



Appeal Decision

Site visit made on 8 March 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2022

Appeal Ref: APP/N5090/W/21/3284369

25 Prayle Grove, Cricklewood, London NW2 1BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mrs Nina Sadet against the Council of the London Borough of Barnet.
 - The application Ref 21/3429/FUL, is dated 21 June 2021.
 - The development proposed is change of use from a dwelling (C3 Use) to a 6 bedroom 6 person HMO (C4 Use) including construction of porch, part single, part two storey, side and rear extensions following demolition of existing garage.
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Decision

1. The appeal is dismissed and planning permission for change of use of the property from a dwelling (C3 Use) to a 6 bedroom 6 person HMO (C4 Use) including construction of porch, part single, part two storey, side and rear extensions following demolition of existing garage is refused.

Application for Costs

2. An application for costs was made by Mrs Nina Sadet against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. On the same day, but later, the Council produced a decision notice. As this post-dates the lodging of the appeal, it does not constitute a formal refusal of the application. I have therefore determined the appeal on the basis of the Council's failure to give notice within the prescribed period of its decision. However, I have had regard to the Council's decision notice and statement which provide clarity on the reasons why it would have refused planning permission had it been able to do so. The appellant has been able to comment on the Council's evidence, and I do not consider that they would be unfairly disadvantaged by my taking this course of action.
4. Although I note that it has been expressed differently elsewhere including on the appeal form and within the Council's evidence, neither of the main parties has provided written confirmation that a revised description of development from that entered on the planning application form has been agreed. I have therefore used this original description in the banner heading and my decision.
5. In response to concerns raised by an interested party regarding the ownership and title of the property, the appellant states that the application was properly made. I am unable to draw any firm conclusions on this point based on the

information that is before me. However, it would not alter my consideration of the planning merits of the proposal, and given that I am dismissing the appeal for other reasons, I have not found it necessary to pursue this matter further.

Main Issues

6. The main issues are:

- i) whether or not the proposal would meet an identified need;
- ii) the effect of the proposal on the character of the area and the living conditions of the occupiers of neighbouring dwellings with particular regard to noise and disturbance; and
- iii) whether or not the proposed parking arrangements would be acceptable having regard to the accessibility of the site and the effect of the proposal on the safe and efficient operation of the highway network.

Reasons

Identified Need

7. The appeal site includes a three-bedroom semi-detached dwelling within a small residential estate that is generally characterised by semi-detached properties. The appeal proposal includes extensions to the existing dwelling, and its conversion to a House in Multiple Occupation (HMO) for up to 6 people.
8. Policy DM09 of the Development Management Policies 2012 (DMP) states that proposals for new HMOs will be encouraged subject to considerations which include that they will meet an identified need. The appellant has drawn my attention to Policy H9 of the London Plan 2021 (LP) which requires boroughs to take account of the role of HMOs in meeting housing needs, advising that they are an important part of London's housing offer, reducing pressure on other elements of the housing stock. I have also been referred to the Mayor of London's Housing Supplementary Planning Guidance 2016 (SPG) which refers to HMOs as a strategically important housing resource, providing flexible and relatively affordable accommodation through the private market. The SPG further comments that HMOs play a particularly important role in supporting labour market flexibility, and in reducing pressure on publicly provided affordable housing.
9. I accept that there is likely to be a general need for a variety of housing to meet growing population needs in Barnet, and I do not doubt that HMOs can offer a form of low cost housing that may be attractive to students and occupiers who are on low incomes or seeking temporary accommodation. I also note a copy of a letter from Barnet Homes welcoming schemes that could assist in finding suitable accommodation for prospective Rent Deposit Scheme tenants who may include single and childless couples and clients under 35 years old. However, there is very little detail to demonstrate the extent of any needs, and the letter does not provide specific confirmation that the appeal proposal would suitably meet any needs that do exist.
10. While the site may be within short commuting distance of Middlesex University, there is no firm evidence of a shortage of suitable student accommodation locally. Nor have I been provided with specific evidence of a clear deficiency in accommodation in this area for people seeking temporary accommodation, or for key workers or those on low incomes who may include care workers, nurses and those employed in nearby retail, supermarkets or hospitals.

11. I note the existence of other HMOs locally and their apparent occupation levels, and the general presumption within Policy DM09 that existing HMOs that meet identified needs should be retained. However, while HMOs may form an important part of the housing offer in Barnet and across London, that is not in my view compelling evidence that there is a current need for additional accommodation of this type. Irrespective of the location of the site within the Brent Cross – Cricklewood Regeneration and Growth Area and near to bus stops, road corridors and an underground station, I am not satisfied that the evidence before me adequately demonstrates a need for the proposed HMO in accordance with the requirements of Policy DM09 of the DMP.
12. In addition, Policy DM08 of the DMP seeks to ensure a variety of sizes of new homes to meet housing needs and to provide choice for a growing and diverse population in the borough. It outlines that the highest priority for market housing is for homes with 4 bedrooms, followed by homes with 3 bedrooms which are a medium priority. The proposal would also result in the loss of a three-bedroom dwelling, and no compelling evidence has been provided to demonstrate that the need for properties of this size identified within Policy DM08 no longer persists. Indeed, while the Barnet Draft Local Plan carries limited weight in my decision given that it has not yet been adopted and is therefore subject to change, I note that Policy HOU02 gives greater importance to three-bedroom properties which it identifies as the highest priority for market housing. The Council also highlights that the majority of new housing delivered in the borough has been smaller flatted development, emphasising the importance of maintaining and increasing the supply of family housing.
13. The appellant has drawn my attention to other HMOs that the Council has approved without need having been demonstrated, but I am not bound by the previous decisions of the Council. In any event, I note that the text quoted from the Council's reports for 3 of the 4 examples suggest that those proposals were found not to be out of character with their surroundings, and I cannot be sure from the very limited details provided how the circumstances of the developments otherwise compare to the appeal scheme.
14. I also acknowledge appeal decisions referred to by the appellant where Inspectors have accepted a need for HMOs in the borough. From the limited details provided, I can draw little firm comparison between these examples and the circumstances of the appeal before me, although the appeal at Kenilworth Road appears to relate to a larger property which was not of a size that had been identified as being in greater priority need than HMOs. Moreover, even if there were found to be identified needs for HMOs in those cases, they do not demonstrate that there is a current need for an HMO here.
15. I am therefore unable to conclude that the development would meet an identified need, or that it would contribute positively to meeting the housing needs of different groups as sought by the National Planning Policy Framework (the Framework), and I find that the proposal would fail to accord with Policies DM08 and DM09 of the DMP.

Character and Living Conditions of Neighbouring Occupiers

16. Prayle Grove, along with Wallcote Avenue which runs between sections of this street, is generally characterised by semi-detached dwellings of mostly similar designs and modest scale. The appellant indicates that some buildings near to the site are used as HMOs, but the number is small, and the vast majority

appeared to me to be occupied as single family dwellings. The appeal site is near to a school, leisure centre and supermarket as well as Brent Cross shopping centre and flatted developments. However, my impression of the immediate vicinity of the site was of an area of fairly peaceful residential character.

17. The development includes fairly large extensions to the existing dwelling on the site, but would retain the form of a single dwelling externally, and in this regard the appearance of the building would not be out of keeping with the overall residential appearance of the street. The use would also remain residential. Nevertheless, the replacement of a house with an HMO would be contrary to Policy DM01 of the DMP which states that loss of houses in roads characterised by houses will not normally be appropriate.
18. In addition, the proposed HMO would accommodate up to 6 people. The occupiers would share facilities including a kitchen, but I consider that unrelated individuals would be unlikely in practice to function as a single household. Instead, each occupier of the HMO would be likely to have different schedules, make separate trips and receive individual visitors and deliveries. This would be likely to result in increased comings and goings at different times of the day in comparison to a single dwelling occupied by a similar number of people. In my judgement, the resulting level of activity would be of noticeably greater intensity than that associated with the existing and surrounding properties which are of generally modest size, and would lead to uncharacteristic noise and disturbance that would be detrimental to the existing residential character of Prayle Grove.
19. I have no firm reason to conclude that the HMO would not be properly managed or that individual occupiers would be likely to behave in an unneighbourly way. Nevertheless, the more intensive occupation of the building would in itself generate a marked increase in the concentration of activity on the site, including comings and goings to the property and usage of the shared garden. I acknowledge that the front entrance and kitchen doors would be set in from the boundaries of the site, but the separation to adjacent dwellings and particularly the attached neighbour at 27 Prayle Grove would not be large. Given the proximity of the development and external space around the building to neighbouring dwellings and their gardens, I consider that the level of activity that would accompany the proposal would be likely to be noticeable to neighbouring occupiers, and that associated noise and disturbance would detract from their living conditions, albeit to a modest degree.
20. I therefore conclude that the proposal would cause detriment to the character of the area and to the living conditions of the occupiers of neighbouring dwellings. Accordingly, it would conflict with Policies CS1 and CS5 of the Core Strategy 2012 and Policies DM01 and DM09 of the DMP which include requirements to broadly conserve and enhance the distinctiveness of Barnet and its character and amenity. There would also be conflict with guidance in the Residential Design Guidance Supplementary Planning Document 2016 and the Sustainable Design and Construction Supplementary Planning Document 2016 which generally seek protection for existing living conditions.

Parking Arrangements

21. Two parking spaces are indicated to the front of the site. Swept path analysis for these spaces has not been submitted, but I consider based on my

observations at my visit that it is likely that each space could be safely accessed independently.

22. The parking standards at Policy DM17 of the DMP do not specifically address requirements for HMOs, and I note the appellant's view that the requirement for 5 spaces suggested by the Council is excessive given generally lower levels of car ownership by occupiers of HMOs. However, even if I were to accept the Council's position and find there would be a shortfall of 3 spaces, I saw a substantial number of available on-street parking spaces at my visit on both Prayle Grove and Wallcote Avenue, as well as on Marble Drive which runs to the rear of the site and which is connected to Prayle Grove by a nearby footpath. I accept that this was a snapshot and that the situation may be different in the evenings and overnight. Nevertheless, many of the buildings along these streets also have some provision for off-street parking, and while I note representations referring to parking problems, there is no substantive evidence before me to indicate a high level of parking stress locally that would be harmfully exacerbated by the proposal.
23. In addition, the site is within reasonable walking distance of bus stops and an underground station, as well as a large supermarket, shops, leisure facilities and open space. Notwithstanding its location in an area identified as having poor accessibility to public transport, I am satisfied that occupiers of the development would not therefore need to rely on private vehicles to meet day to day needs, and I find that it would be suitably accessible.
24. The Public Sector Equality Duty (PSED) contained in the Equality Act 2010 requires due regard to needs which include to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act, and to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics include age and disability. However, there is no clear evidence before me that the development would unacceptably increase on-street parking pressure to a level that would cause congestion, detriment to the safe and efficient operation of the highway network or other harm. Any shortfall in parking provision would be relatively small, and having had due regard to the aims of the PSED, I do not consider that the proposal would be likely to result in unacceptable parking pressure.
25. No parking surveys are before me demonstrating on street parking capacity as generally required by Policy DM17 of the DMP, but for the reasons above, I conclude on this main issue that the proposed parking arrangements would be acceptable. I find that the proposal would accord with the objectives of Policies DM09 and DM17 of the DMP which seek, amongst other things, to ensure that HMOs are accessible and that parking associated with development is managed. The Council's reason for refusal also refers to Policy H9 of the LP, but its evidence does not explain how this policy would apply in this context, and it seems to me to be of less relevance here.

Other Matters

26. I have found that the proposal would be detrimental to the character of the area and the living conditions of the occupiers of neighbouring properties. In addition, it has not been adequately demonstrated that the proposal would meet an identified need for HMO accommodation, and given the loss of an existing dwelling which is of a type prioritised by the development plan, I have

been unable to conclude that the proposal would contribute positively to meeting the housing needs of different groups.

27. The proposal would accord with objectives within the LP and the Framework insofar as it would make effective use of the site to provide relatively low-cost accommodation within a location that is a focus for future growth and for optimisation of potential housing delivery. However, the benefits would be modest given the small scale of the development, and these considerations would not in my assessment be sufficient to outweigh the adverse impacts of the proposal and the resulting conflict with the development plan.

Conclusion

28. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR