



Appeal Decision

Site visit made on 11 May 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2021

Appeal Ref: APP/T5150/W/20/3253682

Esher, Uffington Road, London NW10 3TA

- 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 Mrs Surinder Bhatt against the decision of the Council of the London Borough of Brent.
 - The application Ref 19/3233, dated 9 September 2019, was refused by notice dated 23 December 2019.
 - The development proposed is described as 'Retrospective Planning application for change of use from C3-Residential Dwelling into Sui Generis 9 Room 18-Person House in Multiple Occupation'.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Due to the appellant's personal circumstances, I was unable to go inside the appeal property, but I have been able to assess the scheme adequately based on the submissions and my external inspection.
3. Notwithstanding the description of the development on the application form and as set out in the banner of this decision, the appellant has advised that the proposal was 'confusingly described' by referring to both '9 room' and '18 persons', which is based on a licensing description.
4. Instead, the appellant advises that at ground floor the accommodation comprises a two bedroom, self-contained flat, which by allocating an existing 'lounge' as a third bedroom along with the ground floor kitchen, living and dining areas would comprise a self-contained, three-bedroom dwelling suitable for "family" accommodation, and that the first and second floors of the property comprise a 8-bedroom House in Multiple Occupancy ('HMO').
5. However, such a proposal would be different to the scheme the Council consulted on and determined, which also received several third-party representations. As such, I cannot be certain that the interests of other parties would not be prejudiced by determining the appeal on a basis other than that originally applied for.
6. Moreover, the submitted plans show 9 bedrooms along the first and second floors, and other than the original reference to '18 persons' there is no further clarification on the number of residents the HMO would cater for. On the

submitted information it is also unclear how the ground floor accommodation would be self-contained from the HMO element.

7. The Council's third reason for refusal relates to the effect of a conservatory extension on the living conditions of the occupiers of a neighbouring property. The appellant has confirmed that the submitted plans were inaccurate as these show a former conservatory extension before that extension was reduced in size to comply with an enforcement notice. I have also been provided a copy of an email from the Council which states that the rear extension has been reduced in size and complies with the enforcement notice. The appellant has also confirmed that the application is made for change of use of the land and not for the conservatory extension.
8. In light of the above, I have determined the appeal on the basis of the original description for change of use from C3-Residential Dwelling into Sui Generis 9 Room 18-Person House in Multiple Occupation and the submitted plans.
9. Against that background, the main issues are: i) Whether the proposal would result in the loss of a family dwelling; ii) whether there is a need for HMO accommodation in the area and whether this is of an acceptable standard; iii) whether the use of the appeal property as a HMO would harm the living conditions of neighbours; and iv) whether the development makes adequate provision for cycling and refuse storage facilities.

Reasons

Loss of a family dwelling

10. Policy DMP17 of Brent's Development Management Policies 2016 ('DMP') states that in order to maintain family sized housing, the conversion of existing dwellings will only be allowed where the existing home is 130 sq.m or more and it results in at least a 3 bedroom dwelling, preferably with direct access to a garden amenity/space. Whilst the appeal property measures in excess of 130 sq.m, its conversion to a 9-bedroom HMO would result in the loss of a family dwelling and therefore fails to comply with Policy DMP17 of the DMP.
11. The Council's decision also refers to Policy DMP16 of the DMP, this aims to resist the net loss of residential units. As the proposal would replace one type of housing with another, this Policy is not relevant.

Need for HMO accommodation in the area and whether this is of an acceptable standard

12. Policy DMP20 of the DMP supports houses in multiple occupancy where a need for this type of accommodation is demonstrated and is of an acceptable standard with regard to being in a location with good access to public transport and other amenities including shops (normally within 400m) and its quality.
13. Providing a range of different housing within a local area can contribute to housing need and offer a choice in living accommodation. In this case, I have not been provided with any evidence to demonstrate that the HMO would meet an identified need. It has also not been shown that the appeal site is located in an area with good access to public transport and other amenities. This is particularly important as the development plan identifies that HMO type developments are likely to be aimed at people with limited access to private transport.

14. Paragraph 10.51 of the DMP requires that HMO meet the standards of Brent's HMO licensing scheme, including minimum room sizes. In this case, the HMO is for a maximum of 18 persons, to accommodate this number of residents each room could be occupied by up to two people. However, in accordance with the Council's requirements, a double bedroom should have a minimum area of 10.5 sq.m. One of the bedrooms falls short of this requirement. Also, the main communal facilities such as living, dining and laundry areas are located at ground floor-level thereby making these inconvenient for the occupiers of the second-floor bedrooms. Consequently, if the appeal were to succeed for a proposed maximum of 18 occupants, the proposed layout would result in poor quality of accommodation.
15. For the above reasons, the proposal is in direct conflict with Policy DMP 20 of the DMP. Accordingly, it also fails to accord with Policy DMP1, amongst other things this requires new developments of a concentration which provide high levels of amenity.

Living conditions of neighbours

16. The use of the appeal property as a 9-bedroom HMO would result in this being occupied by people who are unrelated and therefore by a greater number of households. It is therefore more likely to generate higher levels of activity associated with individuals arriving and leaving separately from one another for work, shopping, and other day-to-day activities.
17. Moreover, with several persons occupying the property as individual households, there is a much greater potential for separate visitors. This results in the potential for greater noise and disturbance through the sound of voices, opening and closing of doors and vehicles, including from more visits by delivery and other vehicles than may be the case for a single household.
18. Furthermore, given the lower level of communal activity which typically occurs between individuals in separate households when compared to individuals in the same household, there is likely to be an increase in noise arising from multiple occupation at any one time within the property. This is a particular concern since the appeal physically adjoins another property. Such noise levels are more likely to occur at times when neighbours would have greater expectations for peace and quiet than would be the case if the property was occupied by a single household. As a result, the level of noise and disturbance experienced by the occupiers of the adjoining property is likely to increase to the detriment of their living conditions.
19. In the absence of any information detailing management arrangements, the proposal fails to show that the use would not give rise to any unacceptable levels of noise and disturbance associated with a HMO of this size, which in turn could have a negative impact on the living conditions of the occupants of neighbouring properties. The proposal therefore fails to comply with Policy DMP20 of the DMP which amongst other things requires HMO proposals to include adequate management arrangements. The proposal also fails to accord with Policy DMP1 of the DMP which amongst other things requires new developments of a concentration which provide high levels of amenity and complement the locality.

Provision for cycling and refuse storage facilities

20. The appeal property incorporates a generous frontage. Nevertheless, in the absence of a layout showing the required refuse and cycle storage facilities along with any vehicle parking, I cannot be certain that such facilities could be accommodated and secured by a condition within the site. The lack of such facilities could result in inconsiderate storage on the highway to the detriment of highway safety and amenity.
21. Accordingly, the proposal fails to show adequate provision for cycling and refuse storage facilities and therefore does not accord with the aims of Policy DMP1 of the DMP which along with other things requires new developments of a layout which provide high levels of amenity and complement the locality.

Other matters

22. Although the appellant has suggested that some of the above matters could be dealt with through the licensing of the HMO, I do not have the full details of the licensing requirements. In any event, the proposal needs to satisfy the requirements of the planning system having regard to the development plan.

Conclusion

23. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR