



Appeal Decision

Site Visit made on 12 April 2021

by R E Jones BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Appeal Ref: APP/N5090/W/20/3262379 927 Finchley Road, London NW11 7PE

- 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 Ari Davis against the decision of London Borough of Barnet.
 - The application Ref 20/3206/FUL, dated 25 June 2020, was refused by notice dated 11 September 2020.
 - The development proposed is conversion of single family dwelling into 10 No bedroom House in Multiple Occupation (HMO).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) the effect of the proposal on the living conditions of neighbouring occupiers, with particular reference to noise and disturbance; (ii) the effect of the proposed storage of waste and recycling material on the street scene within Finchley Road; and (iii) the effect of the proposed parking arrangements on the safe and efficient operation of the highway network in the vicinity of the site.

Reasons

Living Conditions

3. The appeal property comprises a semi-detached dwelling house located off the busy Finchley Road and close to Golders Green underground station. The adjoining semi-detached property, at No 929 Finchley Road (No 929) is in use as a dwelling house, while an accountancy office occupies the neighbouring property to the south, No 925 Finchley Road (No 925). Planning permission exists to convert the appeal property to a 7 bedroom HMO¹.
4. I recognise that the property is substantial and could be occupied by a large family. Nevertheless, the proposed number of rooms would provide accommodation for at least 10 unrelated occupiers. A reasonable expectation is that each occupier of the HMO would have their own schedule, deliveries and visitors, and would leave and enter the property at different times throughout the day, either by bike, car or foot. This would result in a large number of comings and goings during the course of the day via the property's front entrance and driveway. These areas would be in close proximity to windows and front rooms at No 929. Furthermore, the occupiers of the proposed HMO

¹ Local Planning Authority Ref - 20/1169/FUL, approved 29th April 2020

would also have access to a communal rear amenity space, where only a fence separates the adjoining garden at No 929.

5. As a consequence of the proposed occupancy, there is likely to be a significantly higher level of activity at and around the site. The associated noise and disturbance from the higher occupation would, particularly in the evenings and later at night, be likely to be disruptive and hence would have a detrimental effect on the living conditions of neighbouring residents. This could be from frequent opening and closing of the front and rear entrance doors, and a high number of people chatting within the property.
6. The noise and disturbance would be particularly significant to the occupier of No 929 who shares a common boundary with the appeal site. This is a residential dwelling and would be more likely to experience the effects of the proposal, during the evenings and at the weekends, in contrast to the occupiers of the offices at No 925 who would be expected to occupy the building for a much shorter period of time and during the working week.
7. The appellant states that communal gardens are generally used sporadically by tenants and it is unlikely that the garden space relating to the proposal would be used by many tenants at the same time. However, I have little evidence to support this view and given that the occupiers of the proposal could access the rear garden communally in the same way as the shared kitchen and living area, there would be nothing stopping the future occupiers from using this space, in addition to their visitors. The instances where all or most of the future occupiers would be using this external space may be infrequent, yet it would be difficult to control the numbers and the associated noise levels, for example from occupiers chatting and general social interaction. In those instances, and based on the number of future occupiers, I consider that the level of activity and noise would likely be greater than that associated with a family dwelling.
8. The property could be converted to a 7 bedroom HMO under the existing permission, however, a further 3 occupiers would mean that the proposal would generate a higher level of activity from comings and goings, along with the associated use of the communal garden area. This increased level of occupancy would in my view, result in a more intensive use of the building and its outside spaces, such that it would result in further noise intrusion upon the adjoining occupiers that would amount to unacceptable harm.
9. The appeal property is close to the commercial centre of Golders Green, where noise and activity from road traffic movements along Finchley Road and trains travelling along the raised railway embankment to the south are audible from within the grounds of the appeal site. Notwithstanding the existing environment, the character of the noise and activity generated by the occupiers of the proposed HMO would likely be experienced at close quarters by the neighbouring occupiers at No 929 from within that property's rooms, and external areas. Given the proposal's proximity to No 929, I consider that the nature of the expected noise and disturbance would be intrusive upon its residents.
10. The appellant suggests that noise generated from anti-social behaviour of future residents could be controlled through the enforcement procedures carried out by the Council's environmental health officers. Yet, the nature of the noise would likely be associated with the day to day activity of residents and the general comings and goings to and from the property, rather than any

behaviour of an anti-social nature. Therefore, it is unlikely that those enforcement powers could be applied to the nature of the harm I have identified.

11. It is noted that permission has been given for four flats at the property that could generate a comparable number of residential occupiers than the appeal proposal. But, I have limited information in respect of this consent, in terms of whether it is still extant and capable of being implemented, the arrangement of the internal and communal spaces and what policies that scheme was considered under. Given this level of uncertainty, I cannot be sure that it would represent a genuine fallback position.
12. I therefore find that the conversion of this single family dwelling into a 10 No bedroom HMO, would have a harmful effect on the living conditions of neighbouring occupiers, with regards to noise and disturbance. There would be conflict with Policies DM01 and DM09 of the Local Plan², which require amongst other things that proposals protect the amenity of the surrounding area.

Street Scene

13. The appeal site has a wide and deep forecourt area. The neighbouring properties to the north and south and those on the opposite side of Finchley Road incorporate similar front forecourts in terms of their size, while they are predominately hard surfaced and used for parking purposes. At those properties I noted that bins were stored within the forecourt areas and occupied a discreet location close to the side and front boundaries.
14. The proposal would require bins for the individual occupiers, and these would likely result in a greater concentration of refuse storage along the front of the property, than is currently the case. The visual appearance of these could be screened by landscaping along the boundary or housed within a low-rise and suitably finished structure positioned perpendicular to the highway, in a similar manner to the example provided by the appellant. Such an arrangement would reduce the cluttered appearance of the bins and would not appear dominant in the context of the appeal dwelling and surrounding properties. Furthermore, it could also protect the bins during inclement weather and from vandalism.
15. Therefore, subject to a suitably worded condition, I am satisfied that the proposed storage of waste and recycling material would not have an unacceptable effect on the street scene within Finchley Road. The proposal would comply with Policies CS1 and CS5 of the Core Strategy³ and Policy DM09 of the Local Plan, where they require proposals to respect the local context and character of the area.

Parking

16. The Council indicate that the increase in the level of accommodation at the appeal site would result in the requirement for a maximum of 0-10 off-street parking spaces. The 3 parking spaces proposed on the forecourt area are considered acceptable by the Council, given the excellent access to local transport connections (PTAL Zone 6a). However, in light of the shortfall in the spaces and the appeal site's location within a Controlled Parking Zone (CPZ)

² Barnet's Local Plan (Development Management Policies) - Development Plan Document, September 2012 (the Local Plan)

³ Barnet's Local Plan (Core Strategy) - Development Plan Document, September 2012 (the Core Strategy)

area, the Council requires the applicant to enter into a s.106 agreement to deny future occupants the right to CPZ permits. No such agreement has accompanied the appeal. Therefore, in the Council's view, the proposal would result in increased demand for on street parking, resulting in a detrimental impact on highway and pedestrian safety.

17. Notwithstanding the Council's concerns there is no substantive evidence before me that indicates the current shortfall in spaces in the vicinity of the appeal site or demonstrates the extent to which the development may affect demand for roadside parking. Furthermore, the Council have not explained how the additional parking that would be generated by the proposal would be detrimental to the safety of road users.
18. Despite the lack of detail on the current parking situation, at the time of my afternoon site visit, I noted that, in the vicinity of the site, Finchley Road has yellow lines in place along much of its length. Yet, a short distance to the site's east at Middelton Road and Rotherwick Road within CPZ area's there were a moderate number of on-street spaces available. I accept that this was a snapshot and that the situation may be different in the mornings and overnight, nevertheless, there is no firm evidence before me to indicate a high level of parking stress locally.
19. In addition, the National Planning Policy Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The submitted evidence does not lead me to believe that an overspill of vehicles from the site as suggested by the Council would result in unacceptable parking pressure or in harm to the safety or operation of the surrounding highway network. Moreover, the extent of available on-street parking which I observed, would be able to accommodate the additional parking generated by the development, while not causing any obstruction or obvious impacts to existing pedestrian and vehicle movements along the road.
20. Additionally, it is likely that the proportion of future residents owning cars would be low given the excellent provision and access to public transport connections in the area. In this context, I am also not persuaded that it would be necessary for the appellant to enter into a legal agreement to prevent future occupiers from obtaining permits to park within the CPZ.
21. Accordingly, I conclude on this main issue that the proposed parking arrangements would not be harmful to on-street parking capacity or to the safe or efficient operation of the highway network in the vicinity of the site. The proposal would comply with Policy DM17 of the Local Plan which seeks safe, effective and efficient travel and the mitigation of development impacts.

Other Matters

22. I do not doubt that there is a pressing need locally for the type of accommodation proposed, and the appellant has provided letters from local estate agents highlighting the growing demand. Yet, the provision of this accommodation must also be of a standard that safeguards neighbouring amenity as well as the requirements of Policy DM09, and in this regard, the proposal would have a harmful effect on the immediate neighbours. I have therefore given this matter limited weight in my assessment of the appeal.

Conclusion

23. Although the proposed development would not have a harmful impact on highway safety and the street scene, this lack of harm would have a neutral effect. Consequently, it would not overcome my concerns in respect of living conditions, and the resultant conflict with the development plan.
24. For the reasons set out above, the appeal is dismissed.

R E Jones

INSPECTOR