



Appeal Decision

Site visit made on 24 May 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2022

Appeal Ref: APP/N5090/W/21/3288608

12 and 12a Queens Way, Hendon, London NW4 2TN

- 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 V Singhania against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/2036/FUL, dated 9 April 2021, was refused by notice dated 11 June 2021.
 - The development proposed is change of use of the property from a single-family dwelling (Class C3) to a House in Multiple Occupation (HMO) (Class C4) for up to 6 people. Sub division of the property to form 1no self-contained dwelling (Class C3). Erection of a side canopy.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the development provided on the planning application form has been replaced by amended versions on the decision notice and in subsequent appeal documents. In Part E of the appeal form it is indicated that the description has changed, and the wording given by the appellant reflects the description used by the Council on its decision, albeit with the omission of reference to a proposed side canopy. I have therefore used the description as given on the Council's decision notice as I consider that it accurately represents the proposal on which the Council made its decision.
3. Subsequent to the submission of this appeal, two decisions have been issued in respect of enforcement appeals relating to this site. The main parties have had the opportunity to comment on these decisions.
4. At my visit I saw that the property was in use as a HMO.

Main Issues

5. The Council's second reason for refusal relates to the effect of a side canopy on the character and appearance of the area. The appellant has stated that they wish to amend the proposal to exclude the side canopy. This could be achieved through an appropriate condition or by issuing a split appeal decision should I be minded to allow other elements of the proposal. The Council considers that there would be no clear prejudice to any parties subject to an appropriate condition in respect of the side canopy, and I see no reason to disagree.

6. On that basis, the main issues in this appeal are:

- Whether the proposal would comply with development plan policy regarding HMOs, with due regard to housing need as well as character and amenity; and
- The effect on the living conditions of residents of nearby properties with regard to noise and disturbance.

Reasons

Development Plan Policy, and Character and Amenity

7. Policy DM09 of the Local Plan Development Management Policies 2012 (the DMP) sets out a number of criteria where proposals for new HMOs will be encouraged. This includes the provision that they meet an identified need.
8. The Council has implemented an Article 4 Direction across the borough requiring planning permission for any change of use from buildings used as dwelling houses (Class C3) to buildings used as small-scale houses in multiple occupation (Class C4). This indicates that there is a need for family housing in this area which could be exacerbated through the loss of dwellings to HMOs.
9. The appellant refers to evidence including the Council's SHMA update (2018) which identified a growing demand for HMOs across the borough, as well as the proximity of the site to Middlesex University and the importance of private rented accommodation in meeting demand for student accommodation. However, it has not been demonstrated that the demand for HMOs is not being catered for, and in respect of student accommodation the Council refers to the provision of a new 1,000 bed student village. Whilst there may be demand for HMOs in this area, as evidenced by the level of occupation of the appeal property, this does not equate to there being an identified need arising from, for example, a lack of supply.
10. The appellant emphasises that the proposal would retain part of the property as a 3-bed family dwelling, and they contend that the SHMA identifies a greater need for this form of accommodation compared to the pre-existing exceptionally large dwelling. However, I am mindful that the subdivision of the site could provide two family dwellings for which the evidence suggests there is an identified need. In principle, the retention of a family dwelling on this site does not negate the requirements of Policy DM09.
11. A previous appeal for a Large HMO has previously been dismissed at this site. The appellant refers to a higher threshold of evidence in respect of need for a Large HMO, and that evidence within the SHMA and proximity to the university should be sufficient in respect of the appeal before me which relates to a Small HMO. However, Policy DM09 is clear in referring to an 'identified need' regardless of the size of the HMO, and reference to demand would not be sufficient evidence to meet that requirement.
12. Based on the evidence before me, it has not been demonstrated that the need for HMOs is greater than the need for family housing. Whilst a family dwelling would remain on the site, this does not indicate that the proposal would comply with development plan policy with regards to the mix and balance of housing in this area.

13. Policies GG2 and H2 of the London Plan 2021 relate to making the best use of land and the contribution that small sites can make to meeting housing needs. The appellant emphasises that the proposal would represent the incremental intensification of a residential area with good access to services, and that the London Plan also refers to the contribution from residential conversions. However, policy H2 refers to meeting housing needs, and for the reasons set out previously I am not persuaded that a need for the proposed HMO has been demonstrated. In any event, it would also be possible to incrementally intensify the use of the site for a form of residential development which would not conflict with policy DM09 of the DMP and which would meet the need for an increase in family housing supply.
14. Policy DM09 of the DMP also requires proposals to demonstrate that they will not have a harmful impact on the character and amenities of the surrounding area. The proposal would retain the design of the existing building, and subject to a condition requiring the removal of the existing side canopy it would not be out of character with this residential cul-de-sac.
15. However, the nature of occupation of the HMO would be materially different from the other family dwellings within this cul-de-sac. The use of the property as a HMO for six occupants would significantly increase the number of comings and goings compared to those that would normally occur in respect of a single occupancy dwelling, which would have greater potential for shared journeys. This would particularly be the case if the HMO was used to accommodate students, where movements to and from the property would be different from those of a single family, particularly at unsociable hours.
16. Reference has also been made to the turnover of residents of HMOs and that student tenants may only occupy the property at certain times of year. The nature of occupation of the HMO use would therefore not reflect that of family accommodation on this cul-de-sac, with subsequent harm to the social character of the area.
17. The proposal would also be likely to lead to an increase in the number of vehicles parked in association with the site as well as an increase in vehicle movements, in contrast to a family dwelling where vehicle numbers would be limited due to the potential to share trips. The intensity and form of activity associated with the proposed HMO would be noticeably different from the family dwellings which make up this cul-de-sac, with resultant harm to the character and amenity of this group of dwellings.
18. The appeal site is close to the busy highway of Queens Road, and the appellant refers to flatted developments along this road. However, the cul-de-sac of Queens Way is a suburban enclave of a distinctly different character to development along Queens Road, and the form of development in the wider area does not lead me to a different conclusion in respect of the character of the setting of the appeal site.
19. I conclude that it has not been demonstrated that there is an identified need for a HMO at the appeal site. The proposal would also lead to significant harm to the character and amenity of the area. The proposal would therefore conflict with policy DM09 of the DMP in respect of meeting an identified need for HMOs as well as the effect on character and amenity. The proposal would also conflict with policies CS NPPF and CS5 of the Core Strategy 2012 as well as DM01 of the DMP with regards to matters including sustainable development, respecting

local context and character, and community cohesion. The proposal would also not comply with the advice of the Supplementary Planning Document: Residential Design Guidance 2016 (the Residential SPD) with regards to the conversion of houses to HMOs in roads characterised by houses.

Living Conditions

20. As indicated previously, the appeal proposal would introduce a greater number of comings and goings compared to a family dwelling. Even given the amount of accommodation provided by the pre-existing dwelling on the site, the proposed HMO would lead to a use of a distinctly different nature and intensity compared to dwellings on this cul-de-sac. The intensity of use and the increased movements to and from the site would lead to an unacceptable increase in noise and disturbance to nearby residents.
21. Reference has also been made to activity associated with HMOs taking place at unsociable hours, where residents may be more active late at night or in the early hours, particularly if accommodation is provided for students. The nature of this activity would be distinctly different to that associated with neighbouring family accommodation, with subsequent harm to the living conditions of nearby residents due to noise and disturbance.
22. The appeal site is located close to the junction with Queens Road, meaning that residents would not have to pass through much of the cul-de-sac to access the HMO. I also observed that there is a higher level of traffic movements along Queens Road, with commensurately higher background noise levels. However, the appeal site faces onto Queens Way and is set within the context of this residential enclave, and given the relationship with other dwellings on this cul-de-sac, activity associated with the proposal would be readily apparent to nearby residents.
23. The HMO licence includes provisions to address matters of anti-social behaviour. However, given the nature of this cul-de-sac of family dwellings, I consider that unacceptable noise and disturbance would be likely to occur from even the normal day to day use as a HMO.
24. I conclude that the proposal would lead to significant harm to the living conditions of nearby residents with regards to noise and disturbance. The proposal would therefore be contrary to the amenity and environmental quality requirements of policies CS1 and CS5 of the Core Strategy; policies DM01, DM02, DM04 and DM09 of the DMP; which together, amongst other things, seek to ensure that new development protects the living conditions of neighbouring residents. It would also fail to comply with the guidance of the Residential SPD in respect of ensuring that existing occupiers enjoy a high standard of amenity and the principle of conversions to HMOs in areas of predominantly single family houses; and the Supplementary Planning Document – Sustainable Design and Construction 2016, which provides guidance on protecting residential amenity.

Other Matters

25. I am mindful that my conclusions reflect those of the Inspector regarding a previous appeal in respect of a Large HMO, whereas the current appeal relates to a Small HMO for 6 residents. However, although I have had regard to that

previous decision, I have determined this appeal on its own merits, including consideration of the proposed number of residents.

26. Comments from the Council's planning department have previously indicated that they would support a 7 person HMO at this site, albeit subject to details. However, such comments are made without prejudice to the Council's decision on a planning application, and do not lead me to a different conclusion in respect of the harm arising from the proposal and the conflict with the development plan.
27. I saw that the HMO provided good quality accommodation, and that residents have good access to services and facilities in the area. However, these matters are not sufficient to outweigh the harm that I have identified.

Conclusion

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

David Cross

INSPECTOR