



Appeal Decision

Site visit made on 1 August 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2023

Appeal Ref: APP/N5090/W/23/3317259

58 Sevington Road, Hendon, Barnet, London NW4 3RX

- 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 D Fahiman against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/5667/FUL, dated 24 November 2022, was refused by notice dated 2 February 2023.
 - The development proposed is described as 'Demolition of existing garage. Part single, part two storey side and rear extension. Roof extension including hip to gable, side and rear dormer windows and rooflights to front and rear roof slopes. Raised patio and associated steps to garden. Conversion of property from a 6-bedroom, 6 person Class C4 HMO to a 3- bedroom flat at ground floor level and a 5-bedroom, 5 person Class C4 HMO at upper floor levels. Provision of refuse and cycle storage'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - the living conditions of occupiers of neighbouring dwellings, with particular regard to noise and disturbance; and
 - the living conditions of occupiers of No. 56A Sevington Road, with particular regard to overlooking.

Reasons

Character and Appearance

3. The appeal site is a two storey semi-detached property located within a tree-lined residential street. The property is a HMO currently licensed for 5 persons. The immediate area surrounding Sevington Road comprises of predominantly traditional family sized two storey dwellings and has a distinctly suburban residential character with two nearby primary schools.
4. The current 5-person licensed HMO limit or the fallback position of a 6-person limit permitted by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) at the appeal property means that, whilst the comings and goings associated with the property could be higher than a typical family house, it does not have a disproportionate impact on the character of the immediate surrounding area and the prevailing residential environment.

5. The proposed development includes significant extensions to the existing property. The Council's main concerns in this regard are that the existing property is not large enough to be converted to the proposed 5-bedroom HMO and 3-bedroom flat without such extensions, the scale of which would not only have a harmful effect on the appearance of the host property and the area but, as a result of the increased occupation, also on the character of the area.
6. In terms of the proposed use of the appeal property, regardless of the number of separate households that would be created, the proposed extensions and sub-division of the property to create an additional 3-bedroom flat would be likely to increase the number of residents to at least 8 if all the bedrooms were occupied. I note that each bedroom in the proposed flat would include an en-suite bathroom and the bedrooms would accommodate a double bed. It would therefore be possible to accommodate 6 people in the flat, leading to an overall potential occupancy of 11 people in this semi-detached appeal property. I consider the likely activities that would be generated by a 3-bedroom flat to be significantly different to that generated by one additional bedroom within the existing HMO.
7. Although the flat could be occupied by a family who may come and go together rather than occupiers of a HMO which would be more likely to be associated with an independent lifestyle, the level of activity would be significantly in excess of that which would result from a Class C4 HMO alone or a large single family dwelling. Moreover, there would be no certainty that the flat would be occupied by a family.
8. The appeal property is already an HMO and I find no substantive evidence that this would change if I dismissed this appeal. However, the proposal would increase the bedspaces at the property and therefore the number of individuals coming and going from the property. It would result in a further intensification of the use of the building which in turn has the potential to harm the character of the area.
9. Whilst both parties agree that there are HMO's and flats in the local area, no evidence has been provided to indicate how many or that there is a saturation of such accommodation in the area. Based on the evidence before me, and my observations during my site visit, while there were several commercial properties, HMO's and purpose built flats on Vivian Avenue, the character of the area in the vicinity of the appeal property appeared to me to comprise of single family dwellings in a relatively quiet residential neighbourhood. Even if there are existing HMO's in the area, no evidence has been presented to me to indicate that they are anything other than C4 small HMO's.
10. In my view, the activities that would be associated with the proposal would be of noticeably greater intensity than that associated with either the existing HMO or the fallback of a 6-person HMO. The proposed 3-bedroom flat would generate its own comings and goings and there would be a likely increase in visitors, deliveries and domestic paraphernalia.
11. In the context of this part of Sevington Road, I find the proposed development would lead to a marked increase in occupancy which would diminish the prevailing residential character of the immediately surrounding area.
12. In respect of the proposed extensions, there is no dispute between the parties that the proposed part single and part two storey side extension would comply

with the Council's Residential Design Guidance Supplementary Planning Document 2016 (RDG), being less than half the width of the original dwelling and set back at first floor. I also note the Council have no concern regarding the proposed single and first floor rear extensions or raised patio. The proposed hip to gable roof alteration would also reflect other similar roof alterations to semi-detached properties in the street that I observed at my site visit and the extant fallback permission¹.

13. Both the proposed rear and side dormers would be set down from the ridge and up from the eaves and similarly reflect the scale and design of many other dormers in the area, including those at the adjacent property, No. 56A Sevington Road.
14. Cumulatively, whilst the proposed extensions would be substantial and clearly visible from Sevington Road and Graham Road at the rear, they would not appear out of scale, design or appearance with the host building nor incongruous or overly dominant in the context of the surrounding character and appearance of the area. I consider the appeal property 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.
15. The Council has raised a concern in relation to the levels of refuse that would arise from the increased use of the property and the resultant need for storage on the front driveway which would be unsightly. However, there is currently no bin store at the property and bins are left on the driveway. The proposed plans indicate that a contained bin and bike store would be provided which would improve the appearance of the site's frontage.
16. The RDG states, amongst other things, that where a conversion of a single family home into a small HMO or subdivision into flats is proposed the property should be large enough to be converted without the need for substantial additional extensions. However, even though proposed extensions would be likely to be necessary to facilitate the additional 3 bedroom flat within the building, the appeal property is already an HMO, therefore the guidance is not wholly applicable in this regard. Whilst I have found that the form and scale of the extensions would be acceptable, which would be the case even if the property was a large single family dwelling, the RDG does recognise that conversions can harm the character of areas through increased activity.
17. Notwithstanding my finding that the proposed external alterations alone would not harm the appearance of the host building or surrounding area, in the context of this part of Sevington Road, I conclude that the overall proposal would unacceptably harm the prevailing character of the area, with particular regard to the intensity of occupation of the building.
18. Accordingly, the proposal would conflict with Policies CS1 and CS5 of the Barnet Local Plan Core Strategy Development Plan Document 2012 (CS), Policy DM01 of the Barnet Local Plan Development Management Policies Development Plan Document 2012 (DMP) and Policy D3 of the London Plan 2021 which together, amongst other things, 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 RDG and the Sustainable Design and

¹LPA Ref: 22/3497/192

Construction Supplementary Planning Document 2016 (SDC) which generally seek development that respects local context.

Living Conditions – Noise and Disturbance

19. As set out above, the proposal would increase the occupancy of the appeal property. Even if the number of occupants only reflected the proposed number of 8 bedrooms, the additional comings and goings would nevertheless generate a marked increase in the concentration of activity on the site.
20. Due to the semi-detached nature of the building and the limited separation to adjacent properties, the increased level of activity that would accompany the proposal would be particularly noticeable to occupiers of the neighbouring properties, particularly the attached neighbour at 60 Sevington Road and the occupants of No.56A.
21. In my judgement, the resulting level of activity would be of distinctly greater intensity than that associated with the existing and surrounding properties. It would lead to increased noise and disturbance that would be detrimental to the neighbouring residents' living conditions.
22. I recognise that the private rear outdoor garden area would be used solely by occupants of the proposed 3-bedroom ground floor flat. Consequently, there would be little difference with regards noise and disturbance to its current use by the occupants of the existing HMO. Nonetheless, this would not outweigh the harm I have found would occur with regard to the increased activity at the front of the property in terms of comings and goings.
23. I therefore conclude that the proposal would unacceptably harm the living conditions of the occupiers of neighbouring dwellings with particular regard to noise and disturbance. Accordingly, it would conflict with Policy DM04 of the DMP and Policy D14 of the London Plan which, amongst other things, seek to manage noise and protect noise sensitive uses. There would also be conflict with guidance in the RDG and the SDC which generally seek to protect existing living conditions.

Living Conditions – Overlooking

24. The neighbouring property has been split into two properties, No. 56A and No. 56 Sevington Road. The Council refer to the effect of the proposal on the occupants of an existing side dormer which faces the appeal site at No.56. However, from my observations on site, this dormer is located at No.56A Sevington Road (No.56A). The evidence presented confirms that this dormer was constructed under permitted development rights. It has also been put to me that the window in the dormer should have been fitted with obscure glazing and non-opening below 1.7m in order to comply with the relevant conditions and limitations of permitted development rights.
25. I observed at my site visit that there were three windows in the existing side facing dormer at No.56A which would face the windows on the proposed side-facing dormer at the appeal property at extremely close distance. I also saw that the largest of the dormer windows was clear glazed and had curtains. The Council state that this room is a habitable and this is not disputed by the appellant. No information has been provided to indicate how long the windows in this dormer have been clear glazed or what the Council's intentions are in respect of the clear glazing. On the basis of the evidence before me and my

observations, it is clearly apparent that future occupants of the proposed bedroom 2.5 as shown on drawing number: 22684-HCD-ZZ-02-DR-A-Rev C01 would overlook occupants in the side facing dormer of No.56A. This would unacceptably infringe on the privacy of the occupiers of this property.

26. The appellant has indicated a willingness to accept a condition which would ensure the window on the proposed side facing dormer would be obscurely glazed and fixed shut. However, even though there would also be two small rooflights to the proposed bedroom 2.5 that, together with the dormer window, would provide adequate light and ventilation to the room, requiring the main window to be obscurely glazed would not provide an adequate outlook for occupants of the room.
27. I appreciate that a bedroom is a room for sleep, however, in a HMO, the bedrooms usually form its occupiers' principal private space and usefully serve as a private room during the day for study, home working or quiet relaxation. Whilst the rooflights may provide an adequate source of natural light, their position within the angled roof slope, even positioned at eye level, with views skyward, would not provide suitable levels of outlook for these functions, resulting in unacceptably oppressive conditions for any users/occupiers of this room. Therefore, the use of a condition to require that the dormer window is obscurely glazed and non-opening would not make the development acceptable and would not meet the tests for conditions set out in the PPG².
28. Given the above, I find the proposal would not provide acceptable living conditions for occupiers of the neighbouring residential property at No.56A Sevington Road with particular regard to overlooking. The proposal therefore conflicts with Policy DM01 of the DMP and Policy D3 of the London Plan which both seek, amongst other things, that development provides an acceptable level of privacy for future and neighbouring residents. Albeit guidance, the proposal would not accord with either the Council's RDG or the SDC which advises that the use of opaque glazing should be avoided in order to provide an outlook.

Other Matters

29. The appellant has cited the extant permission as a potential fallback position that they could pursue should the appeal be dismissed. Whilst this option could be pursued, and is a material consideration, given that it relates to extensions to the appeal property only and would not include a 3-bedroom flat in addition to a HMO, it is not directly comparable to the appeal before me. Nevertheless, even though I consider there would be a real prospect that the fallback permission would be implemented should the appeal be dismissed, given that I have found no harm to the appearance of the host property or the surrounding area with regard to the proposed extensions, and the fallback scheme is of a much smaller scale, it is likely that the fallback scheme would have a lesser impact than the proposed development in this regard. Accordingly, I afford the potential fallback position limited weight.
30. Several other appeal decisions have been drawn to my attention as potential fallback positions by the appellant. Limited information has been provided about these examples. Nevertheless, they all appear to relate to extensions

² Planning Policy Guidance paragraph 56

and as I have found the appeal proposal acceptable in this regard, these fallback examples carry limited weight.

31. On the basis of the evidence before me, the proposal achieves an acceptable level of floorspace relevant to housing space standards, with no objections received from the Council's Private Sector Housing team. I also note that the size of the bedrooms would exceed the Council's guidance on this matter. Be this as it may, compliance with policies in this respect is a neutral matter rather than a benefit.
32. No compelling evidence has been provided to suggest that the Council has a shortfall in its supply of land for housing. However, I acknowledge that the proposal would result in an additional 3-bedroom flat, and, in this respect, it would contribute in small part to the aims of the Council to provide a variety of sizes of new homes, particularly priority 3-bedroom accommodation. It would also meet an aim of the London Plan to deliver housing, particularly as a small site. I have also had regard to the objective to significantly boost the supply of housing in the Framework³ and note the appeal property is within walking distance of town centre facilities and good public transport links.
33. However, the economic, social and environmental benefits would be limited given the scale of the proposal and these matters would not outweigh the adverse impacts of the development and the conflict with the development plan read as a whole.
34. Concerns have been raised about the lack of parking at the appeal site. I note there is disagreement between the main parties in relation to this matter, although it was not a reason for refusal. As I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on this matter.
35. Third parties have raised concerns about an increase in rubbish, noise, anti-social behaviour and drug taking, and concerns over the type of people who would occupy the premises. Whilst I accept that these matters are of great importance to local residents, there are separate protections to address such matters and the local authority and Police have powers to deal with such nuisance behaviours should they arise.

Conclusion

36. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan.
37. Therefore, the appeal should be dismissed.

A Veevers

INSPECTOR

³ National Planning Policy Framework 2021