



Appeal Decision

Site visit made on 25 July 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2022

Appeal Ref: APP/N5090/W/21/3284811

197 Hendon Way, London NW2 1JJ

- 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 21/3510/FUL, is dated 24 June 2021.
 - The development proposed was originally described as change of use from a dwelling (C3 use) to an 8 bedroom 9 person HMO (sui generis use) including demolition of the existing garage, new front porch, roof extension involving rear dormer window new gable window to side elevation and part single, part two storey side and rear extensions.
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Decision

1. The appeal is dismissed and planning permission is refused.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

Preliminary Matters

3. The appeal is against the non-determination of a planning application. The Council's submission sets out that they would have refused planning permission for reasons relating to the need for the development, character and appearance of the surrounding area as well as living conditions of existing and future occupiers.

Main Issues

4. The main issues are:
 - Whether the proposed HMO meets an identified need, having regard to local planning policy;
 - The effect of the proposed development on the character and appearance of the surrounding area;
 - The effect of the proposed development on the living conditions of neighbouring occupiers, having regard to noise and disturbance; and
 - Whether the proposed development would provide acceptable living conditions for future occupants, having regard to outlook.

Reasons

5. Planning permission was granted in 2018 for the conversion of the host dwelling into four flats which included various extension elements and alterations¹. That permission has now expired, nonetheless there is nothing before me to demonstrate that planning permission would not be likely to be granted in the same terms, for that development, now. Therefore, I have considered that approval in reaching my decision.

Need

6. Policy DM09 of the Barnet's Local Plan: Development Management Policies Development Plan Document (2012) (DMP) states that proposals for new HMO will be encouraged provided that they meet an identified need, can demonstrate that they will not have a harmful impact on the character and amenities of the surrounding area, are easily accessible by public transport, cycling and walking and meet the relevant housing standards for HMO.
7. The appellant has provided evidence to demonstrate that there is a lack of single person accommodation in the Borough and identified need. They consider that the location of the site lends itself to providing valuable low-cost accommodation to the local student population and low income workforce in a sustainable and accessible area. In addition, they have drawn my attention to an extract from the Borough's HMO register as well as planning approvals² and appeal decisions³. They state that there is both a theoretical and a practical need for HMO accommodation in this instance.
8. The appeal decisions cannot be directly compared to the scheme before me. This is because, based on the available evidence, the host building is currently a single family dwelling rather than occupied by students or a HMO with existing tenants which was the case in those decisions. The appellant's case is limited in justifying that there is a true need for HMO accommodation in this location. The appellant has not clearly demonstrated that there is an identified need and therefore, in this regard, the proposal would conflict with Policy DM09 of the DMP.
9. Nonetheless, the appeal site is situated in a mixed character area where there are HMO's and the Council highlights that the principle of the conversion of the host building may be supported. I also recognise that in other decisions, the Council has taken the view that a lack of demonstrated need would not alone represent a reason for refusal if the scheme is acceptable in other regards and considering other matters such as the character of the area.

Character and appearance

10. The appeal site consists of a two-storey, semi-detached dwelling set back from the road. The dwelling currently has a driveway to the front and side leading to a garage. The proposed development includes various extension elements. The Council's main concern in this regard relates to the ground floor side/front element of the extension. The Council highlight that the previously approved scheme had originally proposed a front projecting extension, similar to the appeal scheme, but it was amended by setting it back from the front wall.

¹ 18/4141/FUL

² Including 20/4945/FUL, 20/3362/FUL, 20/1733/RCU, 18/6245/FUL, and 18/3970/FUL

³ Including APP/N5090/W/18/3204546 and APP/N5090/C/19/3233746

Therefore, the approved scheme cannot be directly compared to the proposal before me.

11. The dwelling currently has a porch which projects beyond the bay window and reads as a subordinate addition due to its scale. The proposed ground floor side/front extension would not be stepped back from the front elevation, would be adjacent to the side boundary and would add a significant amount of bulk towards the front of the dwelling.
12. The extension would be conspicuous from the surrounding area due to the openness to the front of the host property, including low boundary treatment. This element of the scheme would result in a dominant and incongruous addition due to a combination of its siting in front of the bay window, scale, depth and width. The neighbouring properties towards the north, including Nos 199-205, are set back from the host property which would exacerbate the prominence and front projection of the extension.
13. I observed that some nearby properties, including No 207 Hendon Way, had similar extensions. Extremely limited information has been submitted with regards to those extensions and therefore I cannot be certain that the circumstances are the same as the scheme before me. On my site visit I observed that extensions generally did not appear dominant in the street scene. In any event, each application must be determined on its individual merits. The presence of other extensions within the surrounding area does not represent justification for harmful development at the appeal site.
14. The proposed drawings show waste and refuse storage as well as cycle parking to the front of the dwelling. As stated above, the appeal dwelling is set back from the highway and benefits from a large front driveway. I observed on my site visit that waste and refuse bins were currently stored to the front of the host dwelling and this was also the case for dwellings in the surrounding area. I recognise that the proposal would result in an increased presence of waste and refuse storage and cycle parking to the front of the dwelling. However, I do not consider this would have an unacceptable effect to warrant planning permission being refused in this regard. This is due to the large driveway, existing storage arrangements at the appeal site and elsewhere.
15. For these reasons, although I have found the waste and refuse storage and cycle parking arrangements to be acceptable, the proposed ground floor side/front extension would be visually harmful to the character and appearance of the surrounding area. Consequently, it would conflict with Policies CS1 and CS5 of the Barnet's Local Plan: Core Strategy Development Plan Document (2012) and Policy DM01 of the DMP. These policies seek, amongst other matters, to ensure new development respects local context and creates places and buildings of high quality design. It would also conflict with the Council's Residential Design Guidance Supplementary Planning Document (2016) (SPD). This states that extensions should reflect the design of the original building, whilst having regard to the character of the area.

Living conditions- existing occupiers

16. The drawings show that the existing dwelling has four bedrooms. On the basis of the information before me, the proposed development would change the use of the property from a single family dwelling to an eight bed, nine person HMO. The dwelling adjoins No 195 Hendon Way and there is a limited gap between

the host property and No 199 Hendon Way which would be reduced due to the proposed extensions.

17. The appellant asserts that the HMO would be licensed and the licensing regime addresses issues such as anti-social behaviour and the property would be well-managed by the appellant. They have also highlighted the location of the front entrance and communal kitchen in relation to neighbouring properties as well as approved developments in the locality⁴ and appeal decisions.
18. I do not have the full details of these cases and so cannot fully determine whether the circumstances are comparable to the scheme before me. Nonetheless, it appears that the existing use of the host building compared to the proposed use and proposed increase in bedrooms cannot be directly compared to those approvals. Similarly, the proposed development cannot be directly compared to the approved scheme at the appeal site given the difference in bedroom numbers. Thus, the proposal would have a greater impact than the lapsed planning permission.
19. The occupiers of an HMO are likely to lead independent lives from one another. Families occupying a single dwelling, even a large one, are more likely to carry out day to day activities together as a household. On the basis of the information before me, it is likely that the scheme would significantly increase the level of activity, comings and goings as well as noise and disturbance which would be detrimental to the occupiers of neighbouring residential properties.
20. This is because of the proposed increase in bedrooms and occupiers of the proposed HMO use compared to the size of the current dwelling. Furthermore, the activity generated by at least eight persons living independent lives, with separate routines and their comings and goings along with those of their visitors, would lead to a level of activity that would be more significant and intensive than that which could reasonably be expected to be associated with a single family dwelling, even one occupied by a large family.
21. For these reasons, the proposed development would have an unacceptable effect on the living conditions of the occupiers of neighbouring residential properties, in particular Nos 199 and 195, having regard to noise and disturbance. Consequently, it would conflict with Policies DM01 and DM09 of the DMP. These seek, amongst other matters, to ensure proposals for new HMOs will not have a harmful impact on the amenities of the surrounding area. It would also conflict with the National Planning Policy Framework which seeks to ensure that developments create well-designed places with a high standard of amenity for existing and future users.

Living conditions- future occupiers

22. The proposed floor plan drawings show that bedroom 7 would only be served by a rooflight. The proposed side elevation shows a high level window serving this bedroom too. Given that the scheme relates to a HMO and there is only one communal room, it is likely that future occupiers would spend a reasonable amount of time within their bedroom. It is therefore important that the bedrooms have an adequate outlook. The proposed development window arrangement would not provide a meaningful or acceptable outlook for future occupiers of bedroom 7 and would result in low quality accommodation.

⁴ Including C15920C/07 and 21/5300/FUL

23. For these reasons, the proposed development would not provide satisfactory living conditions for future occupants, having regard to outlook. Consequently, it would conflict with Policy D6 of the London Plan (2021) and Policies DM01 and DM02 of the DMP. These policies seek, amongst other matters, to ensure development proposals are designed to allow for adequate outlook for potential occupiers. It would also conflict with the SPD which states that all habitable rooms should contain at least one main window with an adequate outlook. In addition, it would conflict with the Council's Sustainable Design and Construction Supplementary Planning Document (2016) which states that bedrooms should have a reasonable outlook.

Other Matters

24. The appellant has raised a number of other matters including frustrations with the Council and the scheme would make an important contribution to housing. The Council's reasons for refusal refer to their adopted standards for Houses in Multiple Occupation and Policy DM17 of the DMP. However, it is unclear why the development would conflict with them. Based on the evidence presented, the other matters do not lead me to a different overall conclusion on the main issues.

Conclusion

25. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

L Wilson

INSPECTOR