



Appeal Decision

Site visit made on 23 May 2019

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/N5090/W/19/3222571

61 Albert Road, London NW4 2SH

- 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 G Doherty against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/5637/RCU, dated 18 September 2018, was refused by notice dated 18 January 2019.
 - The development proposed is described as conversion of house into ground floor 1 bedroom flat and upper floors as a 4 person House in Multiple Occupation (HMO).
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Decision

1. The appeal is allowed and planning permission is granted for conversion of house into ground floor 1 bedroom flat and upper floors as a 4 person House in Multiple Occupation (HMO) at 61 Albert Road, London NW4 2SH in accordance with the terms of the application, Ref 18/5637/RCU, dated 18 September 2018, subject to the conditions in the attached schedule.

Preliminary Matters

2. In setting out the attached conditions, I noticed some duplication in the Council's suggested conditions (formerly conditions 3 and 4 in the council's submission). I have therefore removed one of the conditions subject to that duplication.
3. The National Planning Policy Framework was revised in February 2019 (the Framework). I have also taken this into account as part of the determination of this appeal.

Application for costs

4. An application for costs was made by Mr G Doherty against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Main Issue

5. The main issue is the effect on the character and appearance of the area in terms of noise, car parking and associated activities.

Reasons

Character and Appearance

6. Albert Road is a suburban residential street characterised by terraced two storey properties with small front gardens, rear gardens and on-street car parking. At the site visit, I noted that several of the properties appear to have had loft conversions and it was clear to me that some of the properties had been converted to flats.
7. The appeal site itself is a mid-terraced two storey (with loft conversion) property with a bay front window and small front garden.
8. The appellant and the Council agree that the HMO use has been in place at the appeal site for at least 4 years and that no enforcement action has been taken. I also note that within the officer's report to committee, in recommending approval, it would be likely that a certificate of lawfulness would have been granted in the absence of any dispute over the length of occupation.
9. The council is concerned over the intensification of the residential use at the property as a result of the HMO. They suggest that associated noise, parking and other activities would harm the character of the local area. However, I am not convinced that having already had such a use in situ for at least 4 years that this would necessarily worsen. I have no evidence before me to demonstrate that the use has attracted complaints about noise or disturbance in the past either within the property itself, or in relation to external movements.
10. I note the appellants case that HMO residents tend to have lower levels of car ownership, as well as the contents of the Soundproof Report which was submitted. Coupled with the proposal being for a maximum occupancy of 4 people, I do not consider that the intensification of use would be harmful to the degree that the appeal should be dismissed. I have considered a condition that would deal with such intensification, including the management of refuse and recycling provision as well as future sound monitoring.
11. To that end, I do not consider the proposals would offend Policy CS5 of the Barnet Local Plan Core Strategy (2012), Policies DM01, DM04 and DM09 of the Barnet Development Management Policies DPD (2012) (DMPDPD), the Residential Design Guidance SPD (2016) and the Sustainable Design and Construction SPD (2016) (SDC SPD), which seek protect and enhance established character and encourage sustainable design and development, including HMOs where it can be demonstrated that they would not be harmful to character and appearance.

Other Matters

12. A previous appeal decision¹ at the appeal property which related to a proposal for two flats, was dismissed because of a lack of outdoor space for the upper floor 3 bedroom flat. Given that a 3 bedroom flat would be more likely to contain a larger household – such as a family with children, I can see how access to useable outside space would be highly desirable. However, this scheme is sufficiently different to that proposal that I do not consider it sets a precedent in terms of this appeal. As such I have determined this appeal on its own merits.

¹ APP/N5090/C/15/3095168

13. I have also considered the appeal decision² which relates to 10 Albert Road, which related to the conversion of that dwelling to two flats. Again, these proposals were somewhat different to the scheme before me, and I note that the proposals (in part) also fell below the required minimum space standard. In any case, I have determined this appeal on its own merits.
14. I have considered the submissions from third party residents of the local area, all of which raise similar issues relating to character and appearance, concerns over noise, a potentially transient population and the potential to set an unacceptable precedent. I understand the frustrations of existing residents, however as the use has been in situ for at least 4 years, it is entirely possible that a Certificate of Lawfulness could be granted by the Council in any case and I must afford this substantial weight. Moreover, I do not consider the limited harm associated with the intensification of the property to warrant the dismissal of this appeal.

Conditions

15. I consider that it is necessary in the interests of clarity to specify the plans that are approved and that the development shall be undertaken in accordance with these unless further modified by any condition set out below (1).
16. I also consider that it is necessary to limit the number of residents to 4 in order to regulate the overall effect of the proposal on the locality (2). I have applied a condition requiring details of refuse and recycling provision has been applied in order to safeguard the living conditions of future and existing occupiers (3) and in accordance with policies DM01 of the DMPDPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).
17. Exceptionally, I have revoked the relevant permitted development rights associated with the property in order to protect the living conditions of existing and future occupiers (4).
18. Given the proposal will result in an intensification of use within the property, I consider it reasonable that sound insulation tests are undertaken after 6 months in order to safeguard the living conditions of neighbours (5) and in accordance with Policies DM02 and DM04 of the DMPDPD (2012) and the SDC SPD (2016).

Conclusions

19. Having regard to all matters raised, the appeal is allowed.

Sian Griffiths

INSPECTOR

² APP/N5090/W/18/3212686

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan (received 19/09/2018)

Drawing No.01 (received 19/09/2018)

099-02 Rev A (received 19/09/2018)

099-03-Rev A (received 19/09/2018)

2. The maximum number of occupants permitted within the HMO hereby approved is 4.
3. a) Before the development hereby permitted is first occupied, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority.
b) The development shall be implemented in full accordance with the details as approved under this condition prior to the first occupation and retained as such thereafter.
4. The premises shall be used for Class C4 (HMO) and for no other purpose (including any other purpose in Class C of the Schedule to the Town and Country Planning (Use Classes) Order (1987), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
5. Within 6 months of the date of this decision, copies of Pre-completion Sound Insulation Test Certificates shall be submitted to the Local Planning Authority, confirming compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in force at the time of implementation of the permission).

End of Schedule