The Planning Inspectorate

Appeal Decision

Site visit made on 26 February 2021

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2021

Appeal Ref: APP/T5150/W/20/3263149
Wembley Hotel, 40 London Road, Wembley HA9 7EX

- 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 R Adil against the decision of the Council of the London Borough of Brent.
- The application Ref 20/2390, dated 7 August 2020, was refused by notice dated 5 October 2020.
- The development proposed is a change of use from existing hotel (Use Class C1) to a house in multiple occupation (HMO) (Use Class Sui Generis), installation of front ramp, provision for refuse and bicycle storage and alterations to fenestration.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The London Plan 2021 (the 'LP 2021') was published by the Mayor of London on 2 March 2021. The LP 2021 comprises the spatial development strategy for London and forms part of the development plan. The LP 2021 supersedes the London Plan of 2016. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis. The main parties have had an opportunity to address this matter as part of the appeal process.

3. The Council refer to the emerging Brent Local Plan within the officer report. In accordance with paragraph 48 of the National Planning Policy Framework (the 'Framework'), weight may be given to policies within emerging plans. The weight given is determined by the stage of preparation of the emerging plan, the extent of unresolved objections and the degree of consistency of the relevant policies to the Framework. I have not been provided with any substantive details of the status of this emerging plan. Therefore, I attribute the plan and policies very limited weight as a material planning consideration

Main Issues

4. The main issues are: (i) whether the proposed development would provide acceptable living conditions for future occupiers, in respect of the amount of communal living facilities including garden space and privacy in respect of Unit Nos G.04, G.05 and G.06; and (ii) whether the development adheres to the Council's strategy for the provision of non-self contained residential accommodation with shared facilities, in the context of adopted policy.

Reasons

Living conditions of future occupiers

5. The appeal property is a two-storey hotel building located on the western side of London Road situated near to the town centre of Wembley. It is proposed to convert the existing hotel into a 30-bedroom house in multiple occupation ('HMO'). As part of the development, it is proposed to install a ramp to the front of the building, whilst refuse and bicycle storage would be provided to the side of the building. In addition, alterations to the existing fenestration layout would be undertaken to facilitate the proposed use.

6. The proposed HMO would provide 30 bedrooms over 3 floors with 10 bedrooms per floor. The bedrooms would be of a mix of sizes and the HMO would have a maximum occupancy of 46 persons[1].

7. The main parties have not directed me to any local or national standards in relation to the provision of shared facilities. However, Policy DMP20 of the London Borough of Brent Local Plan: Development Management Policies (the 'DMP') states proposals for non-self contained residential accommodation[2] with shared facilities will be supported where the development (b) is of an acceptable quality meeting appropriate standards for the needs of its occupants, including external amenity space, appropriate communal facilities, levels of support/care and mobility.

8. In this instance, the proposed floor plans show that the ground floor would feature a communal kitchen and two communal living areas, whilst the first and second floor would feature one communal kitchen and one communal living area per floor. Overall, the development would provide approximately 100 square metres ('sqm') of communal floor space for future residents. The Council explain that if the HMO was occupied at its maximum capacity of 46 persons, this would equate to about 2.2 sqm of communal space per resident[3]. This calculation has not been disputed by the appellant.

9. However, the appellant contends that this level of occupancy would be unlikely as many of the double bedrooms are expected to be rented by single persons. Whilst this may be the case, no mechanism has been put forward by the appellant to restrict the occupancy of the double rooms to a single person. Therefore, I cannot be certain that the HMO would not be occupied by up to 46 persons. Accordingly, I agree with the Council's position that the development should provide appropriate shared facilities to cater for the needs of up to 46 occupiers.

10. The appellant explains that most of the bedrooms have sufficient floor space to include areas for seating or dining, which would supplement the communal living areas. However, no substantive details have been provided, such as annotated floor plans, to demonstrate which rooms could facilitate seating or dining furniture.

11. Whilst I agree that some of the larger double bedrooms would have sufficient floorspace to facilitate seating or dining furniture, this would not be the case for

[1] This would be the case if every bedroom with a double bed would be occupied by 2 persons.
[2] Paragraph 10.14 of the DMP states "For the purposes of this policy shared housing includes houses in multiple occupation (HMOs), bed-sits, hostels, housing for older people, supported housing for those with special needs and specialist student accommodation"

all of the bedrooms, particularly the single occupancy rooms, which, when taking into account the need to provide a bed and other standard items of bedroom furniture, such as a wardrobe and/or chest of drawers for the storage of clothes and other personal possessions, and, owing to the inward door openings, it is very unlikely that such rooms could facilitate seating or dining furniture. Consequently, it is likely that the occupiers of most rooms within the proposed HMO would be reliant upon the communal living areas to provide them with an appropriate standard of living.

12. In this instance, the proposed communal living rooms range in size from approximately 10-18 sqm. On the ground floor, there would be two communal living rooms, whilst the first and second floor would be provided with one communal living room per floor. If the HMO was occupied at its maximum capacity of 46 persons, then it is reasonable to conclude that each of the communal living rooms could be used by 10 or more persons on a daily basis. Demand would likely be greatest at meal times due to the lack of sitting and dining space within most of the bedrooms. Owing to the relatively limited size of the communal living rooms, most of which are comparable in size to a double bedroom, I consider that the development would fail to provide an appropriate amount of communal living space for future residents.

13. In addition to the above, the provision of communal kitchen space would be very limited with only one communal kitchen area provided per floor. With up to 15-16 persons residing on each floor, all of whom would be reliant upon one shared kitchen area, which would provide the principle facility for the storage and preparation of food, I am not satisfied that appropriate communal kitchen facilities would be provided as part of the development. The lack of appropriate provision would be particularly evident at busy times, such as mornings and evenings when meals are typically prepared.

14. Overall, for the reasons set out above, I find that the proposed development would result in unacceptably cramped and oppressive living conditions for future occupiers due to a lack of communal living facilities.

15. In terms of other considerations, it is reasonable to conclude that occupants of the proposed HMO would expect to have access to external amenity space of an appropriate size and quality, for use either individually, as a group or with guests. In this instance, an external communal garden would be provided to the rear of the building, which would have an area of approximately 120 sqm.

16. The Council explain if the HMO were occupied at maximum capacity the communal garden would provide 2.2 sqm of communal external space per resident. This calculation has not been disputed by the appellant. However, I am cognisant that Unit Nos G.02 and G.03 would be provided with small private garden areas for their sole use.

17. Owing to the limited size of the communal garden relative to the maximum number of occupants of the HMO, and, even if I were to accept that the occupiers of Unit Nos G.02 and G.03 were not to use the communal external space, I consider it likely that the garden area would be frequently overcrowded by occupants and their guests, especially during the summer months. Therefore, I find that the proposal would fail to provide an appropriate level of external amenity space to meet the needs its occupants.

18. The appellant explains that rear garden area would be supplemented by a seating area to the front of the building. However, no substantive details have been provided about the precise location or extent of the seating area. In any event, on my site visit I observed that the garden area to the front of the appeal property is located adjacent to the pavement and a busy road. Therefore, it would provide a poor-quality outdoor environment, which would fail to meet the amenity space expectations of most occupants.

19. In addition to the above, a recessed part of the rear communal garden would be located adjacent to the primary windows to Unit Nos G.04, G.05 and G.06. Consequently, users of the rear garden would have unobstructed views into the bedroom areas of these units. If such overlooking were to occur it would unacceptably diminish the privacy of the occupiers of these units.

20. Therefore, the proposed development as shown on the submitted plans would not provide satisfactory living conditions for the occupiers of Unit Nos G.04, G.05 and G.06 in respect of privacy.

21. The appellant contends that the privacy issue could be overcome through the installation of fencing, which would prevent users of the rear communal garden from entering the recessed area at the rear of the building. He explains that the installation and retention of such fencing could be secured by a planning condition. I agree that the installation of suitable fencing would safeguard the privacy of the occupiers of Unit Nos G.04, G.05 and G.06. In addition, I am satisfied that the fencing could be designed in a manner to ensure that the bedroom window serving Unit G.05 would retain an acceptable outlook and level of daylight and sunlight.

22. Whilst this approach would overcome the privacy issues I have identified in relation to Unit Nos G.04, G.05 and G.06, the installation of such fencing would significantly reduce the amount of external amenity space for use by occupiers of the HMO, which would further exacerbate the significant concerns I have identified above in relation to the limited amount of external amenity space provided by the development.

23. For the reasons given, I conclude that the proposed development would not provide acceptable living conditions for future occupiers, in respect of the amount of communal living facilities including garden space and privacy in respect of Unit Nos G.04, G.05 and G.06. Therefore, the proposal would not accord with the aforementioned requirements of Policy DMP20 of the DMP. Moreover, the proposal would not accord with Policy DMP1 of the DMP, which amongst other things requires new development to provide high levels of internal and external amenity.

The provision of non-self contained residential accommodation with shared facilities

24. Criterion (d) of Policy DMP20 of the DMP states that proposals for non-self contained residential accommodation with shared facilities will be supported where it is demonstrated that there is a specific Brent need for the particular use.

25. The supporting text to Policy DMP20 does not specify what supporting information is required to be submitted by applicants in order for them to demonstrate that there is a specific Brent need for the particular use. Therefore, this is a matter to be determined on a case by case basis.

26. In this instance, the appeal is supported by a letter from a local estate agent [4] who states that there is a solid and constant demand for HMO lettings within Wembley and specifically London Road with the supply of similar accommodation limited with demand outstripping supply. In support of their position, the estate agent refers to other HMO properties which they let and manage within the immediate area where they state that they have had a surplus number of enquiries from potential tenants looking to rent accommodation.

27. The Council argue that the supporting letter fails to provide the objective evidence necessary to demonstrate that there is an identified need for a 30-bedroom HMO in this area. In addition, they have expressed concern that the letter represents the opinion of just one estate agent rather than several sources.

28. Whilst I recognise that the views of only one estate agent have been provided by the appellant, no evidence has been presented by the Council to demonstrate that the expert opinion of the appellant's estate agent should not be relied upon. To this regard, I note that Regal Estates let and manage over 500 properties in North West London, therefore it is reasonable to conclude that they have an up-to-date and accurate understanding of the HMO market in the locality of the appeal site.

29. Therefore, based on the evidence before me, I am satisfied that there is an identified need for the proposed HMO within Brent. Consequently, I conclude that the proposal adheres to the Council's strategy for the provision of non-self contained residential accommodation with shared facilities, in the context of Criterion (d) of Policy DMP20.

Other Matters

30. The proposal would meet an identified need for the HMO accommodation within the local area. The accommodation would be provided through the reuse of an existing building, which is situated in close proximity to local facilities and public transport links. This aligns with the Government's objective of significantly boosting the supply of homes and reusing brownfield sites.

31. However, I have found that the proposal would fail to provide satisfactory living conditions for future occupiers. Consequently, the provision of a substandard form of residential accommodation would not overcome or outweigh the very weighty conflict with the identified development plan policies as outlined above.

Conclusion

32. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR

[4] Letter from Regal Estates dated 15 July 2020