
Appeal Decision

Site visit made on 8 September 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Appeal Ref: APP/N5090/W/20/3244793

40 Garrick Avenue, Golders Green, London NW11 9AS

- 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 Kanan Isgandar against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/5688/RCU, dated 19 October 2019, was refused by notice dated 20 December 2019.
 - The development is the change of use of the property from a single-family dwelling (Class C3) to a House in Multiple Occupation (HMO) for 7 people.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal has been made retrospectively and the property is already in use as a 5-bedroom, 7-person House in Multiple Occupation (HMO), four single bedrooms and two double bedrooms.

Main Issues

3. The main issues are firstly whether or not the loss of the dwelling house use is acceptable in principle, and secondly whether or not the use as an HMO is acceptable, particularly in relation to:
 - the effect on highway congestion and safety;
 - the character of the area;
 - the accessibility of the site to services and facilities; and
 - the effect on the living conditions of neighbouring occupiers.

Reasons

Loss of dwelling house use

4. Garrick Avenue is a road characterised predominantly by family houses. No quantitative evidence or assessment has been made to justify the loss of a family dwelling in this location. No evidence has been provided that there is not demand for such family housing, for example proof of marketing the property to be let as a single unit. It has not therefore been demonstrated that there is no demand for a family house at the property. The change of use resulting in the loss of a dwelling house is therefore unacceptable and fails to comply with

the relevant parts of Policy DM01 of the Development Management Policies DPD 2012 (the DMP) which, amongst other criteria, finds that the loss of houses in roads characterised by houses will not normally be appropriate.

Highway safety and congestion

5. The site lies within a Controlled Parking Zone. The use of the property as an HMO is likely to have led to an increase in the number of occupants. It is also possible that it has led to an increase in the demand for cars because a greater number of individuals of an age or with a requirement for car use are likely to live in an HMO than a single family dwellinghouse. No evidence has been provided to the contrary in this regard.
6. No evidence has been provided that there is sufficient capacity on the surrounding streets to accommodate any increase in parking demand. Garrick Avenue is a heavily parked road and no assessment has been made of the effect additional parking may have on highway and pedestrian safety or the free flow of traffic. The appellant has indicated that they would be willing to enter into a s106 planning obligation in order to remove the right of occupants of the property to apply for parking permits. However, no such agreement has been provided in support of the appeal.
7. It has therefore not been demonstrated that the works have not resulted in an unacceptable increase in highway congestion or harm to highway and pedestrian safety. The works therefore fail to comply with the relevant parts of Policy CS9 of the Core Strategy 2012 which, amongst other criteria, requires parking management measures to reduce congestion. They also fail to comply with Policy DM17 of the DPD which, amongst other criteria, seeks to refuse development which unacceptably increases conflicting movements on the road network or increases the risk to vulnerable users. The works also fail to comply with Paragraph 106 of the National Planning Policy Framework which, amongst other criteria, finds that maximum parking standards can be set where there is a clear and compelling justification that they are necessary for managing the local road network, which it has not been demonstrated does not apply.

Character of area

8. Garrick Avenue is characterised predominantly by family houses. The appeal property has been converted into a 7-person, 5-bedroom HMO, which is likely to have a larger number of people living in the property than in its previous use as a single family dwellinghouse, and because of its nature a higher turnover of individuals. This is likely to mean a more intensive use with greater movements to and from the house, and a greater demand for waste and rubbish collection.
9. However, the intensification from what was already a fairly substantial family dwelling is minimal. There is sufficient space both within the front garden and along a side alley to accommodate any increase in bins in a tidy and orderly manner. There have been no external physical alterations and it is indistinguishable externally from a family house. The change in function and character of the street has therefore been minimal. Consequently, the works do not harm the character of the area and they comply with the relevant parts of Policy DM01 of the DPD and Policies CS1 and CS5 of the CS which, amongst other criteria, require that development understand local characteristics and character. They also comply with Policy DM09, DPD which, amongst other

criteria, requires that HMO accommodation not have a harmful effect on the surrounding area.

Accessibility

10. The appeal property is within an area with a relatively good Public Transport Accessibility Level of 3. It is nearby to several bus routes, and also an Underground station. It is also nearby to several shopping centres and leisure and entertainment facilities at Golders Green and Brent Cross. The site is therefore easily accessible to services and facilities and complies with the relevant parts of Policy DM09 of the DPD which, amongst other criteria, requires that HMO development be easily accessible.

Living conditions

11. The HMO is likely to have led to an increase in the number of people residing in the property compared to a dwelling house, and to the number of movements to and from the property increasing. However, this is likely to have only been to a small degree given the size of the property and therefore likely occupancy levels even as a single dwelling house. No evidence has been provided of the increase in occupancy or the type of occupant leading to an increase in noise or disturbance. The works have not therefore significantly harmed the living conditions of neighbouring occupiers in terms of noise or disturbance. Consequently, the works comply with the relevant parts of Policy DM09 of the DPD which requires, amongst other criteria, that HMO development not have a harmful effect on living conditions.

Planning Balance and Conclusion

12. It has not been demonstrated that the loss of the previous dwellinghouse was acceptable due to a lack of demand. It has also not been demonstrated that the use of the property as an HMO would not give rise to an increase in demand for car parking to the detriment of highway and pedestrian safety and the free flow of traffic. The character of the area and the living conditions of neighbours have not been unduly harmed, and the property is in an accessible location. However, this does not outweigh the above factors.
13. For the reasons above, I conclude that the appeal be dismissed.

O S Woodward

INSPECTOR