
Appeal Decision

Site visit made on 13 July 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2020

Appeal Ref: APP/N5090/W/20/3246369

7 Ambrose Avenue, Golders Green, London NW11 9AP

- 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 Amit Taglani against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/4871/FUL, dated 4 September 2019, was refused by notice dated 6 November 2019.
 - The development proposed is described as 'Change of use application from C3 to C4'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The change of use of a dwellinghouse (Use Class C3¹) to a smaller (up to six residents) House of Multiple Occupancy (Use Class C4) can normally take place without having to first apply to a local planning authority for planning permission. However, the Council in this instance has served a borough wide Article 4(2) Direction removing the ability to do this and therefore planning permission is required.
3. The existing and proposed plans submitted with the appeal are the same. This is because no physical works would take place if the appeal were to succeed. That said, the room annotated as 'storage' on the first-floor plan would be occupied as a bedroom. This would give three bedrooms on the first-floor level and a fourth in the loft. The first-floor meditation room² and the loft room storage/office area would retain their current uses and would not be bedrooms.

Main Issues

4. The main issues in this appeal are: 1) Whether a need for the proposed development has been demonstrated; and 2) The effect of the proposed development on living conditions and the established character of the area.

Reasons

Whether a need for the proposed development has been demonstrated

5. Policy DM09 of Barnet's Local Plan Development Management Policies 2012 (LP) seeks to retain existing Houses in Multiple Occupancy (HMO) and

¹ Town and Country Planning (Use Classes) Order 1987 (as amended)

² Annotated as an office on the plans

encourage the provision of new ones. This is because they can be a valuable source of low cost and flexible housing. However, proposals for new HMOs are only supported by Policy DM09 if they meet an identified need.

6. I have not been directed to any guidance explaining what would constitute an identified need for the purposes of Policy DM09. The appellant has advised that he would only tenant the rooms out to professionals but supporting evidence has not been provided outlining an identified need in this regard. In fact, the appellant's submissions do not really outline any identified need for the accommodation and there is nothing to suggest the HMO is located close to businesses or facilities, such as a university, that would generate a demand for an HMO. This is a significant limitation given the requirements of Policy DM09.
7. In conclusion, the appellant has failed to demonstrate a need for the proposed HMO at odds with Policy DM09 of the LP. This needs to be considered in the context of Policy DM01 of the LP, which states that the loss of houses in roads characterised by houses will not normally be appropriate. The proposal would therefore harmfully undermine the spatial strategy for the provision of HMOs in the development plan.

The effect on living conditions and the character of the area

8. The appeal site encompasses a large semi-detached dwelling, which is located in a well-established suburban residential street broadly characterised by substantial semi-detached houses capable of occupation by families.
9. The conversion of the appeal property to a smaller HMO in the C4 use class can be achieved with no internal or external alterations to the building and therefore there would be little outward indication that it has been converted from a house to an HMO. In particular, the architectural continuity and character of the property would be preserved. For example, the single main entrance would be retained along with the integrity of the front garden, with the front boundary left intact. There would be no need to subdivide the garden or install additional paraphernalia like extra aerials. In this respect, the proposal would meet many of the design aims set out in the Council's Residential Design Guidance Supplementary Planning Document 2016.
10. In addition, I have seen nothing to suggest additional wheelie bins would be required. These are currently stored in the front garden in a way typical of the street. A bin store could be erected to keep the front garden tidy. There is space to keep bikes in the rear garden and bring them to the front via a side path. As such, the HMO would not introduce additional harmful clutter through an overly intensive use. The Council has not directed me to any specific part of its Sustainable Design and Construction SPD 2016 that the proposal would offend. Thus, the change of use to a smaller HMO would not harm the appearance of the appeal property, street scene or area.
11. There may be a few other HMOs nearby, but VOA evidence provided by the Council demonstrates that there is not a high concentration in the street. The conversions that exist apparently predate Policy DM09. To my mind, this is an indication that the appeal scheme would not harmfully aggravate any existing problems that could otherwise be caused by a high concentration of HMO accommodation, such as congestion or a change to a more transient residential character. Thus, the suburban character of the street would remain predominant and undiminished.

12. The activity associated with a smaller HMO would generate some comings and goings, but the effects associated with this would be comparable to a large family occupying the property. There is already activity in the street with residents leaving their properties to enter their cars or walk to shops and facilities close by. The activity generated by the appeal scheme would not be harmful in this context as it would not be unduly noticeable.
13. The proposal would not include off street parking but on street parking is typical in the area and the parking demands associated with the use of the appeal property as an HMO would be similar to if it were a dwelling occupied by a large family. Substantive evidence has not been provided by the Council to demonstrate the proposal would result in, or exacerbate, any existing parking stress outside the hours that parking is controlled to the detriment of the living conditions of existing residents.
14. The proposed smaller HMO would benefit from a garden and a generous level of communal space on the ground floor. Consequently, there would be no overcrowding and future residents would not need to congregate in the road to gain space outside their bedrooms. The appellant would be a live-in landlord and thus on hand to supervise occupants. Moreover, I have not been presented with evidence to suggest a harmful level of noise would penetrate through the walls into the adjoining properties and I have not been directed to any objection from any environmental health specialist.
15. In conclusion, the change of use of the property to a smaller HMO would not harm the character or appearance of the area or living conditions. Accordingly, there would be no conflict with Policies CS01 and CS05 of Barnet's Local Plan Core Strategy 2012 or Policies DM01, DM02 and DM09 of the LP in so far as they relate to these matters.

Other Matters

16. The appellant has explained in his appeal statement the personal reasons for seeking the change of use to an HMO and I sympathise with these. However, I share the view of the Council that these personal circumstances do not outweigh the harm that would occur from a conflict with the development plan, bearing in mind that there is a strong public interest in having a planning system that is genuinely plan led. In the absence of a need being demonstrated, and the conflict with the development plan this entails, a temporary permission would not be appropriate, and the undertaking referred to by the appellant is not before me.

Conclusion

17. The proposed development would preserve the character and appearance of the area and living conditions. However, the appellant has failed to demonstrate a need for the proposal. The appeal scheme is therefore at odds with the development plan as a whole. There are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR

