



Appeal Decision

Site visit made on 13 June 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/N5090/W/22/3312995

2 Glebe Crescent, Hendon, Barnet, London NW4 1BU

- 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 Samy Dallal against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/2192/FUL, dated 21 April 2022, was refused by notice dated 28 June 2022.
 - The development proposed is stated on the application form as “part retention of a 7-bedroom HMO. Proposed change to internal layout.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out in the banner heading above, whilst I note that the property is in use as a 7-bedroom HMO and there is an HMO licence dated from 2022, I have no substantive evidence that the existing 7-bedroom HMO is a lawful use.
3. The existing use is before me as part of the proposal and the ‘part retention’ of the use was part of the submitted planning application. It is also clear from the Council’s evidence that they considered the proposal as a change of use from a family dwelling to an HMO, with internal alterations.
4. I have, therefore, assessed the appeal before me as a change of use from a family dwelling to a 6-bedroom HMO with internal alterations, as shown on the submitted plans.

Main Issues

5. The main issues are:
 - Whether the proposed development would provide appropriate living conditions for the occupier of bedroom 6, with regard to internal space provision;
 - The effect of the proposal on the living conditions of neighbouring occupiers, with regard to noise, disturbance, and parking congestion; and
 - The effect of the proposal on the character and appearance of the area.

Reasons

Living conditions of future occupiers – bedroom 6

6. From the evidence before me the Council's concern relates to bedroom 6 which, as indicated on the proposed plans, is within the roof space of the host property. I viewed the internal space of this room at my visit and noted that the room was furnished and that there was space below the eaves for storage. The submitted plans show the floorspace of the room, where the head-height is over 1.5m, as 8sqm.
7. The Standards for Houses in Multiple Occupation – London Borough of Barnet, February 2022, (the Standards) set minimum room sizes for HMOs and requires the minimum to be provided, unless there is other shared communal spaces, such as dining areas or lounges. The only shared accommodation within the appeal scheme is the bathrooms and kitchen, there is no other internal communal space. Therefore, the minimum floorspace should be provided to achieve the requirements of the Standards and to ensure appropriate quality living accommodation for future occupants.
8. The appellant has highlighted 6.5sqm as the minimum floor area for any room used for sleeping. However, this is the minimum for two or more room lettings. This is clearly indicated in table 1.2 of the Standards, which includes a "*minimum combined floor area for two or more room letting*". The 6.5sqm minimum is therefore only relevant where tenants rent more than one room, which is not the case in the appeal before me.
9. Table 1.1 of the Standards sets the minimum for one room lettings as 10sqm (for one person occupation). Bedroom 6, at only 8sqm of usable floorspace, would result in a significant shortfall below the minimum. In my judgement, this would result in cramped accommodation.
10. I acknowledge that bedroom 6 could be used as a bedroom in a family house and is currently in use as a bedroom, within the self-contained unit in the roof space. However, within an HMO the bedroom is the occupant's only private living space and is the space they are likely to spend most of their time in. It is, therefore, necessary to ensure that the room has sufficient floorspace to provide adequate living conditions.
11. I, therefore, find that the proposal would not provide good quality accommodation or appropriate living conditions for the future occupier of bedroom 6, with regard to internal space provision. The proposal would, therefore, be contrary to Policy DM09 of Barnet's Local Plan (Development Management Policies), 2012 (DMP), which seeks to ensure that HMOs meet the relevant housing standards.
12. The proposal would also conflict with Policy D6 of The London Plan, The Spatial Development Strategy for Greater London, 2021 (LonP) and the Mayor of London Housing Supplementary Planning Guidance, 2016 (Housing SPG), which, taken together, require the highest quality, internally and externally, and require adequate-sized rooms.
13. The Council have also referred to Policy CS5 of the Barnet's Local Plan (Core Strategy) Development Plan Document, 2012 (CS) in their third reason for refusal. However, CS5 relates to character and creation of high-quality places.

There is no requirement within CS5 relating to the living conditions of future occupants. As such CS5 is not relevant to the consideration of this main issue.

Living conditions of neighbouring occupiers

14. The existing dwelling could accommodate a large family, an extended family, adults with young children or adults with grown-up children. The proposed 6-bedroom HMO provides a significantly different form of housing and would result in 6 separate households.
15. Although the potential occupancy of the two flats would not be significantly different to the level of occupancy of the single dwelling, unlike a single-family unit, where there would be likely to be some shared movements and schedules, the occupants of the HMO are likely to all have different schedules, make separate trips, and receive individual visitors and deliveries. In comparison to a single dwelling, even if it were to be occupied by a similar number of people, this would be likely to result in an increase in comings and goings at various times of the day.
16. As such, although the potential occupancy of the HMO would not be significantly different to the level of occupancy of the existing dwelling the use of the property would be significantly different. This change would be perceptible to, and result in adverse harm to, the living conditions of occupiers of neighbouring properties.
17. The use of the garden area would also be likely to be different. I acknowledge that, if the property were a family dwelling, the garden could be used by children, however this is normally restricted to daytime use. The occupation of the property as a HMO would be likely to result in the garden being used at different times, with the likelihood of more late evening use.
18. Given the proximity of the property and garden to the neighbouring dwelling and garden at 4 Glebe Crescent, the change in the activity that would accompany the proposal would be likely to be noticeable to neighbouring occupiers. The associated noise and disturbance from the use of the garden late into the evenings would detract from the living conditions, albeit only to a modest degree.
19. Although there have been no complaints from neighbours regarding the existing HMO use, I cannot assume that there has been no harm from the use. I have received third party representations on the appeal raising concerns about the effect on living conditions. Moreover, although I have no reason to conclude that the HMO would not be effectively managed or that individual occupiers would be likely to behave in an unneighbourly way, the likely number of occupants, living as separate households, would increase the activity at the property and increase noise and disturbance to the detriment of the neighbouring occupants' living conditions.
20. Although Glebe Crescent is within a Controlled Parking Zone, covered by a residents parking permit scheme, I have no substantive evidence to support the Council's view that the proposal would increase parking congestion.
21. Even if there were to be no increase in parking congestion, the increase in general activity at the property would have an adverse effect on the living conditions of the occupants of the neighbouring properties. The lack of evidence of harm to parking congestion does not overcome the other concerns.

22. For the reasons given above I find that the proposal would adversely affect the living conditions of the occupiers of neighbouring dwellings, with regard to noise and disturbance. The harm to the living conditions would be in conflict with Policies DM04 and DM09 of the DMP which, taken together, seek to protect the living conditions of the occupants of neighbouring properties.
23. There would also be conflict with the Barnet London Borough Local Plan Supplementary Planning Document: Residential Design Guidance, 2016 (Residential Design SPD) and the Council's Sustainable Design and Construction Supplementary Planning Document 2016 which, taken together, aim to safeguard living conditions of neighbouring occupiers, ensure that HMOs minimise their effect on the local environment and ensure that existing occupiers enjoy a high standard of living conditions.
24. The Council has also referred to Policies CS1 and CS5 of the CS and Policies DM01 and DM02 of the DMP in their reason for refusal. However, the policies I have highlighted above are more directly relevant to this issue.

Character and appearance

25. The appeal property is one of a pair of semi-detached houses, on a street of similar houses. Glebe Crescent is accessed off Finchley Lane, which is a local commercial street with flats above retail and business premises and, from the appellant's evidence forms part of the Brent Street Town Centre.
26. Although Glebe Crescent, when considered against Finchley Lane and Parson Street, is different in that it has residential dwellings, the character of the wider area is predominately residential streets accessed off the larger, more commercial, roads. Even though town centre uses can be seen from the residential streets, these residential streets currently contribute positively to the character of the area.
27. Furthermore, even though the Council's evidence accepts that there are some HMOs and flats on Glebe Crescent it has the appearance of mainly containing single dwellings. The appeal property sits on the corner of Glebe Crescent where it connects to Parson Street, which also has the commercial feel of Finchley Lane up to where it connects to Glebe Crescent. However, the appeal property is read as part of the housing on Glebe Crescent rather than as part of the commercial areas on Finchley Lane. Moreover, it currently contributes positively to the residential feel of the street.
28. Policy DM01 of DMP seeks to resist the loss of houses in roads characterised by houses in order to protect Barnet's character and amenity. Policy DM01, however, does not necessarily prevent conversion of houses into HMOs.
29. Policy DM09 of the DMP also encourages new HMOs, subject to considerations which include meeting an identified need and their effect on the character and amenities of the surrounding area. The appellant has provided evidence to show a need for additional HMOs and the Council have not provided any evidence to the contrary. As such I accept that the proposal would help meet an identified need.
30. The house would be retained as a house, albeit in multiple occupation. The internal layout of the property would not be significantly altered, and the internal changes would not be distinguishable from outside. There are no external changes proposed and the use of the property would remain

residential. As such the proposal would not affect the appearance of the property.

31. The HMO use retains the dwelling in a form that is physically similar to other dwellings in the road. Even though the street is characterised by houses the street does include other HMOs and flats. The proposed use would, therefore, not substantially change the character of the area or the street. As a result, there are no significant changes to the character of the area.
32. From the evidence before me the use of the dwelling as a 6-bedroom HMO would not result in a significant adverse effect to the character or appearance of the area of the area. In regard to this main issue, there would be no conflict with Policies DM01, DM04 and DM09 of the DMP or Policy CS5 of the CS which, taken together seek to promote sustainable development, resist the loss of houses in roads characterised by houses, requires development to respect local context and character and ensure that HMOs do not have a harmful effect on character and amenities of an area.
33. Moreover, the proposal would not conflict with the guidance in the Residential Design SPD which also seeks to ensure that development respects an area and responds to the positive features of that character, noting that character is derived from a range of attributes, including use.
34. The Council has also referred to Policy CSNNPF of the CS in the reason for refusal. However, Policy CSNNPF is a strategic policy that does not specifically relate to my consideration of this main issue.

Other Matters

35. That additional HMO accommodation in this area, albeit that there is a need for, is not sufficient justification to support a scheme which would not provide appropriate internal space.

Conclusion

36. While I have found compliance with some of the policies drawn to my attention, the conflict I have found with others leads me to conclude that there is conflict with the development plan as a whole. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, the appeal is dismissed.

K Townsend

INSPECTOR