

Appeal Decision

Site visit made on 12 October 2021

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Appeal Ref: APP/T5150/W/21/3271604

486 North Circular Road, Stonebridge, London NW10 1SP.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission.
 - The appeal is made by Mr D Saurumper on behalf of Lajoll Limited against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/4320, dated 31 December 2020, was refused by notice dated 17 March 2021.
 - The development proposed is change of use of the premises to a 7 room HMO for 7 individuals with the provision of a communal kitchen and communal lounge area.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Lajoll Limited against the London Borough of Brent. This application is the subject of a separate decision.

Procedural Matters

3. The Draft Brent Local Plan 2020 (DBLP) has been submitted for Examination and consultation on Main Modifications to the DBLP took place in Summer 2021. Furthermore, the London Plan 2021 has been adopted and the National Planning Policy Framework was revised in July 2021. The main parties have had the opportunity to comment on these documents.

Background and Main Issues

4. Situated on the eastern side of North Circular Road, the appeal property at 486 North Circular Road is a semi-detached two-storey building, which has previously been extended to the ground floor at the rear and the side and at roof level. Three applications for the conversion of the appeal property to self-contained flats were refused in 2008, 2015 and 2016 (Refs 07/3829; 15/4597; 16/0968). Subsequently, an enforcement notice was issued (Ref: E/16/0384) in relation to the material change of use of the premises to flats. In September 2020, permission 20/2146 was granted for change of use of the premises to a 6 room HMO for 6 individuals.
5. At the time of my site visit, I saw that the appeal property's ground and first floors were laid out in a similar manner to the floorplans approved as part of planning permission 20/2146. However, it was not possible to enter the top floor of the property during the site visit.

6. The main issue in this appeal is the acceptability of the use taking into account the quality of accommodation proposed, the effect of the proposal on a single family dwelling, and the local need for Housing in Multiple Occupation (HMO).

Reasons

7. Policy DMP1 of the London Borough of Brent Local Plan – Development Management Policies (2016) (DMP) is a general development management policy which addresses matters such as living conditions, amongst other things. DMP Policy DMP20 supports proposals for shared housing, which includes HMOs, where a number of criteria are met. Policy BH7 of the Draft Brent Local Plan (DBLP), as modified by Main Modifications, also addresses accommodation with shared facilities and sets out similar criteria to DMP Policy DMP20. The respective criteria of DMP Policy DMP20 and DBLP Policy BH7 are set out in turn in the paragraphs below. The supporting text to DMP Policy DMP20 provides additional detail on the coverage of the policy, the local need for shared accommodation, and the quality of accommodation including minimum room sizes to meet the Council's HMO licensing scheme. Reference is also made by the Council to London Plan 2021 Policy D6 which deals with housing quality and DMP Policy DMP18 which deals with housing standards.
8. Criterion a of DMP Policy DMP20 and criterion a of DBLP Policy BH7 both relate to good access to public transport and local facilities. Criterion c of DMP Policy DMP20 requires management arrangements commensurate to the use and size of the proposed development. Criterion c of DBLP Policy BH7 has the same requirements with additional reference made to the Council's agreement to those management arrangements and to ensuring that neighbouring living conditions are not unacceptably affected. In addition to the criteria set out in DMP Policy DMP20, criterion e of DBLP Policy BH7 highlights avoidance of an over-concentration of the type of accommodation in the area. There appears to be agreement that the proposed development would not conflict with these criteria.
9. Addressing the matter of the quality of accommodation to be provided, DMP Policy DMP1, criterion b of DMP Policy DMP20, and criterion b of DBLP Policy BH7 deal with the quality of accommodation for the occupiers of the HMO, including external amenity space and appropriate communal facilities.
10. The proposed development would be similar to the previously approved 6 bedroom/6 person HMO under planning permission 20/2146, with the exception of the replacement of a dining area on the ground floor with a further bedroom with ensuite bathroom, the provision of storage adjacent to the kitchen, and the insertion of a kitchen/dining space into the communal lounge.
11. The proposed development would have three bedrooms with ensuite bathrooms, a kitchen, a kitchen/diner and a lounge at ground floor. The first floor would be laid out as two bedrooms with ensuite bathrooms, and a further separate bathroom and bedroom. The second floor would comprise a seventh bedroom with ensuite bathroom.
12. The proposed development would provide bedrooms in excess of the required room sizes set out in the Council's HMO licensing standards. Furthermore, three sets of kitchen facilities would be provided, with each set comprising a cooker with 4 burners, a sink and drainer, tiled splashback and a one metre length of worktop. The proposed development would also provide appropriate

and accessible external amenity space to the rear of the appeal property and cycle and car parking to the property's frontage.

13. In terms of internal communal floorspace, there is disagreement between the parties about the level of communal floorspace and how that floorspace has been calculated. As the storage and fridge/freezer area adjacent to the kitchen would be directly adjacent to a bedroom door, I consider that it would not represent usable communal space as part of the kitchen, whether the doorway shown on plan was present or not. As such, the proposed development would provide no more than approximately 29m² communal floorspace in the form of a kitchen, kitchen/diner and lounge.
14. The kitchen would be narrow, with cooking and washing facilities on both sides and floorspace of some 1.3m in width when measured between the worktops. This narrow space would not allow multiple occupiers to use the kitchen with ease at the same time. If the kitchen was excluded from the communal floorspace, this would result in a communal floorspace of some 21.5m².
15. When considered against the number of proposed residents, the level of communal floorspace would be between 3.07m² and 4.14m² per person. This number of residents could be restricted by condition. The Council does not set out specific floorspace requirements for HMOs within DMP Policy DMP20 or DBLP Policy BH7 and the proposed communal floorspace would exceed the Council's HMO Licensing Standards of 16.5m² for 6 – 10 people. However, the HMO Licensing Standards do not form part of the development plan. The Council has also referred me to appeal decisions¹ relating to the quality of accommodation to be provided within HMOs.
16. Based on what I have seen on site and the plans before me, I consider that the proposed communal floorspace would represent a cramped and restricted environment for the 7 potential occupiers of the proposed development. Furthermore, while the property is undoubtedly large, the proposed development would provide a considerably lower quantum of communal floorspace when compared to the plans approved under planning permission 20/2146. I consider that this would be insufficient and that the proposed development would not provide an adequate quality of accommodation.
17. Turning to the matter of single family dwellinghouses and the need for different types of residential accommodation, Policy CP21 of the Brent Core Strategy 2010 (BCS) seeks to maintain and provide a balanced housing stock, including family sized accommodation and non-self-contained accommodation. The BCS recognises that some accommodation needs cannot be satisfied through the provision of conventional housing. Criterion d of DMP Policy DMP20 and criterion d of DBLP Policy BH7 both state that proposals should demonstrate that there is a specific need in Brent for the particular use which should be secured by planning agreement.
18. The Council seeks to resist loss of family dwellings as they consider that there is a lack of family dwellings within the borough, with a greater need for family housing of three or more bedrooms than there is for larger HMOs. However, the London Borough of Brent Strategic Housing Market Assessment also identifies a great need for housing for people who cannot afford market

¹ APP/T5150/W/19/3235940, decision issued 27 March 2020; and APP/T5150/W/19/3237846, decision issued 10 January 2020.

housing, while the Council's Housing Strategy 2014 – 2019 seeks to significantly increase levels of affordable housing and reduce homelessness and use of temporary accommodation.

19. The appellant contends that the appeal property no longer constitutes a single family dwellinghouse as planning permission 20/2146 has been fully implemented. In contrast, the Council considers that they are not aware of evidence to support this change. While it appears that the ground and first floors were in use as an HMO similar to that indicated on the approved plans for planning permission 20/2146 and the internal alterations to deliver the proposed development would be relatively limited, I was not able to see the uppermost floor of the appeal property. Based on what I have seen, it is not possible to be certain that planning permission 20/2146 has been fully implemented and therefore it has not been demonstrated that there would not be a loss of a single family dwellinghouse. Even if it had been possible to confirm the use of the top floor of the appeal property, this would not have overcome my concerns about communal floorspace.
20. In the context of planning permission 20/2146, the appellant has highlighted the importance of making effective use of the property for a purpose for which there is local need. The appellant states that the appeal property is managed by a Registered Social Landlord (RSL) and provides accommodation for people in housing need, including some tenants who would otherwise be homeless. While this may well be the case, this assertion is not supported by any evidence of management by an RSL or by any analysis of the borough's housing requirements. The Council's postponement of an Article 4 direction in relation to changes of use to HMO in the borough would not alter this lack of evidence. Consequently, and notwithstanding the planning permission 20/2146, I find that it has not been demonstrated that there is a need for the provision of a 7 person/7 bedroom HMO.
21. In conclusion, the proposed development would not provide an acceptable quality of accommodation and it has not been adequately demonstrated that it would not result in the loss of a single family dwellinghouse or that there is local need for Housing in Multiple Occupation. Accordingly, it would be contrary to BCS Policy CP21, DMP Policies DMP1 and DMP20 and DBLP Policy BH7 as set out above.

Conclusion

22. For the reasons set out above, and having had regard to all other matters raised, the appeal should be dismissed.

Joanna Gilbert

INSPECTOR