Brailsford Road, Manchester, M14 6PT

### **Representations were received from the following third parties:**

Head of Highway Services



Head of Street Management and Enforcement (Environmental Health)  
South Manchester Regeneration  
Design for Security Greater Manchester Police  
69 Braemar Road, Manchester, M14 6PR

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