



Appeal Decision

Site visit made on 5 October 2020

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2021

Appeal Ref: APP/N5090/C/20/3249532

4 Templars Crescent, London N3 3QS

- 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 Jeorgios Dimitriou against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice, numbered ENF/0817/19, was issued on 17 February 2020.
- 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 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The ground (a) appeal

Main Issues

1. The main issues are the effect of the development on the mix and balance of housing in the area; the character and appearance of the area; whether the development is in an accessible location; and, the effect of the development on the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance.

Housing supply, character and appearance of the area and accessibility

2. Policy DM09 of the London Borough of Barnet's Local Plan Development Management Policies (LPDMP) 2012 allows Houses in Multiple Occupation (HMOs) provided they meet an identified housing need, demonstrate that they will not have a harmful impact on the character and amenities of the surrounding area, are easily accessible by public transport, cycling and walking and meet the relevant housing standards for a house in multiple occupation (HMO).
3. The appellant has provided statistical evidence of the housing types, tenure and occupancy of properties within the area, which indicates the current mix of housing. However, it only covers a relatively small area including approximately 137-139 properties, and therefore cannot be regarded as being an accurate indicator of need for the area. Moreover, it also only shows what the current housing provision is, not what the need is. Whilst there is a high level of one-

person occupancy rates, that does not necessarily equate with there being a need for more HMOs. Using the same evidence, it could equally be argued that there is cumulatively an even higher level of four, five and six people occupancy rates, which on the same basis could demonstrate a need for larger family sized dwellings. Therefore, I do not consider that this statistical evidence represents a reliable indicator of need for HMO's in the area.

4. The appellant also argues that the identified need for the HMO comes from the fact that the property is fully tenanted. However, there is no evidence before me that were the property marketed as a single family dwelling it would not equally be fully tenanted. Whilst the HMO units may well be more affordable, the fact that the street is predominantly occupied as single-family dwellings indicates that they are also affordable.
5. I acknowledge that the London Plan 2016 recognises the need for more homes and a range of tenures. However, this does not in itself demonstrate a specific need for the HMO.
6. Given the above, it has not been demonstrated that there is an identified need for the HMO that would justify the loss of the single-family home.
7. In terms of the effect of the development on the character and appearance of the area, Templars Crescent and the surrounding roads predominantly comprise two-storey semi-detached properties in single-occupancy use. The appellant contends that there are examples of other HMO's in the locality, including 73 Templar's Crescent. However, appendix A attached to the appellant's statement of case refers to 73 Templars Avenue as an HMO, which is some distance from the appeal site. The properties on Templars Crescent only go up to No.59.
8. Therefore, based on the evidence before me and the observations I made on site, Templar's Crescent appears to be exclusively single-family dwellings. I acknowledge that there are a small number of other HMO's in the vicinity of the site, including 20, 26 and 34 Mountfield Road. However, these are not read in the same context as the character and appearance of Templar's Court, which is a quiet, exclusively single-family dwelling road. In contrast, Mountfield Road comprises a mix of single-family dwellings and purpose-built flatted accommodation and is a more heavily trafficked road.
9. The use of the property as five 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 deliveries made to the property would also likely be significantly greater. Also, there could potentially be a significantly greater number of cars parked within the vicinity of the site. I note the appellant's assertion that there is sufficient space on the driveway and in the garage to accommodate parking. However, given that the property would effectively be five separate households, the garage would not likely be a viable option for parking as someone parking in front of it would block the car in the garage in. Should the person blocking them in not be home then the blocked-in tenant would be unable to use their car. For this reason, it is unlikely that the tenants would use the garage for parking. Therefore, it is reasonable to conclude that there would be additional on-street parking.
10. In addition, 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.

11. 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.
12. With regard to the accessibility of the HMO, it is located within an area with a PTAL rating of 2, which indicates poor access to public transport, cycling and walking. However, there are bus stops within reasonable walking distance on East End Road, which provide access to services, facilities and job opportunities in the wider area. Finchley Central train station is approximately only a 12 minute walk from the site. Furthermore, there are a number of shops, services and facilities within a short walking distance to the west of the site on Regents Park Road.
13. Therefore, despite the site's PTAL rating of 2, it seems to me that there is reasonable access to some local services and public transport. However, accessibility is only one requirement of Policy DM09. All of the requirements must be satisfied to ensure overall compliance with the policy.
14. I conclude therefore that the HMO results in the loss of a family sized dwelling which unacceptably harms the supply of family homes. Furthermore, the HMO significantly harms the character and appearance of the area. As such, it is contrary to Policies DM09 and DM01 of the LPDMP, which seeks to ensure that new development preserves or enhances local character. It is also contrary to Policy CS5 of the London Borough of Barnets' Local Plan Core Strategy (LPCS) 2012, which, amongst other things, seeks to ensure that new development 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. Furthermore, it would fail to comply with the design objectives of the National Planning Policy Framework (the Framework).
15. The Council also refer to the London Borough of Barnet's Supplementary Planning Document – Sustainable Design and Construction 2016 (Sustainable Design and Construction SPD) in their first reason for issuing the notice. However, this guidance does not relate specifically to character and appearance and therefore I find no conflict with it in this regard.

Living conditions of neighbouring residents

16. 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 neighbouring dwellings.
17. The level of noise generated by the occupants of the HMO could have a particularly detrimental effect on the living conditions of the occupants of the adjoining semi-detached, single-family dwelling. The occupants of this property would be susceptible to numerous sources of noise from televisions, radios, occupants conversing, etc. This would be particularly discernible where bedrooms in the neighbouring property are directly adjacent to the bedrooms in the HMO.

18. I acknowledge that noise could be discernible if the appeal property was occupied by a single household. However, occupants of an HMO typically spend more time in their own bedroom and therefore the noise generated within them would be discernible for longer periods. Furthermore, the demographics of an HMO and a single occupancy household would be markedly different. A single family would likely have fewer adults and more children. More importantly, a single family would likely have far fewer comings and goings, with them more likely to do activities together as a family rather than several individuals, as would be the case with an HMO. Whilst children may be noisy, particularly if playing in the garden or in the street, such noise is likely to be kept to sociable hours. The occupants of an HMO would likely be young adults who would be more active late at night/in the early hours, than a single family would be. Therefore, whilst the occupants of a single household would also make noise, it would be of a different nature that of an HMO.
19. I find therefore that the development results 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, DM04 and DM09 of the LPDMP, which, amongst other things, seek to ensure that new development protects living conditions of neighbouring residents, with particular regard to noise. 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 Sustainable Design and Construction SPD, which provides guidance on protecting residential amenity.
20. In their reasons for issuing the notice, the Council also refer to Policy CS5 of the CS. However, this is a strategic policy that relates to protecting the character of the area. There is no evidence before me of how it is relevant with regard to living conditions of neighbouring residents. As such, I find no conflict with this policy in this regard.

Conclusion

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

The ground (g) appeal

22. This ground of appeal is that the period for compliance is unreasonably short.
23. The time for compliance with the requirements of the enforcement notice is six months. The appellant contends that the period for compliance is too short and requests that this is extended to twelve months. This would allow sufficient time for the tenants to find new accommodation and the appellant to raise funds to carry out the remedial works required.
24. However, detailed evidence has not been provided about the terms under which the tenants are occupying the HMO, or when rent periods started. Six months seems to me to be a reasonable period of time for the tenants to find alternative accommodation. Furthermore, the only requirement of the Notice is the cessation of the use of the property as an HMO. There are no remedial works required as part of the requirements of the Notice.
25. In summary, from the available evidence, I consider that the six month period of compliance specified in the notice is not unreasonably short, and I do not find justification for extending it.

26. I therefore conclude that the ground (g) appeal must fail.

Formal Decision

27. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Alexander Walker

INSPECTOR