
Appeal Decision

Site visit made on 20 January 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2020

Appeal Ref: APP/N5090/W/19/3239973
20 Westside, London NW4 4XB

- 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 Alan Goldberg (CSN Estates) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/3791/RCU , dated 31 July 2019, was refused by notice dated 27 September 2019.
 - The development proposed is change of use from single family dwelling house into 7 room, 7 person HMO House in Multiple Occupation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form indicates that the site has been in use as a House in Multiple Occupation (HMO) since May 2018. It was evident at my site visit that an HMO was operating from the site.
3. The description in the banner heading above is based on the appeal form and decision notice. I have determined the appeal on the basis of this description. I have omitted 'retrospective' from the description because this is not in itself development.
4. The Council advise that on the 29 May 2016 an article 4 direction was introduced to remove permitted development rights to convert a dwelling house (use class C3) into a small HMO (use class C4).
5. There is an active enforcement appeal related to the retrospective development at the site (appeal ref APP/N5090/C/19/3235545). This is subject of a separate decision.

Main Issues

6. The main issues are:
 - Whether the development meets an identified need;
 - The effect of the development on the living conditions of neighbouring residents with particular regard to noise and disturbance and the character of the area;
 - The effects of the development on on-street parking capacity;

- Whether the proposal would provide acceptable living conditions for occupiers of the site.

Reasons

Identified Need

7. Policy DM01 of the Barnet's Local Plan Development Management Policies Development Plan Document September 2012 (Local Plan) states that the loss of houses in roads characterised by houses will not normally be appropriate. Policy DM08 of the Local Plan states that development should provide an appropriate mix of dwelling types and sizes, with the highest priority for homes with four bedrooms and a medium priority for three bedroomed homes. Policy DM09 of the Local Plan states that existing HMO's will be retained, and new ones encouraged, where there is an identified need.
8. The appellant states that the appeal property is fully occupied as an HMO, and this is an indication that there is a need for the HMO accommodation. In addition, the appellant has supplied an email from a letting agent advising that the property would take longer to let as a family house than as an HMO. Further, the letting agent states that the property is likely to be of interest to either professionals or students studying at the local Middlesex University. The appellant also identifies that the accommodation could be occupied by young single people who work at Brent Cross.
9. All that said, there is no evidence before me that there is a shortage of suitable accommodation for either students or employees of Middlesex University or those working at Brent Cross. Further, there is nothing within the evidence submitted by the appellant that confirms that there is a deficiency of available HMO accommodation that would equate to an identified need. That being the case the Council's priority, in accordance with Policy DM08, is for four and three bedroomed homes.
10. Therefore, the development fails to accord with Policy CS5 of the Core Strategy which seeks to ensure that development respects local context and policies DM01, DM08 and DM09 of the local plan.

Living conditions and residential character

11. Westside is an attractive, tranquil, residential street of mainly semi-detached properties of similar design set back from the street frontage. The change of use has resulted in few external alterations to the appearance of the property and consequently the HMO has limited visual effect on the overall appearance of the street.
12. Nevertheless, the appellant indicates that the HMO licence is for the occupation of the property by 10 people in 7 rooms although the refusal notice refers to the occupation by 7 people in 7 rooms. In either case there is evidence before me, in the form of third-party representations, of the detrimental effects associated with the operation of the HMO. Taking into account the potential for each occupant to have individual schedules, deliveries and visitors there is likely to be a significant intensification of the use of the property, including higher levels of comings and goings and increased general activity at the site, compared to a single-family house. I consider that the comings and goings associated with the number of proposed individual occupants at the property would result in a significant increase in the level of activity along Westside. This

would lead to noise and disturbance that would be detrimental to the tranquil residential character of Westside.

13. In addition, the appeal site shares a driveway and side access with No 18 Westside and the front door entrances are close to each other. The proposal would result in a considerable increase in the concentration of activity, particularly externally at the entrance to the property and in the shared areas. The associated noise and disturbance that would result from the increased concentration of activity would be significant and harmful to the living conditions of the occupiers of No 18.
14. I note the evidence from the appellant that the appeal property is regularly inspected by the HMO licence holder. However, there is little persuasive evidence before me to indicate that these inspections would necessarily address the detrimental effects associated with the intensive use of the site.
15. Overall, I consider that the development would cause material harm to the living conditions of neighbouring residents with particular regard to noise and disturbance. Therefore, the development would conflict with Policies CS1 and CS5 of the Core Strategy and Policies DM01, DM02, DM04 and DM09 of the Local Plan. These policies require development, among other things, to safeguard the character and amenity of areas and respect local context. There would also be conflict with the guidance in the Supplementary Planning Document (SPD) Residential Design Guidance October 2016 and Local Plan SPD Sustainable Design and Construction October 2016 in so far as the guidance seeks to ensure development protects existing living conditions.

Parking capacity

15. Policy DM17 of the Local Plan states that residential development may be acceptable with limited or no parking but only where it can be demonstrated through a parking survey that there is sufficient on street parking capacity. During my site visit I saw that there was available on street parking. I appreciate that the level of parking will vary at different times of the day. However, I did not see any evidence of 'parking stress' as suggested by the Council. The Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. I have no evidence before me, and nothing I saw on site, would lead me to conclude, that harm to highway or pedestrian safety or the road network would result from increased parking demands.
16. Consequently, I find no harm to on-street parking capacity or conflict with Policy CS9 of the Core Strategy which seeks safe, effective and efficient travel or DM17 of the Local Plan.

Living conditions - occupiers of the site

17. I noted the internal arrangement of the HMO accommodation at my site visit. I have considered the policy objectives in Policy CS5 of the Core Strategy, Policy DM09 of the Local Plan and the standards in the Mayor's Housing Supplementary Planning Guidance. I am satisfied that with appropriately worded conditions the internal and external arrangement of the site could meet the required standards for the occupation of the site as an HMO. I also

note that the use of the site as an HMO has been granted a licence by the Council to operate.

18. Consequently, I am satisfied that the property would provide acceptable living conditions for occupiers of the site and in this respect the development would accord with Policy CS05 of the Core Strategy and Policy DM09 of the local plan. It would also meet the requirements of the Mayor's Housing Supplementary Planning Guidance adopted March 2016 which seeks good quality schemes that meet all relevant Housing Act and HMO standards and requirements.

Other Matters

19. I appreciate that the Council have granted a licence on two occasions for the use of the premises as an HMO. However, the appellant has provided me with a copy of the licence, and I note that the licence confirms in paragraph 6 that the granting of the licence does not infer that other consents are not needed including for planning purposes.

Planning Balance and Conclusion

20. I have found that the development would not meet an identified need for HMO accommodation and would cause harm to the living conditions of the neighbouring properties. Whilst I have not found harm associated with on street parking or the standard of HMO accommodation, these matters do not outweigh the harm I have identified. The appeal scheme would be contrary to the development plan as a whole and accordingly the appeal is dismissed.

Diane Cragg

INSPECTOR