



Appeal Decision

Site Visit made on 2 July 2021

by Scott Britnell MSc FdA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Appeal Ref: APP/N5090/W/21/3268522

49 Heming Road, Edgware HA8 9AB

- 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 Walter Vethanayagam against the decision of the Barnet London Borough Council.
 - The application Ref 20/4673/FUL, dated 13 September 2020, was refused by notice dated 7 December 2020.
 - The development proposed is change of use of the property from a residential dwelling (Class C3) to a house in multiple occupation (HMO) (Class C4) for up to 6 no persons.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the determination of the planning application, the Government published the National Planning Policy Framework 2021. The Mayor of London also published the London Plan 2021. I sought comments from the main parties with regards to these matters and, where these have been received, I have taken them into account in determining the appeal.
3. At the time of my visit, the property was in use as a House in Multiple Occupation (HMO). The appellant has submitted a drawing with the appeal that did not form part of the application. This shows a communal living room on the ground floor in place of a bedroom and reflects how the room was being used at the time of my visit. However, the drawing also shows the loft space divided between a storeroom and a bedroom, which is not how I observed it to be used. The storeroom was being used as a bedroom and the bedroom as a living area. The appellant indicates that the living area is being used by the occupant of the bedroom in the loft.
4. In light of my observations, the revised drawing does not accurately reflect how the property is currently being used. Consequently, I have assessed the proposal on the basis of the drawings upon which the Council refused the application. Therefore, I have treated the proposal as proposed development. In reaching this conclusion, I have had regard to the appeal decision that the appellant has referred me to, whereby the Inspector did accept revised drawings¹. However, each case must be considered on its own merits and I have proceeded in this matter in the way that I have for the reasons set out above.

¹ APP/N5090/W/20/3251995

Main Issues

5. The main issues are:

- Whether the proposed development would provide adequate living conditions for future occupiers.
- Whether the proposed development would harm the mix of housing in the area; and,
- The effect of the proposed development on the function and character of Heming Road.

Reasons

Living Conditions

6. The Adopted Standards for Houses in Multiple Occupation (2016) (ASHMO) stipulates that the minimum standard for a one room letting where the kitchen is a separate room for 1no. person is 8.50 square metres. All but one of the proposed bedrooms would meet this requirement. The appellant indicates that this room, on the first floor, would have an area of 8 square metres while the Council suggests that this would be 7.2 square metres.
7. Even if I were to accept the appellant's calculations, this room would be 0.5 metres below the required minimum standard by the ASHMO. These are minimum standards and, as such, any room which falls below them is likely to result in a substandard form of accommodation. Given the size of this proposed bedroom, once essential furniture is accounted for there would be little space for the occupant to move around. Consequently, this bedroom, due to its inadequate size, would provide a cramped environment that would be harmful to the living conditions of its occupant.
8. Paragraph 4.1.1 of the ASHMO states that each household shall, where practicable, have its own kitchen separate from and being not more than one floor distant from the sleeping room or within the unit of accommodation. The proposed bedroom in the loft space would be more than one floor from the kitchen and, as such, would be unreasonably located in terms of providing access to it for its occupant.
9. The proposal would therefore fail to provide adequate living conditions for future occupants. There would be conflict with Policy CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document September 2012 (CS) and Policy DM09 of Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012 (DMP). In summary, these require development to meet the relevant housing standards for HMOs. There would also be conflict with the aims of the Mayor of London Housing Supplementary Planning Guidance March 2016 in terms of providing quality housing.

Housing Mix

10. Policy DM08 of the DMP states that development should provide where appropriate a mix of dwelling types and sizes in order to provide choice for a growing and diverse population for all households in the borough. For market housing, the highest priority is for 4 bedroom homes.

11. DMP Policy DM09 states, amongst other things, that proposals for new HMO will be encouraged provided that they meet an identified need. The appellant suggests that the existence of an Article 4 direction across the borough preventing the change of use from a C3 Use Class to a C4 Use Class indicates that there is a need for HMO development. However, I do not consider that this is compelling evidence of an identified need for the proposed development. Equally, the fact that the property is also already occupied as a HMO, does not, in my view, satisfactorily demonstrate that the proposed development would be meeting an identified need.
12. The Appellant's Design and Access (DAS) statement refers to a letter from a local estate agent. The DAS states that the estate agent is managing a number of HMO properties close to the site and that there is an immediate need for good quality HMOs in the area. It also suggests that demand for single family dwellings is on the decline. However, I have not been shown a copy of this letter or indeed any evidence to support the suppositions made. I can therefore afford its findings only limited weight.
13. The appeal property is located close to Edgware Community Hospital. The appellant suggests that the accommodation would be popular with workers from the hospital and that this is reflected in the nature of the current tenants. However, there is no evidence before me to indicate how many of the current tenants are employed at the hospital. Moreover, there is no indication that the HMO would be occupied only by hospital workers or other local businesses. As such, I afford this matter limited weight.
14. Taking the above into account, there is no compelling evidence to indicate that the proposal would meet an identified need for HMO development. It would also, for the same reasons, result in the loss of a family sized dwelling for which the development plan indicates there is a need and thus there would be a detrimental effect to the mix of housing in the area. I attach significant weight to these harms and the subsequent conflict with the policies of the development plan I have cited above, along with their aims.

Function and Character

15. The Council indicate that there does not appear to be any properties on Heming Road on their HMO register or any planning consents for conversions to HMOs. Consequently, and in conjunction with my own observations, this suggests that the established function and character of Heming Road is defined by single family dwellings.
16. The use of the property as a HMO would involve multiple households that, due to their independence from each other, are likely to exhibit different patterns of use than a single family unit. Such a use therefore is likely to result in increased comings and goings at the appeal site at different times of the day. It is also likely to result in increased vehicle movements and refuse collections at and in the vicinity of the appeal site.
17. However, the appeal site is in a built up residential area and the likely effects that would result from the proposed use are most likely to be experienced within its immediate vicinity. As such, the proposal would have a limited effect on the function and character of the wider street. Moreover, the appeal property could accommodate a single large family and the general levels activity from the proposed development would be unlikely to be significantly

different in comparison. Therefore, and in the absence of compelling evidence to suggest otherwise, the proposal would not result in a harmful change to the function and character of Heming Road or harm the established pattern of development.

18. There would therefore be no conflict with CS Policies CS1 and CS5 and DMP Policies DM01, DM02 and DM09 in regard to this main issue. In summary, these seek to ensure that development contributes to people's sense of place, that it should preserve or enhance local character and that proposals for HMO development demonstrate they will not have a harmful impact on the character of the surrounding area.

Other Matters

19. The appellant indicates that they have applied for a HMO licence. The HMO licencing regime is separate to the planning system and I have assessed the proposal on its planning merits. Thus, the grant of a HMO licence, should this occur, does not overcome, or negate the harms that I have identified.
20. I have been referred to an appeal at 67 Vivian Avenue². However, the Inspector in that appeal states that the appeal property was significantly larger than the three and four bed dwellings which Policy DMP Policy DM08 indicates are the greatest priority. Further, Vivian Avenue is not located in the same area as Heming Road and the Inspector noted a number of other properties in Vivian Avenue that appeared to have been altered to accommodate varying numbers of households, as well as large blocks of flats. Consequently, that development at Vivian Avenue would be viewed in a wholly different context and is not directly comparable to the current appeal proposal. Moreover, while I note the conclusions that the Inspector in that case reached at paragraph 12, each case must be considered on its own merits. For the reasons that I have set out, I do not consider that the appeal proposal before me satisfactorily demonstrates that the proposed development would be meeting an identified.
21. The appellant has referred me to Policy H9 of the London Plan 2021. This states that boroughs shall take account of the role of houses in multiple occupation in meeting local and strategic housing needs. For the reasons I have set out, there is no compelling evidence before me that the development would meet local and strategic housing needs. I have also been referred by the appellant to CS Policy CS4. In summary, this seeks to provide quality homes and housing choice in Barnet. While the proposal would increase housing choice, it would not provide quality housing and so there would also be conflict with this policy.
22. The Council has referred to the Local Plan Supplementary Planning Document: Residential Design Guidance October 2016 and the Local Plan Supplementary Planning Document: Sustainable Design and Construction October 2016. However, I have not been directed to the relevant section of these documents and so I have been unable to assess the proposal against them. That said, the policies of the development plan that I have referred to above are more than sufficient to able to satisfactorily assess the proposed development.

² APP/N5090/W/20/3251995.

Conclusion

23. I have found that the proposal would not cause harm to the function and character of Heming Road. However, the absence of harm in this regard is a neutral factor in my overall considerations. I have found that the proposal would fail to provide adequate living conditions for future occupants and would also cause harm to the mix of housing in the area. These harms would result in conflict with the development plan. There are no other relevant material considerations, including the approach of the Framework, which indicate I should make a decision otherwise in accordance with it. The appeal should therefore be dismissed.

Scott Britnell

INSPECTOR