



---

## Appeal Decision

Site visit made on 1 August 2022

**by Elizabeth Pleasant BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 August 2022**

---

**Appeal Ref: APP/N5090/C/21/3271489**

**Land at 10 Highbury Square, London N14 5AE**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Kapil Gadlay against an enforcement notice issued by the Council of the London Borough of Barnet.
  - The enforcement notice was issued on 9 February 2021.
  - The breach of planning control as alleged in the notice is: Without planning permission the use of the property as a C4 House in Multiple Occupation.
  - The requirements of the notice are: Cease use of the property as a House in Multiple Occupation.
  - The period for compliance with the requirements is 8 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been made on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act, as amended.
- 

### Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and building at 10 Highbury Square, London N14 5AE, as shown on the plan attached to the notice, as a C4 House in Multiple Occupation.

### Appeal on ground (a), deemed planning application

#### Main Issues

2. The main issues in this case are the effect of the development on:
  - housing provision, having regard to local planning policy;
  - the character of the area and living conditions of neighbouring residents; and
  - demand for on street parking.

#### Reasons

##### *Housing provision*

3. The Council are concerned that the use of the property as a House in Multiple Occupation (HMO) has resulted in the loss of a single family dwellinghouse for

which there is a known demand in the area. Moreover, they contend that the appellant has not demonstrated that there is an identified need for an HMO in this location. Policy DM09 of Barnet's Local Plan Development Management Policies, adopted September 2012 (DMP) states that proposals for new HMO will be encouraged provided they, amongst other criteria, meet an identified need.

4. In response the appellant has on two separate occasions conducted a search on the 'Spareroom' website which revealed 279 people seeking rooms in Southgate in March 2021 and 486-persons in August 2021. Furthermore, he states that since the property was converted in 2017 it has always been fully let. The DMP recognises that HMO are an important source of low cost, private sector housing and the evidence from 'Spareroom' suggests that there is a clear demand for such accommodation in Southgate. However, demand alone does not show that there is an identified need for this type of accommodation. In this regard the appellant has sought to establish the availability of HMO accommodation in the area. Evidence from Barnet Council HMO register in February 2021 indicated that there are five licensed HMOs, including the appeal property in Southgate. Based on an estimate of each HMO having five rooms available the appellant suggest that this would indicate that there were 25 HMO rooms available at the time when 279 people were seeking a room in Southgate.
5. I appreciate that the evidence provided by the appellant is relatively crude and does not take into account the supply of other accommodation which may provide rooms to let. However, the Council has not supported its case with any evidence on the Borough's current housing provision, nor have they sought to refute the appellant's evidence on supply and demand of HMO accommodation.
6. From the evidence available, I am satisfied that a need for HMO accommodation in Southgate has been demonstrated. Consequently, the use of the property as an HMO there is no conflict with Policy DM09 of the DMP which encourages HMOs in areas where there is an identified need.

#### *Character and living conditions*

7. The appeal property is a three-storey mid-terraced dwelling. It forms part of Highbury Square which has a courtyard setting whereby the dwellings have frontages onto a private drive and amenity area. There is a private parking and garage court to the rear. It is in a residential neighbourhood, close to Southgate town centre and public transport routes.
8. No 10 is a four bedroomed property and currently occupied by five people. It has an enclosed private rear garden with a shed, and two off street parking spaces are allocated to the property within the parking courtyard to the rear. From the evidence before me, including observations on my site visit, the dwelling is of sufficient size and its layout and external areas would provide suitable living conditions for use as a small shared house (Class C4, HMO).
9. The property has been operating as a small HMO since 2017, and I have not been provided with any evidence that the use has created an unbalanced community. The property has a modest curtilage, with adequate space for cycle storage and refuse/recycling storage. The appellant states that a gardener is employed to regularly maintain the front and back gardens. In addition, it is understood that the three bins provided for the property are

sufficient for the refuge generated by the tenant's and there has never been an issue with waste. From observations on my site visit, the appeal property displays the same visual characteristics as other properties in the street which are in family or single person occupancy. I saw no evidence of unkept gardens or accumulation of litter.

10. The Council are concerned that the level of activity and patterns of usage and behaviour of unconnected persons living together is likely to be very different from residents living as a single household and there is a greater potential for increased noise and disturbance to neighbouring residents.
11. The property is currently occupied by five people, spread over four households. However, as a small HMO it has the potential to be occupied by up to six unrelated persons. Consequently, with a small HMO there would be comings and goings and some general noise and disturbance. The housing on Highbury Square and the neighbouring streets is generally of the family type. I consider that the noise and disturbance from the comings and goings of students, professionals or other unrelated adults would not be significantly different to that from a large family, where there would potentially be journeys to work, school and social events.
12. I understand that the property has been operating as an HMO since 2017. I have not been provided with any evidence or observations of anti-social behaviour relating to this HMO which would support concerns relating to noise and disturbance. The potential forms of noise and disturbance such as playing loud music, partying, or social activity in the garden would not necessarily be more likely to cause harm to neighbouring residents than would be the case with a large family living in this property with teenagers who may engage in similar activities.
13. For the reasons given above I conclude that the development does not cause harm to the living conditions of the occupants of neighbouring properties and does not have a harmful effect on the character of the area. There is no conflict with the development plan and in particular with Policies CS NPPF, CS1 and CS5 of Barnet's Core Strategy, 2012 which, amongst other things, seek to secure sustainable development which protects and enhances Barnet's character. I also find no conflict with the character and amenity aims of Policies DM01 and DM02 of the DMP, nor those set out in the Council's adopted Residential Design Guidance SPD, 2016 and Sustainable Design and Construction SPD, 2016.

#### *Parking provision*

14. The Council are concerned that the use of the property as an HMO is likely to increase demand for on-street parking which would be harmful, albeit they do not say why it would be harmful.
15. The existing property has two parking spaces dedicated to it within a shared parking courtyard to the rear of the house. From observations on my site visit, there are also a number of parking areas available on the private drive in front of Highbury Square, whilst there are parking restrictions on the adjacent Oxford Avenue. There is also a shed in the rear garden which provides for cycle storage. Furthermore, the property is located within walking distance of Southgate town centre where there are shops and other services as well as public transport routes.

16. The appellant believes that none of the current tenants have cars, although I noted on my site visit that one of the dedicated spaces for the property was being utilised. However, it seems to me that given the nature of the accommodation provided, and its accessibility to public transport routes and local services, it is unlikely that all the tenants of the property would own a car. Furthermore, I have not been provided with any evidence that would suggest that the surrounding area suffers from parking stress, nor that on-street parking would be detrimental to interests of highway safety.
17. Policy DM17 (g) of the DMP does not set a parking requirement for HMOs. However, for 4-bedroom houses and flats with four or more bedrooms it suggests a maximum of 2 spaces. The HMO has four bedrooms and two spaces available to it. Given the absence of any identified highway safety concerns, and the property's accessibility to services, I am satisfied that the two spaces available are sufficient for the use of the property as an HMO, and there would be no conflict with the development plan, including Policy DM17 of the DMP, the Council's Residential Design SPD and Sustainable Construction SPD.

### **Conclusion**

18. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the use as described in the notice.

*Elizabeth Pleasant*

INSPECTOR