



Appeal Decision

Site visit made on 2 December 2019 by C Brennan BAE (Hons) M.PLAN

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2020

Appeal Ref: APP/N5090/W/19/3237867

124 Hamilton Road, Golders Green, London NW11 9EA

- 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. Brian Ainsworth of Joburg Properties Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/0473/FUL, dated 28 January 2019, was refused by notice dated 27 March 2019.
 - The proposed development is change of use to a house in multiple occupation comprising 5 bed-sit units (each with en-suite shower rooms/WC's) and 2 communal kitchens, cycle storage and refuse enclosure.
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Decision

1. The appeal is allowed and planning permission is granted for change of use to a house in multiple occupation comprising 5 bed-sit units (each with en-suite shower rooms/WC's) and 2 communal kitchens, cycle storage and refuse enclosure at 124 Hamilton Road, Golders Green, London NW11 9EA, in accordance with the terms of the application, Ref 19/0473/FUL, dated 28 January 2019, subject to the conditions set out 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.

Main Issue

3. The main issues are:
 - the effect of the proposed development on the character of the area;
 - the effect of the proposed development on the living conditions of the nearby residents, with particular regard to noise and disturbance;
 - whether the proposal meets an identified need.

Reasons for the Recommendation

Character of the area

4. The appeal site is a two-storey end-of-terrace property on the eastern side of Hamilton Road. The site is currently laid out as a 6-bedroom HMO for up to 6 individuals, although its lawful use is as a single family dwellinghouse. The surrounding area is characterised by predominantly characterised by single
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family dwellinghouses, although there are a number of properties that have been converted to flats.

5. The proposal would provide HMO accommodation for a maximum of five individuals. In their statement of case, the Council state that bedrooms 1 and 3 as labelled on the submitted plans are capable of accommodating more than one person due to their floor area. However, the proposal is for a five-bedroom HMO for a maximum of five individuals, and this level of occupation could be conditioned, as indicated by the Council's suggested condition.
6. Given its size, the property could potentially be occupied by a large family of seven people in its lawful use, each with demands for visitor traffic and their own individual lifestyles, jobs or routines. While the level of activity arising onsite from five unrelated people might be relatively more intensive, it is unlikely that it would be so much more intensive so as to result in a fundamental change to the general character of the area. Furthermore, while there are no examples of specifically HMO accommodation in the surrounding area, the intensity of use associated with the proposal would be broadly comparable to nearby flatted conversions. As such, it is considered that the proposal would not unacceptably change the character of the area.
7. In their delegated report, officers cite that an intensification of the use of a site can adversely affect the appearance of a street through the provision of additional refuse and cycle parking facilities. As the appeal property would accommodate a maximum of five occupants, there is no reason why waste and recycling storage would not be comparable to its lawful use. Furthermore, as the Council would have the opportunity to approve details for waste and recycling storage by condition, the proposal could be made to be acceptable in this regard.
8. The Council also states that an HMO would be subject to a high turnover of individual households which would further undermine the character of the street. However, it is not obvious why this would be the case. Regardless, as the proposal would only accommodate a maximum of five individuals at any one time, it is considered that any potential turnover of occupants would not have an appreciable harmful effect on the character of the street or the appeal property.
9. For the above reasons, I conclude that the proposed development would have an acceptable effect on the character of the area. The proposed development would therefore comply with Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document (2012), policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) and the Residential Design Guidance SPD (2016), which broadly state that proposals will need to conserve local distinctiveness and character. The proposal would also comply with Policy DM09 of the Development Management Policies document, in so far as it requires that proposals for new HMOs will be encouraged if they can demonstrate that they will not harm the character of the surrounding area.

Effect on living conditions of nearby residents

10. In their delegated report, the Council assert that increased activity to and from the appeal site would create an unacceptable amount of noise and disturbance that would harm the living conditions of nearby residents. However, as

identified above, the level of activity would not be so much greater than the appeal property's lawful use. Furthermore, a noise assessment has been provided by the appellant which suggests that the proposal would cause no harm in this regard. On the basis of the evidence before me, it is considered that the proposal would be acceptable in terms of its effect on the living conditions of nearby residents.

11. For the above reasons, I conclude that the proposed development would not cause unacceptable harm to the living conditions of the nearby residents, in terms of noise or disturbance. Therefore, in this regard also, the proposed development would comply with Policy DM09 which states that proposals for new HMOs should not cause harm to the amenities of the surrounding area. The proposal would also comply with the Residential Design Guidance SPD, which generally requires that development should respect neighbouring living conditions. Policy DM02 of the Development Management Policies document, referred to in the decision notice, requires proposals to accord with development standards. It has not been suggested that the proposal fails to meet any such standard and therefore this policy has little relevance to this determination.

Need for HMO accommodation

12. Policy DM09 states that proposals for new HMOs will be encouraged where they meet an identified need. The Council state that the appellant has not provided substantial evidence that there is a need for HMO accommodation. However, as identified by the appellant, need for such accommodation across London is explicitly stated within the London Plan (2016), and the not insubstantial contribution of 635 non-self-contained units (such as HMOs) every 5 years towards future housing growth within the borough is set out within Table 3 of the Council's Local Plan. Furthermore, the appellant has provided a letter from a local specialist lettings agency who confirms that there is a need for HMO accommodation locally. Based on the evidence before me, I consider that there is a need for HMO accommodation.
13. The Council states that there is a demand for single family dwellinghouses, which is being eroded within the Borough. However, the Council have provided no evidence to support this or to suggest that the loss of a single dwelling resulting from the proposal would unacceptably compromise the Council's ability to meet the demand for family housing.
14. For the above reasons, I conclude that the proposal would meet a need for HMO accommodation. The proposal would therefore comply with Policy DM09 which states that new HMOs will be encouraged where they meet an identified need. However, I do not consider that Policies CS1 and CS5, Policy DM01 or the Residential Design Guidance SPD (2016) are relevant to this matter, as they relate to issues other than the need for a particular housing type.

Conditions

15. The conditions which are imposed are those which have been suggested by the Council, but with some alterations in the interest of clarity and precision having regard to the advice on imposing conditions in the Framework and Planning Practice Guidance.

16. In addition to the standard timescale condition, I have imposed a condition requiring that the scheme be built in accordance with the approved plans for the avoidance of doubt. In the interests of the character and appearance of the area, I have also imposed two conditions requiring that details of cycle storage and waste and recycling storage and collection be submitted to and approved by the Council prior to occupation.
17. In the interests of the living conditions of neighbouring residential occupants, I have attached a condition requiring that no more than 5 persons shall reside at the property at any time.
18. The Council have suggested a condition requiring that sound insulation test certificates showing compliance with Requirement E of the Building Regulations should be submitted to them prior to occupation. However, as these aspects are covered under Building Regulations, this condition would not be relevant to planning. It would therefore be neither reasonable nor necessary to impose it.
19. I also have not attached the condition which requires that 100% of the water supplied to the property should come from the mains water infrastructure. This suggested condition may have been more appropriate for a new build development, but not for an HMO conversion. I have not attached the suggested condition requiring carbon dioxide emission reduction measures for the same reasons.

Conclusion and Recommendation

20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

C Brennan

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans: Site Location Plan, Existing Floor Plans, Proposed Floor Plans.
- 3) Before the development hereby permitted is first occupied, details of cycle storage provision shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the details as approved under this condition prior to the first occupation of the development and retained as such thereafter.
- 4) 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. The development shall be implemented in full accordance with the details as approved under this condition prior to the first occupation of the development and retained as such thereafter.
- 5) The House of Multiple Occupation hereby permitted must be occupied by no more than 5 persons at any time.