



Appeal Decision

Site visit made on 13 February 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2024

Appeal Ref: APP/N5090/W/23/3326377

30 Horton Avenue, Cricklewood, Barnet, London NW2 2SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Min Zhang against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/5749/RCU dated 30 November 2022 was refused by notice dated 24 January 2023.
 - The development proposed is change of use to an HMO (Use Class C4) for 6 residents.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note from the Officer Report and the appellant's documentation that the appeal is made retrospectively and is the subject of enforcement action by the Council. I have, however, dealt with the appeal on the basis of the plans before me, and that a change of use from a C3 dwellinghouse to a House in Multiple Occupation (HMO) for six residents is proposed.
3. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. This does not materially change the planning policy context in respect of the main issues, and I have determined the appeal accordingly.

Main Issues

4. The main issues are the effect of the development on:
 - the character of the area;
 - housing supply, with particular regard to HMOs and market housing; and
 - the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance.

Reasons

The character of the area

5. The appeal relates to a mid-terrace two storey property on Horton Avenue. The area is located within an established residential area characterised by short rows of terraced properties set back from the road by short front gardens many of which have been laid down to hardstanding. The avenue forms part of a wider estate of housing known as the Westcroft Estate situated between Cricklewood Lane and Hampstead School. The submitted plans show that the

property would be occupied as a six-bedroomed HMO with bedrooms on the ground, first and second floors with communal living space on the ground floor. A borough-wide Article 4 Direction requires planning permission for all changes of use to HMOs. Moreover, the Council recognises that single family dwellings are most in demand in the borough.

6. The proposal before me does not include any significant external alterations to the building itself to facilitate the change of use to an HMO. However, communal bin storage and external cycle parking at the front differentiates it from other single-family dwellings in the street. The character of the area, with regard to its appearance as area of family housing would therefore be eroded.
7. In addition, the proposed HMO would accommodate up to 6 people. The occupiers would share facilities including a kitchen, but I consider that unrelated individuals would be unlikely in practice to function as a single household. Instead, each occupier of the HMO would be likely to have different schedules, make separate trips and receive individual visitors and deliveries. This would be likely to result in increased comings and goings at different times of the day in comparison to a single dwelling occupied by a similar number of people. In my judgement, the resulting level of activity would be of noticeably greater intensity than that associated with the existing and surrounding properties which are of generally modestly sized and would lead to uncharacteristic noise and disturbance that would be detrimental to the existing residential character of Horton Avenue.
8. Evidence before me indicates that there is one other registered HMO on the avenue, whilst there are several others elsewhere on the wider Westcroft Estate. Evidence suggests that the estate is made up of a range of property types, including traditional family housing, flat conversions and purpose-built flats. The appeal property is located in a part of the estate made up of traditional family housing where there are only two other HMOs, reinforcing my conclusion that the appeal proposal would be out of character with its location. Furthermore, I have not been made aware of the planning status of the other HMOs on the estate. In any event, their presence does not diminish the harm that I have found on this main issue.
9. I conclude, therefore, that the proposal would adversely affect the character of the area contrary to DMP policies DM01, DM08 and DM09 which, amongst other things, seek to ensure that development preserves the character of a locality. There would also be conflict with Barnet's Core Strategy 2012 (CS) Policies CS NPPF, CS1 and CS5 which have similar objectives.

Housing supply

10. Policy DM09 of the Development Management Policies 2012 (DMP) states that proposals for new HMOs will be encouraged subject to considerations which include that they will meet an identified need. Policy DM08 of the DMP seeks to ensure a variety of sizes of new homes to meet housing needs and to provide choice for a growing and diverse population in the borough. It outlines that the highest priority for market housing is for homes with 4 bedrooms, followed by homes with 3 bedrooms which are a medium priority.
11. The evidence before me is not clear in respect of how many bedrooms were present at the property prior to the works to facilitate the conversion to an HMO which have already occurred. However, the Council suggest that it had

three bedrooms and, given the size of the property, it is clear to me that it would certainly fall within the broad scope of the definition of a family home. The effect of the development would be that it would no longer be available for accommodation on such a basis and would be contrary to the provisions of DMP Policy DM09 to ensure that HMO development does not have a harmful effect on the character of the surrounding area, in this instance one of predominantly family housing. Whilst I recognise that the property could be converted back to a single-family dwelling at any point without the need for planning permission, in reality would be unlikely. Consequently, the proposal represents the loss of such a property.

12. The appeal property is well located for access to public transport, cycling and walking. The standard of accommodation proposed complies with the required standards for HMOs. However, I have not been provided with any evidence that there is an identified need for HMO accommodation in this particular location nor that the proposal would not adversely affect the character and amenities of the surrounding area in line with the requirements of DMP Policy DM09. Moreover, it does not follow that the proximity of the appeal property to transport links widens the area where an identified need for HMOs exists to the whole of London.
13. I acknowledge that generalised London-wide data shows that there is a demand for this type of accommodation along with a demand for other types of accommodation including single family dwellings. I recognise too, the complexities of the housing market with regard to under-occupation of dwellings and the efficient use of land. I accept that there is likely to be a general need for a variety of housing to meet growing population needs in Barnet, and I do not doubt that HMOs can offer a form of low-cost housing that may be attractive to young people and occupiers who are on low incomes. However, I have not been provided with evidence that this cannot be provided elsewhere.
14. I note the existence of other HMOs locally and their apparent occupation levels, and the general presumption within Policy DM09 that existing HMOs that meet identified needs should be retained. However, while HMOs may form an important part of the housing offer in Barnet and across London, that is not in my view compelling evidence that there is a current need for additional accommodation of this type. Irrespective of the location of the site near to bus stops, road corridors and a railway station, I am not satisfied that the evidence before me adequately demonstrates a need for the proposed HMO in accordance with the requirements of Policy DM09 of the DMP. Moreover, no compelling evidence has been provided to demonstrate that the need for properties of this size identified within Policy DM08 no longer persists.
15. I am also unable to conclude that the development would meet an identified need, or that it would contribute positively to meeting the housing needs of different groups as sought by the National Planning Policy Framework (the Framework). Accordingly, I find that the proposal would fail to accord with Policies DM08 and DM09 of the DMP.
16. However, I do not find any conflict with the Council's Residential Design Guidance Supplementary Planning Document (SPD) (2016) as the proposal would provide adequate living conditions for occupiers of the HMO and would provide external amenity space for occupants to meet the SPD's requirements.

Living Conditions

17. The Council's refusal reason specifically refers to noise and disturbance which can take many forms, for example, car doors banging and general comings and goings, which particularly late at night can be intrusive. In my experience, the use of the property as an HMO would result in a level of noise and disturbance, for example from people conversing outside the property, multiple sources of music and televisions playing, general comings and goings, taxi engines idling and car doors shutting, which could be readily discernible from neighbouring properties. This level of noise and disturbance would likely be far greater than that generated by the occupation of the property by a single family where occupants are more likely to come and go together, and this would therefore have a significantly harmful effect on the living conditions of the occupants of neighbouring properties.
18. I have no firm reason to conclude that the HMO would not be properly managed or that individual occupiers would be likely to behave in an unneighbourly way. Nevertheless, the more intensive occupation of the building would in itself generate a marked increase in the concentration of activity on the site, including comings and goings to the property and usage of the shared garden. I consider that the level of activity that would accompany the proposal would be likely to be noticeable to neighbouring occupiers, and that associated noise and disturbance would detract from their living conditions, albeit to a modest degree.
19. A plan shows three bins sited in the front garden area adjacent to the boundary with 28 Horton Avenue. Their situation adjacent to the party boundary could give rise to disturbance and odours. However, there would appear to be scope for alternative locations within the site for refuse storage, which if I had been minded to allow the appeal, could reasonably been required to be approved by way of condition thereby avoiding adverse effects on neighbouring occupiers' living conditions.
20. I therefore find that the proposal would be harmful to the living conditions of neighbouring occupiers with particular regard to noise and disturbance. Accordingly, the proposal would be contrary to DMP policies DM01 and DM09 and CS Policies CS1 and CS2 which broadly seeks to conserve and enhance the distinctiveness of Barnet and its character and amenity. There would also be conflict with guidance in the Residential Design Guidance Supplementary Planning Document 2016 and the Sustainable Design and Construction Supplementary Planning Document 2016 which generally seek protection for existing living conditions.

Other Matters

21. I acknowledge that the property has been refurbished to a high standard and include sound proofing and measures to reduce carbon emissions, and the appeal site is not located in a conservation area. These are not factors which weigh in favour of allowing the appeal and do not diminish the harm that I have found on the main issues.

Conclusion

22. For the reasons given above, having considered the development plan as a whole and all relevant material considerations, I conclude that the appeal should be dismissed.

KL Robbie

INSPECTOR