
Appeal Decision

Site visit made on 23 June 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State.

Decision date: Friday, 07 August 2020

Appeal Ref: APP/N5090/W/20/3244263
27 Trinity Road, East Finchley, N2 8JJ

- 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 Marcus Newbold against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/2441/FUL, dated 15 April 2019, was refused by notice dated 15 July 2019
 - The development proposed is change of use from C3 to Use Class C4.
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Decision

1. The appeal is allowed, and planning permission granted for the change of use from C3 to Use Class C4, in accordance with planning application, Council ref 19/2441/FUL, dated 15 April 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following plans: PL01, dated April 2019 and 27TR/01, dated 15 November 2018.
 - 2) The maximum number of occupants within the property shall at no point exceed 4.

Main Issues

2. The main issues in this appeal are: 1) effect of the change of use on the supply of family homes within the Borough; 2) effect of the change of use on the living conditions of adjacent residential occupiers, with particular reference to noise, disturbance, congestion and disruption; 3) the effect of the change of use on the character and appearance of the area.

Preliminary Matters

3. The reason for refusal and the Council's statement refers to the appeal property accommodating 4 people. The licence issued by the Environmental Health Department of Barnet Council refers to the dwellinghouse being suitable for occupation by 4 persons living as 3 households. I have therefore used this description to define both the number of households and people who could potentially occupy this property.
4. The need for planning permission is required as Barnet introduced an Article 4 Direction across the whole of the Borough removing the permitted development rights under Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 (as amended) to

change the use of 'small HMOs to dwellinghouses and vice versa'. A small HMO is defined as use of a dwellinghouse by not more than six residents.

5. The appellant has referred to the possibility of a Certificate of Lawfulness being applied for to regularise the use of the appeal property as a 'small HMO'. Whilst I have had regard to this assertion, a Certificate of Lawfulness for this use is not before me.
6. I observed that the change of use described above has already occurred. I have dealt with the appeal on this basis.

Reasons

Background

7. Trinity Road is characterised by a mixture of semi-detached and terraced houses with no off-road parking. The change of use of the appeal property into a small HMO consists of 3 households and 4 persons with no internal or external alterations proposed.

The supply of family homes within the Borough

8. Barnet's Local Plan (Development Management Policies) Development Plan Document (September 2012) (DMP) encourages the provision of HMO in certain areas. In particular Policy DM09, 'Specialist Housing – Houses in Multiple Occupation', seeks the retention of existing HMO provided that they meet an identified housing need. The Policy also states that proposals for new HMO will be encouraged provided that they, amongst other things, meet an identified need.
9. In support of demonstrating and identified need for the change of use the appellant has supplied details of the rental levels of the property since 2016. These show that the average monthly charge per person for living at the appeal property has been around £460 per month (without other bills). This compares to renting a flat or house in the area with a monthly cost of between £1,150 to £2,250. On the basis of these figures the appeal property, when used as an HMO, appears to provide low cost accommodation. A letter supplied by a letting agent has stated that the property has been occupied by multiple people since 2016.
10. The Council argues that the most acute area of housing need in Barnet is for single-family dwellings stating this was the main reason for introducing the Article 4 Direction to control the loss of single-family dwellings to small HMO. No evidence has been supplied by the Council in support of this appeal, either in terms of a Housing Needs Assessment or other evidence, to substantiate this claim. However, the letting records supplied by the agent and the relatively low cost of renting a room in the house compared to other forms of accommodation in the area, demonstrate that this type of accommodation can be accessible to those in housing need. In my judgement this shows that there is a need in the area for this type of accommodation and therefore the change of use is consistent with Policy DM09.

living conditions

11. The appeal property is a single house which is occupied by 4 people living as 3 separate households, sharing facilities, with no alterations either externally or

internally. Policy DM09 states that HMO will be encouraged provided that they, amongst other things, will not have a harmful impact on the character and amenity of the surrounding area.

12. The Council has published a residential design guide (RDG) which sets out the matters which will be considered in assessing the acceptability of small HMO. In most of these matters the change of use complies with these requirements. However, it has no off-street parking and would therefore lead to a potential increase in parking in the road. At the site visit I observed that the road is already used intensively for parking. Therefore, in my judgement the additional parking generated by the HMO would not noticeably impact on the living conditions of the existing residents as the road is already extensively used for parking.
13. In terms of other impacts there could be an increase in noise nuisance and more movements at different times of the day or night which could cause disturbance to adjacent residents. However, a house occupied by a family consisting of two adults and older children, especially where one or more is of working age, could generate activity that is comparable to a small HMO. I do not however, regard small HMO as being more prone to antisocial behaviour than any other type of residential accommodation.
14. I conclude that there would be no harm to the living conditions of neighbours. I therefore find no conflict with DMP Policies DM01 and DM09 which, amongst other things, seek to protect the living conditions of neighbours. I note that the Council has referred to other policies under this reason for refusal in particular Policies CS1 and CS5 of the Core Strategy. These policies are general policies and are not particularly relevant to the consideration of the impact of the change of use on the living conditions of the existing residents.

The effect on the character and appearance of the area

15. Trinity Road is characterised by two and three storey semi-detached and terraced residential properties with on street parking and some street trees. The appeal property is a two-storey semi-detached house with no off-street parking. The change of use to a small HMO has not changed its external appearance. There is still be a single front door and access from the street. Therefore, in visual terms the change of use from a single-family dwelling to a 3 household, 4 person HMO is not be apparent from Trinity Road. I do not consider that the change of use itself changes the appearance of the area.
16. The character of the area is comprised of more than just its appearance, it is the way the area is used, the predominant uses of the buildings and the movement and activity present in the street which defines the area character. The introduction of an HMO into the street would have an effect on its character by the intensification of the activity around one property. There could be a greater turnover of residents and comings and goings at different times of the day. However, this is a small HMO comprised of no more than 4 people or 3 households in a street where no other HMO have been identified. It would still be used as a house. I consider that on balance, whilst the character of the area in the immediate vicinity of the HMO might be changed, the wider character of Trinity Road would remain overwhelmingly that of single-family dwellings. Whilst I note what the Council says about the risk of an incremental change in character brought about by HMOs and the need for the Article 4 Direction to prevent this happening, I consider that a single small HMO, such as this would

not change the overall character of the street. The Council, by virtue of the Article 4 Direction, has the power to control the provision of further HMO and therefore prevent a change to the character of the street as a whole.

17. I therefore find that the change of use is in conformity with Policies DM01, DM02 and DM09 of the DMP and Policies CS1 and CS5 of the CS, as it does not have a harmful impact on the character and appearance of the surrounding area. I have had regard to the RDG and SDC and find no conflict with the guidance contained in these documents.

Other Matters

Access to public transport

18. In terms of Policy DM09 it is important that proposals for new HMOs are easily accessible by public transport, cycling and walking. The Council has argued that the area has a relatively low 'Public Transport Accessibility Level' (PTAL) at 1b. However, the appellant has supplied the PTAL report that shows the area within which the change of use is located is within 12 minutes' walk to a tube station, 6-8 minutes' walk to a bus route and 12 minutes' walk to a railway station. I do not find that the walking distances involved in accessing public transport from the change of use to be excessive. I therefore find no conflict with this part of DM09

Conditions

19. I have not included the standard commencement condition as the change of use has already occurred. I have however, for the avoidance of doubt I have referenced the plans submitted with the planning application in a condition.
20. The Council has suggested a condition requiring the details of the storage areas for refuse facilities to be approved prior to the first occupation of the development. Given the size of the front garden and the fact that the dwelling is already operating as an HMO I see no need for this condition.
21. Finally, given the size of the dwelling itself and its location it is necessary to ensure that the maximum number of occupants are limited to 4 to safeguard the character and appearance of the area.

Conclusion

22. I find that having regard to the development plan, when read as a whole, the appeal should be allowed.

Peter Mark Sturgess

INSPECTOR