
Appeal Decision

Site visit made on 10 August 2020

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2020

Appeal Ref: APP/N5090/C/19/3241364
23A Dollis Park, London N3 1HJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Nicholas Mathers against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice, numbered ENF/1624/18, was issued on 14 October 2019.
- The breach of planning control as alleged in the notice is the change of use of the property into a C4 House of Multiple Occupation (HMO).
- The requirements of the notice are:
 - 1 Cease the use of the property as a House in Multiple Occupation.
- The period for compliance with the requirements is 5 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld as corrected in the terms set out below in the Formal Decision.

Preliminary Matters

1. Two similar appeals were lodged against the enforcement notice by Mr Nicholas Mathers and Mrs Eri Mathers¹. These appeals were made on grounds (a), (c) and (f). Two further appeals², including the subject appeal, were then lodged by the same appellants on ground (a) only. As these were duplicates of the original two appeals, the appellants confirmed that only the latest appeals should proceed. Appeals APP/N5090/C/19/3240154 and 3240155 were subsequently withdrawn.
2. As the prescribed fees have not been paid within the specified period, appeal APP/N5090/C/19/3241365 and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed. Consequently, only the subject appeal proceeds. Whilst the Council's statement of case refers to grounds (c) and (f), these are not made, explicitly or otherwise, in the appeal before me. Accordingly, I have determined the appeal on the basis of ground (a) only.
3. The allegation in section 3 of the notice refers to "House of Multiple Occupation", whereas the requirements in section 5 refers to "House in Multiple Occupation". For the sake of consistency, I shall correct the reference in section 3. I am satisfied that this would not cause injustice to any parties.

¹ Appeal Refs: APP/N5090/C/19/3240154 and 3240155

² Appeal Refs: APP/N5090/C/19/3241364 and 3241365

Main Issues

4. The main issues are the effect of the development on housing supply in the area; the character and appearance of the area; and, the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance.

Reasons

Housing Supply

5. The Council state that the North London Strategic Housing Market Assessment identifies a need for family sized dwellings in Barnet. As such, maintaining and increasing the supply of family housing in the Borough is a priority. Policy DM08 of the London Borough of Barnet's Local Plan Development Management Policies (LPDMP) 2012 supports this by setting out dwelling size priorities, which are i. for social rented housing – homes with 3 bedrooms are the highest priority; ii. for intermediate affordable housing – homes with 3/4 bedrooms are the highest priority; and, iii. for market housing – homes with 4 bedrooms are the highest priority, homes with 3 bedrooms are a medium priority. As the Council confirm, the appeal development has resulted in the loss of priority housing.
6. Policy DM09 of the LPDMP allows for Houses in Multiple Occupation (HMOs) provided they meet an identified housing need. The appeal property was marketed for single-family occupancy for 3.5 months. The appellant confirms that the property had 10 viewings during this period but no offers were made. However, there are no details before me giving reasons why offers were not made. It seems to me that 10 viewings during a 3.5 month period is a strong indication that there is indeed a need for single-family dwellings in the locality. But in any event, 3.5 months is not a very long time to establish whether or not there is a need for the property as a single-occupancy dwelling. I do not consider that the demand for the HMO from the tenants amounts to an identified housing need in accordance with Policy DM09.
7. I acknowledge that the HMO provides affordable accommodation for its tenants and that they may find it difficult to rent similar accommodation near to their workplace. However, there is no evidence before me that there are not other HMOs within the appeal area which could be suitable for the tenants.
8. I also acknowledge that the property is within an accessible area with good links to services, facilities and employment opportunities. However, its accessibility would be equally beneficial to occupants if it was used as a family-sized dwelling.
9. I conclude therefore that the proposal would result in the loss of a family sized dwelling which would unacceptably harm the supply of family homes in the City contrary to Policies DM08 and DM09 of the LPDMP.

Character and Appearance

10. Dollis Park is a predominantly residential area comprising two and three-storey semi-detached properties in single-occupancy use and purpose-built flats. Therefore, whilst there are varied residential properties, the area is characterised by single occupancy dwellings.

11. The appeal property forms the upper floors of a three-storey building. The use of the property as four separate households would result in a significant increase in the number of comings and goings one would expect from a single-occupancy dwelling. In addition, the number of waste and recycling bins stored at the property and the potential number of cars parked within the vicinity of the site would be greater. Whilst the existing occupants do not own a car, future occupants may do.
12. Furthermore, HMOs typically have a high turnover of occupants. As a result, occupants generally do not integrate with the established community and therefore can have a detrimental effect on the social character of the area.
13. Overall, the appeal property represents an overly intensive form of residential development that fails to respect the predominantly single occupancy dwellings in the locality and the overall character of the area.
14. I find therefore that the development significantly harms the character and appearance of the area, contrary to Policy DM01 of the LPDMP, which seeks to ensure that new development preserves or enhances local character. It would also be contrary to Policies CSNPPF and CS5 of the London Borough of Barnets' Local Plan Core Strategy (LPCS) 2012, which, amongst other things, seek to ensure that new development is sustainable and respects local context. In addition, it would fail to comply with the guidance contained within the London Borough of Barnet's Supplementary Planning Document – Residential Design Guidance (Residential SPD) 2016, which provides guidance on the conversion of single-family dwellings into HMOs.

Living Conditions

15. The use of the property as an HMO likely results in the overall occupation of the building, particularly by adults, being greater than neighbouring properties. As a result, the level of noise and disturbance, for example from people conversing inside/outside the property, multiple sources of music and televisions simultaneously playing, doors frequently closing and general comings and goings, could be readily discernible from the adjoining dwellings.
16. The level of noise generated by the occupants of the HMO would particularly have a significantly detrimental effect on the living conditions of the occupants of the single flat on the ground floor. The occupants of the ground floor flat would be susceptible to numerous sources of noise from televisions, radios, occupants conversing, etc. This would be particularly discernible where bedrooms in the ground floor flat are directly beneath the living room and kitchen in the HMO.
17. I find therefore that the development would result in a significantly harmful effect on the living conditions of neighbouring residents, with particular regard to noise and disturbance. As such, it is contrary to Policies DM01 and DM09 of the LPDMP, which, amongst other things, seek to ensure that new development protects living conditions of neighbouring residents. It would also fail to comply with the guidance set out in the Residential SPD, which states that subdivisions should avoid additional noise and disturbance to neighbours, and the London Borough of Barnet's Supplementary Planning Document – Sustainable Design and Construction 2016, which provides guidance on protecting residential amenity.

18. In their reasons for issuing the notice, the Council also refer to Policies CS1 and CS5 of the CS. However, these are strategic policies that relate to growth and protecting the character of the area. There is no evidence before me of how they are relevant with regard to living conditions of neighbouring residents. As such, I find no conflict with them in this regard.

Conclusion

19. For the reasons given above, I conclude that the ground (a) appeal should fail and the deemed planning application should be refused.

Formal Decision

20. It is directed that the enforcement notice is corrected by deleting the sub-text of paragraph 3 in its entirety and substituting "Without planning permission, the change of use of the property into a C4 House in Multiple Occupation (HMO)".
21. Subject to the correction, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Alexander Walker

INSPECTOR