



Appeal Decision

Site visit made on 30 July 2019 by Darren Ellis MPlan

Decision by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2019

Appeal Ref: APP/N5090/W/19/3228426

26 Pennine Drive, Cricklewood, London NW2 1PD

- 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 Mrs Limor Nouriel against the decision of the London Borough of Barnet.
 - The application Ref 19/0927/RCU, dated 15 February 2019, was refused by notice dated 17 April 2019.
 - The development proposed is the change of use from C3 to C4.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of a C3 dwellinghouse to a C4 house in multiple occupation at 26 Pennine Drive, Cricklewood, London NW2 1PD in accordance with the terms of the application 19/0927/RCU, dated 15 February 2019, subject to the conditions in the attached schedule.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The property is already in use as a house in multiple occupation (HMO) and is licensed for 5 occupants. I have dealt with the appeal on that basis.

Main Issues

4. The main issues relating to this appeal are:
 - The effect of the change of use on the character of the area;
 - Whether its use as an HMO would result in harm the living conditions of neighbouring occupiers with regard to noise and disturbance.

Reasons for the Recommendation

5. The appeal site is two-storey semi-detached dwelling on Pennine Drive, on the corner with Cleveland Gardens. The property has been previously extended with a two-storey side and single-storey rear extension. The proposal is for a change of use of the property from a C3 dwellinghouse to a C4 house in multiple occupation (HMO).
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6. This type of change of use is normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 without the need for planning permission. However, the Council has introduced an Article 4 Direction to remove this permitted development right.

Character of the area

7. No external alterations to the building itself are proposed to facilitate the change of use to an HMO and therefore the house would retain its current appearance in the street scene. It is clear from the submitted plans that, notwithstanding the fact that the change of use to the HMO has already taken place, the layout of the house remains almost entirely in its pre-existing form as a single undivided dwelling with occupants simply sharing facilities and outdoor space. HMO use therefore retains the dwelling in a form that would be physically similar to other dwellings in the road. As a result, there would not be any significant change to the appearance of the area.
8. It has been put to me that the use of the property as a large HMO would result in additional comings and goings and an intensification of activity and in that way would change the established character of the area as one of large single occupancy houses. I visited the site during a weekday morning and, bearing in mind that the dwelling is already in use as an HMO, there was nothing about the property or its use that distinguished it in any way or that would be detrimental to the character of the surroundings.
9. I acknowledge that during the evenings and at weekends the activity at the property would be greater. However, in its pre-existing form the house had four bedrooms. It could therefore be used as a dwelling to accommodate a large family which could have a high car ownership and could generate considerable activity in the form of comings and goings not dissimilar to that arising from the HMO. The evidence suggests that the property has also in the past been used as a doctor's surgery. Similarly, this use would have been likely to generate considerable activity and comings and goings.
10. I accept that an HMO is a different type of occupation to these uses but the level of activity involved would not be substantially different to the trip patterns of individuals in one large household. Thus, I am not persuaded that there would be any significant additional impact on the character of the property or the street in that regard.
11. Though concerned about the loss of family accommodation, in this case the Council has failed to provide sufficient evidence that the development leads to an over-concentration of HMO development. The Council acknowledges that the Golders Green ward, in which lies the appeal property, has a higher concentration of dwellinghouses. I consider that the development does not result in an over-concentration of HMOs in the area and, as a consequence, it does not lead to an unacceptable loss of family accommodation.
12. Although the site has a Public Transport Access Level 2 rating, the street is on a bus route with a regular frequency of busses, with bus stops a short distance from the appeal property. Cricklewood rail station and the London Underground stations at Golders Green and Brent Cross are within walking distance of the site. In addition, there is a parade of shops a short distance from the site. Occupiers would therefore have access to a good range of services and facilities and in terms of its location, the site is therefore appropriate for use as an HMO.

13. Evidence supplied by Winkworth estate agents suggests that there is a demand for shared properties, and this is supported by the fact that the property has been used as a HMO for some time, albeit without authorisation. Therefore, whilst I acknowledge that evidence is limited, I am satisfied that there is a need for the HMO use.
14. For these reasons I conclude that the development does not have an unacceptable effect on the character of the area. As such, it accords with the intentions of policies CSNPPF and CS5 of the Adopted Local Plan Core Strategy 2012, and policies DM01, DM08 and DM09 of the Adopted Development Management Policies DPD 2012. These policies seek in various ways to secure suitable development and ensure that the character of the area is preserved or enhanced, and that HMOs are located in appropriate locations.

Living Conditions of Neighbouring Properties

15. The submitted floorplans show the layout of the property would be reasonably typical of a four-bedroom family house with two reception rooms, a kitchen, a utility room and a bathroom. Whilst the intensity of the current use may differ from that of a single family house, I do not consider that the change to a small HMO use is likely to materially affect the amenities of neighbours, since the use of the house by a single family could generate the same amount of activity, noise and disturbance in and around it.
16. In addition, were any anti-social behaviour to arise, there is other legislation under which the issue could be resolved, as would be the case if the house were occupied by a large family.
17. I have therefore concluded that a C4 HMO use would not have a harmful effect on neighbours' amenities, and consequently find that the proposal accords with Policies CS1 and CS5 of the Local Plan Core Strategy and Policies DM01 and DM09 of the Development Management Policies DPD, in so far as they require development proposals to be designed to respect the amenities of adjoining and potential occupiers and users.

Conditions

18. The Council suggested a number of conditions, which I have considered in the light of the advice in the National Planning Policy Framework and Planning Practice Guidance. In some cases I have edited the suggested condition for clarity and enforceability.
19. I consider that it is necessary in the interests of certainty 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.
20. In order to prevent any undue noise and disturbance to neighbouring occupiers it is reasonable and necessary to limit the number of occupiers to 5.
21. As the change of use has occurred without all of the support facilities being in place and without adequate details being submitted, it is necessary to impose conditions requiring the submission and approval of details and the implementation and construction of these facilities within a controlled period. Such conditions are necessary in respect of the off-street parking provision, cycle parking and refuse storage to ensure appropriate provision is made.

22. However, given that the property could be occupied by a large family I am not persuaded that conditions requiring the use of a water meter or reduction in carbon dioxide emissions, whilst laudable in themselves, are reasonable or necessary to make the proposal acceptable in planning terms. Accordingly, these suggested conditions do not meet the tests set out in the Planning Practice Guidance. Similarly, as there is no evidence before me that the proposal would result in a significant increase in demand for parking spaces, the suggested condition requiring the widening of the vehicle crossover is not reasonable or necessary. Accordingly, these suggested conditions are not recommended.

Conclusion

23. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed and planning permission granted subject to the conditions in the attached schedule.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed and planning permission is granted subject to the conditions above.

S Ashworth

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: - Drawing No. 05/1006/PRELIM/100 (Location Plan and Block Plan), dated 13/09/2018; Drawing No. S18/6635/01 (Floor Plans, Elevations and Section), dated August 2018.
- 2) a) Within 6 weeks of the date of this decision notice details of cycle parking spaces and cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority.

b) Within 3 months of approval of the details under part (a) of this condition the approved cycle parking and storage provision shall be fully implemented and the cycle spaces and storage facilities shall be permanently retained thereafter.
- 3) a) Within 6 weeks of the date of this decision notice 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) Within 3 months of approval of the details under part (a) of this condition the approved refuse storage provision shall be fully implemented and the refuse storage facilities shall be permanently retained thereafter.
- 4) The parking spaces shown on submitted drawings shall be maintained and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.
- 5) The property shall be used as an HMO for up to 5 people under Class C4 and no other purpose (including any other purpose in Class C3 or C4 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).

End of Schedule