The Planning Inspectorate

Appeal Decision

Site visit made on 9 June 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th August 2020

Appeal Ref: APP/N5090/W/20/3244905
3 Montpelier Rise, Golders Green, London NW11 9SS

- 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 Rise Properties Limited against the decision of the Council of the London Borough of Barnet.
- The application Ref 19/5652/FUL, dated 14 October 2019, was refused by notice dated 13 December 2019.
- The development proposed is the conversion of a premises into HMO (C4 Use) for shared residential use of up to 6 people from C3 Use.

Decision

1. The appeal is allowed and planning permission is granted for the conversion of a premises into HMO (C4 Use) for shared residential use of up to 6 people from C3 Use at 3 Montpelier Rise, Golders Green, London NW11 9SS in accordance with the terms of the application, Ref 19/5652/FUL, dated 14 October 2019, and the plans submitted with it, subject to the following conditions:

   1) The development hereby permitted shall begin no later than 3 years from the date of this decision; and

   2) The development hereby permitted shall be carried out in accordance with the following approved plans, Ref: Site Location Plan; ABC65/8000; ABC65/8001; ABC65/8002; ABC65/8003; and ABC65/8004.

Procedural Matters

2. Internal renovation and refurbishment in and of themselves are not acts of development and therefore reference to them has been removed from the description of development in the banner heading and for the purposes of determining the appeal.

3. There are conflicting statements about whether the development is retrospective. However, the application forms indicate that the development is not retrospective, and the Council validated the application on this basis. The appeal has proceeded accordingly.

4. The appellant has submitted an addendum to the original houses in multiple occupation (HMO) needs assessment report. This is dated after the Council's decision and was not part of the application submitted to or determined by them. However, the Council and other interested parties will have had an opportunity to comment under the appeal.

Main Issues

5. The main issues are:

   (a) whether there is an identified need for the development;

   (b) the effect of the development on the area's character; and

   (c) whether future occupants would have reasonable access to services.

Reasons

Need for Development

6. Policy DM09 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP), among other things, requires proposals for new HMO to meet an identified need. The policy does not require this need to be assessed against the adequacy of other housing supply in the area, nor is there a prescriptive formula to be followed. Consequently, the suitability of evidence is a question of fact and degree.

7. The HMO needs assessment report and its addendum are based on a mosaic data set, which establishes that financial barriers exist for local residents, who cannot afford private accommodation and where dividing housing costs is more affordable, and preferable. This leads to a local population that has a high propensity to live, or seek to live, in shared accommodation.

8. The local area has around 250 households where adults share accommodation that isn't licensed as an HMO or subject to space standards. There are only around 43 licensed HMO in the local area. Consequently, there is an apparent need for additional provision in order to cater for local residents and their propensity to share accommodation.

9. The Council contends that the information submitted by the appellant is generic and does not specifically relate to the appeal proposal. However, the evidence in front of me, and in particular the addendum to the HMO needs assessment report, is predicated on assessing HMO data within a local radius of the site. The radius appears appropriate in size and defines an area and catchment that the new HMO might reasonably serve.

10. The submitted quantitative data appears to correlate with qualitative data provided by local stakeholders (such as local sales and letting agents). Consequently, the evidence is deemed to provide sufficient quantitative, qualitative and objective analysis of housing supply and demand in the area relating to the appeal.

11. Policy CS1 and CS4 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (CS) and DM08 of the DMP seek to provide an appropriate mix of dwelling types in the area. The Council contends that proliferation of shared accommodation should not compromise the supply of affordable family homes or otherwise undermine mixed and balanced communities.

12. The Council has not submitted quantitative evidence substantiating a lack of family housing in the area or that converting the site from Class C3 would cause harm in this context. Without this evidence, its arguments carry limited weight when considered against the HMO needs assessment report and its addendum submitted by the appellant, which clearly demonstrate the need for additional HMO in the area.

13. Due consideration has been given to the previous appeal decision at the site, and the inspector's conclusions justifying dismissal, which rested on the lack of evidence substantiating that the development was meeting an identified need. There is now sufficient evidence of an identified need for additional HMO in the area in accordance with Policy DM09 of the DMP.

14. The Council has not demonstrated that the development would undermine the mix of other housing types in the area, such as family housing, or that it would conflict with Policies CS1 and CS4 of the CS and DM08 of the DMP, the Residential Design Guidance SPD 2013 and Sustainable Design and Construction SPD 2013. Consequently, the development is acceptable.

Character

15. The character of a dense urban area is not defined by one street alone and although Montpelier Rise may be free from HMO, within 600m of it there are 80 and within 500m there are 43, ranging in occupation of between 4 and 15 tenants. These HMO are sparsely located in and amongst other house types, such as single family dwellings and other private accommodation. Accordingly, it can be said that the site is located in an area broadly characterised by a mix of house types, and that Montpelier Rise's character is an isolated example not representative of the area.

16. Policy DM09 of the DMP, requires HMO development to demonstrate that there would be no harm to the character or amenities of the area. As previously described, HMO development is a characteristic of the area and further HMO development would be acceptable in principle. In accordance with its use class, the development would have an occupancy limit of six. This would be towards the lower end of the occupancy range typical of other HMO in the area. Furthermore, the development would comprise the street's only HMO. Again, this would be representative of the density and pattern of HMO development in the area.

17. The Council has raised issues of parking stress associated with the development, and negative effects on character. Notwithstanding the preceding assessment of the development and both the acceptable intensity and density of the use, it is considered that parking stress in particular can be controlled by the executed Unilateral Undertaking (UU) submitted by the appellant.

18. The UU has been considered against the three tests set out in the National Planning Policy Framework (the Framework) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. It is considered necessary to limit parking in the context of the controlled parking zone and this would directly relate to the development; fairly and reasonably in scale and kind, by protecting against parking stress.

19. Policy DM01 of the DMP controls the loss of houses in roads characterised as such. The development by definition is a house, albeit in multiple occupation, and would not conflict with this policy. Whilst Policy DM02 of the DMP sets out other standards and supplementary documents that the development should comply with, these are not submitted as evidence. As such conflict with the policy has not been demonstrated.

20. Decisions made by the Council on other HMO applications nearby are noted, but no quantitative evidence is given to demonstrate how they are relevant or should be considered in this case, or that the evidence is still current. In any event, careful consideration has been given to how the development assimilates with the existing residential context.

21. Overall, the development would accord with the character of the area and complies with Policy CS5 of the CS and Policies DM01, DM02 and DM09 of the DMP, the Residential Design Guidance SPD 2013 and Sustainable Design and Construction SPD 2013, which among other things seek to protect and enhance local character to create high quality places.

Access to Shops and Services

22. The site is in an area rated as PTAL 3, and moderate in terms of accessibility. Bus services are available along Golders Green Road in the vicinity of the site, and Brent Cross Station is nearby. In combination, it is considered that the site is adequately accessible and in accordance with Policy DM09 of the DMP, which among other things seeks to ensure that HMO development is easily accessible by public transport, cycling and walking.

Other Matters

23. The developer's connection with the area, registration with Companies House and their ability to manage the HMO from a distance are not controlled under planning legislation and therefore not subject to this appeal.

24. Refuse provision has been indicated on the plans submitted under the appeal, which in the absence of evidence to the contrary is deemed sufficient. There is no evidence to suggest that other space standards, such internal space standards for HMO, cannot be met either.

25. None of these other matters are determinative in the appeal and do not alter or outweigh the conclusions on the main issues.

Conditions

26. The Council suggested 10 conditions, and these have been considered in relation to the Framework and Planning Practice Guidance. Several of the suggested conditions were found to be unnecessary, as explained below.

27. Controlling the maximum number of occupants is unnecessary because occupation above six persons would be enforceable under normal planning controls as a change of use. Only where the standard terms of the use class are being additionally controlled, restricted or limited would a planning condition be necessary. Compliance with building regulations is unnecessary because it would duplicate controls under separate legislation. Further detail on refuse and cycle storage is unnecessary because details were already provided on the plans submitted, with no evidence substantiating that they were deficient, and are therefore acceptable. Landscaping detail is not relevant to the development permitted because it is a change of use. Further detail on materials isn't necessary because the development does not require external alterations to the building.

28. Two conditions were attached and deemed necessary and relevant to the development to make it acceptable. These were the standard conditions setting out the time limit for commencing development, and compliance with the approved plans, which were both necessary to provide certainty.

Conclusion

29. For these reasons, the appeal is allowed, and planning permission is granted subject to conditions.

Liam Page

INSPECTOR