
Appeal Decision

Site visit made on 17 May 2021

by David Fitzsimon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2021

Appeal Ref: APP/N5090/W/20/3248426

1 Edgwarebury Gardens, Edgware HA8 8LL

- 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 Cohen against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/4961/FUL, dated 10 September 2019, was refused by notice dated 7 November 2019.
 - The development undertaken is a change of use from C3 (single-dwelling house) to C4 (small HMO for 5 people).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from C3 (single-dwelling house) to C4 (small HMO for 5 people) at 1 Edgwarebury Gardens, Edgware HA8 8LL in accordance with the terms of the application, Ref 19/4961/FUL, dated 10 September 2019, and the plans submitted with it, subject to the following conditions:
 - 1) Within 3 months of the date of this planning permission, secure parking for 6 cycles shall be provided in accordance with details first submitted to and approved in writing by the local planning authority. The cycle parking shall be retained and available for use thereafter.
 - 2) Within 2 months of the date of this planning permission, refuse storage shall be provided in accordance with details first submitted to and approved in writing by the local planning authority. The refuse storage shall be retained thereafter.
 - 3) The House of Multiple Occupation hereby permitted shall be the residence of a maximum of 5 persons at any one time.

Procedural Matters

2. The property was being used as a HMO at the time of my visit. This has no bearing on my decision which is based on the merits of the case.
 3. A Unilateral Undertaking has been submitted which relates to car parking. I have taken this into account in determining the appeal.
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Main Issues

4. The main issues in this case are as follows:
 - The effect of the development on the character and appearance of the surrounding area and the living conditions of nearby residents;
 - The effect in terms of the loss of a family dwelling and whether an identified need for the HMO is demonstrated; and
 - Whether adequate car parking is available.

Reasons

Character and appearance and living conditions

5. The appeal relates to a large semi-detached property which sits at the end of Edgwarebury Gardens which, from what I could see, is dominated by family dwellings. It sits close to the junction with Edgwarebury Lane which is a main thoroughfare and is of a noticeably more mixed character, being home to a range of local services.
6. The exterior of the appeal property is well maintained and it has forecourt parking and space for refuse storage. Other than the introduction of a sign, the property has retained the appearance of a family dwelling.
7. In order to exercise greater control, the Council issued an Article 4 Direction in 2016 in response to concerns about the general effects of HMOs on the character of Barnet and its residents. To this end, I accept that the occupation of the appeal property by 5 individuals could result in some additional activity from general comings and goings, visitors and deliveries, which could include extra vehicle movements. Notwithstanding this, no compelling evidence has been advanced to support the Council's assertions that such activity would harm the character and appearance of the local area. I am also mindful that comparable levels of activity could be generated if the property was occupied by one large family.
8. The Council has also raised concerns about refuse management. However, I am satisfied that appropriate facilities could be provided to ensure that refuse disposal is managed properly. In addition, it has been suggested that the use of the dwelling as a HMO could lead to anti-social behaviour but in my view, planning decisions must be based on an assumption that residents will live in a considerate manner. Legislation is in place to deal with those who chose not to. On this basis, I see no reason why the HMO should be any more disturbing for nearby residents than if the property was occupied by one large family.
9. Whilst I acknowledge the fact that Edgwarebury Gardens itself is dominated by family dwellings, given the proximity of the appeal property to Edgwarebury Lane and the factors outlined above, I am satisfied that its use as a HMO need not have a materially harmful effect on the character and appearance of the local area or the living conditions of neighbours. In this particular regard, I find no conflict with policy CS5 of the adopted Barnet Local Plan Core Strategy (CS), policies DM01, DM02 and DM09 of the adopted Barnet Development Management Policies Development Plan Document (DMP DPD) and the Council's adopted Sustainable Design and Construction Supplementary Planning Document (SPD).

Loss of a family dwelling and need for HMO

10. Policy DM01 of the DMP DPD relates to the protection of Barnet's character and amenity. Criterion 'h' states that the conversion of dwellings into flats in roads characterised by houses will not normally be appropriate, whilst criterion 'i' states that the loss of houses in roads characterised by houses will not normally be appropriate. My reading of this policy is that conversions will not normally be appropriate, unless character and amenity is not harmed. This is because the policy is concerned with protecting character and amenity, rather than explicitly protecting the supply of family housing in strategic terms.
11. The Council asserts that the proposal would result in the loss of a family dwelling for which there is known demand. However, no evidence has been advanced to persuade me that the supply of family housing in this location is a particular issue or that the loss of one such unit is demonstrably harmful. Furthermore, I have explained above why the development has not harmed the character and appearance of the local area.
12. Policy DM09 of the DMP DPD explains that new HMOs will be encouraged provided, amongst other considerations, they meet an identified need, they would not have a harmful impact on the character and amenities of the surrounding area and they are easily accessible by public transport. The supporting text to this policy recognises that HMOs are an important source of low cost, private sector housing for students, those on low incomes and those seeking temporary accommodation. I also note that Policy DM09 seeks to resist the conversion of HMO dwellings to self-contained flats as this would be likely to reduce choice and affordability. In addition, the supporting text explains that such applications will be expected to demonstrate an absence of need for HMO accommodation. I have also been referred to the Barnet Housing Strategy 2019-2024 which recognises a general need for HMO accommodation across the Borough.
13. The Appellant points to the fact that Middlesex University is just over 4 miles away whilst Edgware Hospital is only a mile away. I am mindful that in dismissing an earlier appeal for a HMO within the Borough, a colleague Inspector opined that such factors are not, in themselves, a definitive indicator of need (Ref. APP/N5090/W/18/3201486). As in that case, no compelling evidence has been advanced to demonstrate a shortage of accommodation for staff and students at the Hospital and University. However, the Appellant has provided submissions from the Director of London House Agent and Director of Grove Residential Sales Ltd, both of whom confirm demand for HMO rooms in this location. In addition, several letters have been submitted from former tenants explaining their difficulties in finding suitable accommodation within the local area. Whilst this information clearly indicates a demand for HMO accommodation, on balance and in the context of the supporting text of policy DM09 along with the Barnet Housing Strategy, I am satisfied that it is also a reasonable indication of need.
14. Accordingly, although the development has resulted in the loss of a family dwelling, it has not been demonstrated that this is harmful in supply terms and it is not to the detriment of the character of the local area. To this end, I find no conflict with policy DM01 of the DMP DPD. On the basis of the information

submitted, I am also satisfied that the HMO meets an identified need as required by policy DM09.

Car parking provision

15. The forecourt of the appeal property is hardstanding and is capable of accommodating up to three cars. In addition, the appeal property is situated very close to Edgwarebury Lane, which is a bus route and it is home to a range of shops and services. It is also close to Edgware tube station. As a result, the appeal property enjoys a PTAL6A rating, which equates to good accessibility.
16. The appellant has submitted a Parking Stress Survey which has examined parking capacity within the roads within 200 metre walking distance of the appeal property. The survey found the parking stress level within these roads to be just over 77%, which reflects 29 available car parking spaces within the survey area during the two survey nights. The Survey explains that parking stress becomes a cause for concern beyond a level of 85% and results of 95% represents a situation where full capacity has effectively been reached. Whilst the number of survey nights was limited, I am satisfied that they took place when one would reasonably expect the majority of residents to be at home.
17. The Council does not dispute the results of the Parking Stress Survey, which indicates some parking capacity within nearby roads. Furthermore, it is entirely feasible that not all occupiers of the HMO would have a private vehicle, particularly given the fact that it enjoys such a sustainable location. It is also entirely feasible that the use of the property as a family dwelling could generate similar demands for car parking. As explained, a Unilateral Undertaking has been submitted which offers to restrict future occupiers of the HMO from obtaining on street parking permits within the Controlled Parking Zone. Given the situation outlined above, I am satisfied that this approach is not necessary.
18. In light of the above, I find that adequate car parking is available and I find no conflict in this regard with policy CS9 of the CS and policy DM17 of the DMP DPD.

Overall Conclusions

19. I conclude that the HMO does not unacceptably harm the character and appearance of the local area or the living conditions of the occupiers of nearby dwellings, it has not been demonstrated that the development has resulted in a harmful reduction in the supply of family dwellings, it fulfils a need for HMO accommodation in this location and adequate car parking is available. Accordingly, the proposal accords with the development plan policies outlined above.

Conditions

20. The Council has suggested several conditions in the event the appeal succeeds. A condition requiring the development to take place in accordance with the approved plans is not necessary as it is already complete. Conditions requiring secure cycle parking and refuse storage are necessary to promote sustainable travel and to ensure a visually acceptable development respectively. I also agree that the capacity of the HMO should be limited to no more than 5 persons

at any one time to ensure it does not have a materially greater impact than if the property was occupied by a large family.

21. In allowing the appeal, I shall impose conditions accordingly.

David Fitzsimon

INSPECTOR