
Appeal Decision

Site visit made on 25 February 2020

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 7th March 2020

Appeal A Ref: APP/T5150/C/19/3231562

Appeal B Ref: APP/T5150/C/19/3232602

9 Sneyd Road, London NW2 6AL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Ms Christine Bouilly (B&BLeo Limited) and Appeal B is made by Faye Salus against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/17/0195, was issued on 30 May 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO), occupied by more than 6 people.
 - The requirements of the notice are:
 - STEP1 Cease the use of the premises as a House in Multiple Occupation (HMO) occupied by more than SIX persons, ensuring that there are NO MORE than SIX occupants and SIX beds in the premises
 - STEP2 Remove all kitchens and cooking facilities except ONE from the premises and remove all associated debris and materials arising from this removal from the premises
 - STEP3 Remove all bathrooms and bathroom facilities except TWO from the premises and remove all associated debris and materials arising from this removal from the premises
 - STEP4 Remove all partition walls facilitating the unauthorised change of use from the premises and remove all associated items, debris and materials arising from this removal from the premises, so that the layout of the premises is returned back to a single family dwellinghouse
 - The period for compliance with the requirements is 3 months.
 - Appeal A is proceeding on the grounds set out in section 174(2)[a], [f] and [g] of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground [a] and the prescribed fees have been paid within the specified period, an application for planning permission is deemed to have been made under section 177(5) of the Act.
 - Appeal B is an identical appeal except there is no ground (a).
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Decisions

1. The appeals are dismissed, and in respect of Appeal A, planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended. The enforcement notice is upheld with a variation to Step 4 so that it reads:

‘Step 4 Remove all partition walls facilitating the unauthorised change of use from the premises and remove all associated items, debris and materials

arising from this removal from the premises, so that the layout of the premises is returned back to a single dwellinghouse and so that there are not more than 6 bedrooms.'

Procedural Matter

2. Steps 1 and 4 of the notice are inconsistent with one another as a result of the reference to a single 'family' dwellinghouse in Step 4. In order to ensure that it is clear what the appellants have to do to comply with the notice I shall vary the notice by deleting the word 'family' from Step 4 and adding the words 'so there are no more than 6 bedrooms'. As the appellants have already appealed on ground (f) and as amended Step 4 would amount to a lesser step there is no prejudice to either party in my correction of the notice in this way.

Ground (a) and the Deemed Planning Application (DPA) (Appeal A only)

3. An appeal under ground (a) is on the basis that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to have been granted.

Main Issues

4. The main issues are:

- Whether the development provides acceptable living conditions for existing and future residents.
- The effect of the use as a HMO occupied by more than 6 people on:
 - the living conditions of nearby residents in terms of the potential for noise and disturbance and access to on-street car parking
 - the character of the surrounding area

Reasons

Living conditions for existing and future residents

5. The appellant contends that the accommodation is of an appropriate standard because it has met the Council's licence requirements for an HMO. A copy of this document is not before me and neither party has provided a copy of any standards against which the size of the accommodation has been assessed. However, I observed that generally conditions in the house are cramped with some of the rooms barely having space to accommodate a single bed and desk.
6. The photographs provided by the Council show a shared kitchen space which is dominated by multiple domestic appliances and there is very limited space within which occupiers of the house can socialise. Limited food storage space also seems to have resulted in some residents storing food in their bedrooms.
7. Although the rooms on the second floor are spacious and include cooking facilities, which could provide self-contained accommodation, the bedrooms on the ground and first floor are small and provide limited storage and circulation space. Two bedrooms on the first floor facing Sneyd Road appear to have been formed through the subdivision of a larger room and the original bay window serves two living spaces. These rooms are of a particularly poor quality.

8. There is a grassed rear garden accessed via the kitchen and conservatory which provides external amenity space of a size which is comparable with adjacent dwellings. However, the intensive use of the space which arises from the number of occupants and their visitors provides a high likelihood of disturbance to other residents of the HMO.
9. Drawing all of these strands together, notwithstanding the appellant's view that the accommodation provides a high-quality living environment, I find that the HMO does not provide acceptable living conditions for existing and future residents. The development is contrary to Policy 3.5 of the London Plan 2016 and Policies DMP1 and DMP20 of the Brent Development Management Policies (2016) (the Brent DMP). These policies jointly require housing developments to be of the highest quality internally and externally. For similar reasons the development is contrary to the National Planning Policy Framework (the Framework) which promotes the provision of a high standard of amenity for existing and future users in new development.

Living conditions of nearby residents

10. 9 Sneyd Road (No. 9) forms one half of a pair of semi-detached houses with No. 11. This results in a close relationship between both buildings and their associated amenity spaces to the front and rear. Noise and disturbance associated with access to the front door and use of the rear garden would be significant given the occupation of the HMO by 10 people based on the number of beds available together with visitors and servicing such as takeaway deliveries. It is reasonable to conclude, as the Council has done, that the resultant impact on the living conditions of the occupiers of No. 11 and other neighbours is significantly greater than would arise in association with occupation as a 6-bed HMO or a single dwelling. Moreover, this conclusion is corroborated by comments made by the occupiers of No. 11 who refer to an increase in noise levels associated with the large increase in the number of tenants since the house was converted to a HMO.
11. This contrasts with the view of the appellant that the development would be unlikely to generate significantly greater levels of activity than occupation as a shared house or by a large family. However, the appellant offers no substantive evidence to support her argument in this regard. Furthermore, whilst the appellant accurately identifies that there are non-residential uses in the wider area there is no further information relating to the impacts which these uses have on the living conditions of neighbours and in any event such evidence would not address the immediate impacts on the occupiers of No. 11.
12. In summary, I have insufficient evidence to conclude that the development, and particularly the intensification of the use of the property, would not result in levels of noise and disturbance that are harmful to the living conditions of the occupiers of neighbouring properties.
13. Car parking provision in the area takes the form of on-street parking some of which is subject to a daytime restriction Monday to Friday, some chargeable on-street parking and off-street parking in the form of driveways and garages. There is a garage associated with No. 9 and a driveway however there is insufficient provision for all occupants of the HMO to park on site if each of them had a car.

14. The appellant argues that none of the existing occupants require on-street car parking and suggests that a unilateral undertaking in relation to parking permits would be effective. However, there is no detail regarding what the unilateral undertaking would deliver nor any such undertaking before me. On the other hand, the Council contend that the site is within an area with poor access to public transport where there is likely to be a demand for on-street car parking and that even if the current occupiers do not place a demand on this facility future occupiers might.
15. I observed that there were some spaces available on the street in the afternoon, but that these were mostly permit only car parking spaces. There is no evidence to suggest whether or not residents would have access to these spaces. Furthermore, there is no information regarding the availability of parking spaces in the wider area within convenient walking distance. On the basis of the scale of the accommodation and in the absence of evidence to the contrary, I am not persuaded that should the demand for car parking alter from the existing state it would not have an adverse impact on the ability of existing residents to access on street car parking spaces. The additional demand in this case would be likely to be of a scale as to be harmful to the convenience of other residents with a consequent adverse effect on living conditions.
16. I conclude that the use as a HMO occupied by more than 6 people has a harmful impact on the living conditions of nearby residents in terms of the potential for noise and disturbance and access to on-street car parking. The development is contrary to Policies DMP1 and DMP12 of the Brent DMP. These policies jointly require development to safeguard against increasing exposure to noise and general disturbance and resist development which would harm existing on-street parking conditions.

Character and appearance

17. Sneyd Road is one of a number of parallel roads running off Anson Road. There is a church on the corner, which appears to incorporate a nursery school, and a primary school further along Anson Road. Notwithstanding these non-residential uses, which I observed generate significant activity at some points during the day, Sneyd Road and the area more widely maintains the character of a quiet residential neighbourhood.
18. The use of the house in a more intensive way leads to greater activity and movements associated with its occupation by in the region of 10 people which is at odds with the peaceful character of the area which I have noted. Furthermore, the additional bin storage requirements result in a proliferation of wheelie bins on the site frontage which has a negative impact on the street scene.
19. The appellant refers to existing flat conversions in the vicinity of the site which have assimilated well into the character of the area. Save for the reference to flats being visible from the rear of the appeal site, there is limited information before me regarding these developments. Even so, as they relate to flats and not a HMO I do not find them to be directly comparable to this case.
20. I conclude that the use as a HMO occupied by more than 6 people has a harmful effect on the character of the surrounding area. The development is contrary to Policy DMP1 of the Brent DMP which requires that new development

complements the locality. For similar reasons the development is contrary to the Framework which seeks to achieve well-designed places.

Other matters

21. The appellant argues that the HMO meets a need for this type of accommodation in Brent. This was not a reason which the Council gave for issuing the notice, but it is a matter that it refers to in its statement, also confirming that it opposes the loss of family sized dwellings. There is limited substantive evidence before me to demonstrate that there is a need for the type of accommodation provided at 9 Sneyd Road. However even if such a need were demonstrated, it would not outweigh the harm which I have identified in terms of the quality of the living conditions for existing and future residents and the effects on the amenity of neighbours and the character of the area.
22. The appellant says that cycle parking space could be secured by planning condition. Whilst the availability of cycle parking space could have a beneficial effect on the demand for car parking, there is no substantive evidence to demonstrate that this would outweigh my concerns regarding the adverse effect of car parking demand on the living conditions of nearby residents. Furthermore, given the number of people accommodated at the premises, the provision of sufficient cycle parking spaces, if positioned close to the road frontage could exacerbate the adverse impact of the HMO use on the character of the street scene.

Conclusion on ground (a) and the DPA

23. For the reasons given above, I conclude that in respect of Appeal A, the appeal on ground (a) should fail and the deemed planning application should be refused.

Ground (f)

24. An appeal under ground (f) is on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
25. There has been an appeal under ground (a) which has allowed me to consider the merits of the appeal scheme. Therefore, there is no issue with regard to general planning considerations under ground (f) in this case.
26. The appellants consider that as an HMO Licence has been granted by the Council and the units could be occupied by families the restriction to 6 persons is excessive and the kitchen and bathroom facilities should also not be restricted to one and two respectively. In contrast the Council regard the requirements of the notice as reasonable and necessary to return the use of the premises to a single dwelling.
27. I do not have a copy of the HMO Licence before me, however in itself such a licence, which is granted under a separate legislative regime does not confirm the use of the premises as a HMO under planning legislation.

28. The appellants have not provided any further justification as to why more than one kitchen and more than two bathrooms are required to serve a single dwellinghouse. It appears to me that the number of kitchens and bathrooms in the premises have facilitated the unauthorised use and in the absence of any evidence to the contrary the removal of all but one kitchen and two bathrooms is necessary to prevent the resumption of the unauthorised use. It follows that I do not find the steps required by the notice to be excessive and the appeals under ground (f) fail.

Ground (g)

29. Ground (g) is that the period specified for compliance with the notice falls short of what should reasonably be allowed. The appellant considers that the compliance period of three months is too short because following the grant of a HMO licence, a number of tenancy agreements have been entered into without suitable break clauses. The Council maintain that 3 months is a reasonable compliance period but adds that, if necessary, it has the power to extend the compliance period.

30. There are no details before me regarding the terms remaining on the tenancy agreements and no evidence to demonstrate that the tenants could not be persuaded to vacate the premises in advance of the expiry of their tenancy if this proved necessary. In the absence of any substantiated overriding need to extend the compliance period I find that the 3-month period afforded by the notice does not fall short of what is reasonable. For the reasons given above, I conclude that the appeals on ground (g) should fail.

Conclusion

31. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice subject to variation and refuse to grant planning permission on the deemed application (Appeal A).

Sarah Dyer

Inspector