



Appeal Decision

Site visit made on 9 October 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2020

Appeal Ref: APP/N5090/W/19/3233981

14 Old Rectory Gardens, Edgware HA8 7LS

- 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 Adrian Pearson against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/1832/FUL, dated 27 March 2019, was refused by notice dated 11 June 2019.
 - The development proposed is described as 'change of use from C3 to small C4 HMO'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my site visit, development had already taken place at the site and there appeared to be some discrepancy between the submitted floor plans and that observed on site. For the avoidance of doubt, I have considered the appeal on the basis of the submitted plans.
3. The description of development that appears in the banner heading above is taken from the planning application form. The Council's decision notice refers to the description of development as 'Change of use of the property from a single family dwelling (Class C3) to a House in Multiple Occupation (HMO) (Class C4) for 5 people.' This more accurately describes the proposal and I have therefore determined the appeal on this basis.
4. The Council indicate within their statement that reference to congestion was included within their first reason for refusal in error. I have therefore considered the appeal on this basis.

Main Issues

5. The main issues are i) whether the development meets an identified need; ii) the effect of the development on the character of the area and iii) effect on living conditions of neighbouring residential properties.

Reasons

Identified need

6. Old Rectory Gardens is a residential cul-de-sac, comprising semi-detached properties with some having undergone or currently undergoing alteration.

7. Policy DM09 of Barnet's Local Plan (Development Management Policies) Document 2012 (DMP) states existing HMOs will be retained, and new ones encouraged where there is an identified need.
8. It is suggested by the appellant that HMO accommodation such as this would meet an identified need for affordable housing, including for 1 bedroom low cost rented units, as identified within the Council's Housing Strategy attached to their statement. However, the identified requirement explicitly relates to affordable housing provision. From the evidence before me it is not clear that the proposed accommodation would conform with the definition of affordable housing as given in the National Planning Policy Framework (the Framework), in respect of potential rental rates, nature of tenure or that the appellant is a registered provider.
9. My attention has been drawn to the provisions of supporting text to Policy DM09 included within paragraph 10.3.2. However, I have no substantive evidence to demonstrate that the appeal proposal would address one of the identified needs or if there are such needs in this particular location. Furthermore, the appeal proposal does not relate to the loss of HMO accommodation as referred to by this paragraph. As such, I do not consider that this outweighs the requirement of Policy DM09 to demonstrate a need for HMO accommodation.
10. I do not dispute that there may be a need for HMOs or low cost housing in the area and London as a whole, as indicated within the London Plan. However, similar to the Inspector dealing with the previous appeal that has been brought to my attention (ref: APP/N5090/W/18/3201486), I do not consider that this absolves any requirement for the appellant to demonstrate an identified need for HMO accommodation as required by Policy DM09. On balance, I am not persuaded that it has been satisfactorily demonstrated that the proposed conversion to HMO accommodation would address a specific or quantified need in this location and to this end I find there is significant tension with this Policy.
11. It is suggested that Policy DM07 of the DMP is of relevance in that it seeks to prevent the loss of residential accommodation including those that are serving a special housing need such as HMOs. However, the proposal does not result in the loss of residential or existing HMO accommodation and I do not therefore consider this policy to be of direct relevance. Nor am I satisfied that it has been demonstrated that any need outweighs the identified dwelling size priorities identified within Policy DM08 of the DMP. As such I am not persuaded that the provisions of these policies outweigh the requirements of Policy DM09.
12. I acknowledge reference to Policy DM10 with regard to the need for affordable housing. However, this policy relates to the provision for affordable housing contributions from developments for 10 units or more and as such I do not attribute this significant weight in this instance.
13. In conclusion, I do not consider that it has been satisfactorily demonstrated that there is a need for HMO accommodation and as such the proposal does not accord with the requirements of Policies DM08 and DM09 of the DMP.

Character and appearance

14. The Council advise that the cul-de-sac is characterised by single family dwellings and that there are no permissions for other HMOs in the vicinity of the site. This has not been disputed by the appellant although they do indicate that the property would continue to appear as a single dwellinghouse. Criterion i) of Policy DM01 of the DMP states that the loss of houses in roads characterised by houses will not normally be appropriate. I have no substantive evidence to dispute that the other properties within Old Rectory Gardens are predominantly occupied as single family dwelling units. However, the proposal would continue to appear as an extended family dwellinghouse, and I am not persuaded that the proposal would result in a surfeit of HMO accommodation. As such, to my mind, I do not consider that the appeal proposal would in itself, fail to respect its context or significantly dilute the character of the road.
15. For the above reasons, I do not find conflict with Policies CS1 and CS5 of the adopted Local Plan Core Strategy 2012 (CS) that seek, amongst other things, to ensure that development respects its context. The proposal would also be at odds with the character and amenity aims of Policies DM01 and DM09 of the DMP, and advice contained within the adopted Residential Design Guidance SPD 2016.

Living conditions

16. I acknowledge the Council's contention that the appeal proposal would result in significant noise and disturbance for occupiers of neighbouring residential properties through the over-intensification of use. However, the HMO would result in a level of accommodation broadly commensurate with a large family dwelling. I have no substantive evidence to demonstrate that the altered form of residential occupation would necessarily result in significant or unacceptable harm to the living conditions of neighbouring residential properties, over and above that which could currently occur.
17. For these reasons, I conclude that the appeal development would not lead to any demonstrable impact upon living conditions of occupiers of neighbouring residential properties. The appeal proposal would therefore accord with the living conditions aims of Policy CS5 of the CS, that seeks to, amongst other things, protect and enhance gardens of residential properties; Policies DM01, DM02 and DM09 of the DMP that seek to, amongst other things, safeguard the amenities of the surrounding area and neighbouring occupiers; and the advice contained within the Residential Design Guidance SPD and Sustainable Design and Construction SPD 2016.

Other Matters

18. The appellant makes reference to the accessibility of the site to public transport and availability of parking. Whilst these points are noted, I do not consider that this outweighs the requirements of Policy DM09 to demonstrate the need for HMO accommodation.
19. I acknowledge reference by both parties with regard to the standard of accommodation proposed and whether it meets adopted standards. However, this does not form part of the reason for refusal and given I have identified harm with regard to other main issues, I have not considered this matter further.

20. Policy CSNPPF of the CS is included with the second reason for refusal with regard to the presumption in favour of sustainable development as set out within the Framework. I consider that the determinative policies referred to are generally consistent with the Framework and as such are not out of date. It follows that the policy conflict I have identified carries full weight.
21. Whilst I acknowledge all of these matters, I do not find that they alter or outweigh my findings with regard to the main issues above.

Conclusion

22. Whilst I have not found unacceptable harm in terms of character and appearance or living conditions of occupiers of neighbouring residential properties, these matters do not outweigh the conflict with Policy DM09 insofar as it has not been demonstrated that there is an identified need for such accommodation. As such, for the reasons given above, and taking into account of all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR