



Appeal Decision

Site visit made on 1 February 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/Y5420/W/23/3323612

124A Muswell Hill Broadway, Hornsey, Haringey, London N10 3RU

- 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 Shkar Anwar against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2023/1018, dated 20 March 2023, was refused by notice dated 24 May 2023.
 - The development proposed is conversion of top floor flat to HMO for 8 people. Conversion of C3 to C4.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development on the application form, the change of use had taken place at the time of my site visit, and tenants were living in the property. Furthermore, the proposal is over three floors, ground, 1st and 2nd. The application form suggests the proposal is a change of use from a C3 to C4 use. However, the application form states the property would be for the use of 8 occupiers, and this is what is indicated by the submitted plans before me. On this basis the proposed use would be 'sui generis'. The Council has assessed the proposal on this basis and so shall I.
3. In the appellant's appeal submission, they have indicated a communal space would be provided by converting one of the bedrooms and highlights the nature of a C4 use class. This is not what was in the original application and has been proposed in the submitted plans. The Procedural Guide: Planning Appeals – England (2024) states that what is considered by the Inspector should essentially be the same scheme as what was considered by the Council and any interested parties at the application stage. In the context of this appeal scheme, this would represent a fundamental change to the scheme, so I have not assessed this appeal based upon the suggested amendment.

Main Issues

4. The main issues are:
 - whether the proposal would provide satisfactory living conditions for future occupiers, with regard to the provision of internal space, external space and noise;
 - whether appropriate refuse storage provision would be provided;

- whether appropriate cycle parking would be provided; and
- the effect of the proposed development on highway safety.

Reasons

Living conditions of future occupiers

5. The site is a two-storey, semi-detached building, with a single storey, flat roofed extension to the front used as a retail premises. The site is on Muswell Hill Broadway which is a busy road lined by shops and commercial premises with residential flats above. The entrance to No 124A Muswell Hill Broadway is on the front, located adjacent to the ground floor shop.
6. To the side of the property is a wide alleyway in which there are tables and chairs. These relate to a café that is located to the rear of the appeal site at No 122 Muswell Hill Broadway.
7. The development is shown on the proposed floor plans, with room 1 on the ground floor to the rear of a kitchen shop. This is a double room with a living/sleeping area with a separate kitchen and bathroom. Rooms 2 and 3 are double rooms, both with en-suites, and are located on the 1st floor. Rooms 4 and 5, which are single rooms, are located on the 2nd floor within the roof space and lit by dormer windows to the front and rear. A bathroom is also located on this floor. On the 1st floor, there is a shared kitchen with a table and four dining chairs.
8. Policy DM17 of Haringey's Development Management DPD (DPD), 2017, relates to Houses in Multiple Occupation (HMOs). Part A of this policy states that the change of use from larger homes to HMOs will only be permitted where a number of criteria are satisfied. Criteria a. states that the gross internal floor space of the existing dwelling must be greater than 120m², including internal areas with a headroom of 1.5m or more, which the Council considers is just met. I have no reason to disagree.
9. Criteria d. requires high quality accommodation with internal space standards, a satisfactory level of amenity space and adequate refuse storage and collection. Refuse collection is dealt with as a separate main issue.
10. The property would provide 5 bedrooms for 8 people. Policy D6 of The London Plan (LP), 2021, requires housing development to provide adequately sized rooms with comfortable and functional layouts which are fit for purpose. The space standards for new dwellings, including a change of use, for a 5-bedroom, 3-storey dwelling for 8 people is to have a minimum gross internal floor area of 134m¹. The parties disagree as to whether the space standard is met, although the proposed floor plans do show that the bedrooms satisfy the floor areas required for single and double bedrooms as detailed in Policy D6 F 3) and 4) of the LP.
11. However, even if adequate space is provided in bedrooms, this is not the only factor determining whether the proposal provides satisfactory living conditions. Furthermore, the distribution of space within the appeal site is uneven with room 1 having a greater proportion of the overall internal space, including having its own kitchen. This leaves rooms 2-5 having to share a kitchen and

¹ Table 3.1 Minimum internal space standards for new dwellings.

small dining area on the 1st floor. This is intended to be used by 6 people, in a proposal where there is no separate communal living space. This would likely result in an intensive use of the kitchen space at times, or the occupiers spending significant periods of time in their bedroom, particularly if they also work from home. Therefore, even if the scheme would meet the 134m² space requirement, it would not provide satisfactory internal accommodation.

12. Additionally, as the site has no external space, there is no outdoor garden area for the occupiers of the flats. This means that they do not have the opportunity to sit outside and socialise or have any outdoor storage. Whilst in this locality, many properties would not have gardens, this lack of external space would compound the effect from the absence of a dedicated internal communal space, combined with limited internal space, and would not provide satisfactory living conditions for the occupiers of the HMO.
13. Room 1 has a degree of separation from the other flats as it is the only flat on the ground floor, is located at the rear of the building, mostly within a single storey extension, and therefore has no other flats directly above it. However, if eight people occupy the HMO, even if it is spread over three floors, it has the potential to result in noise and disturbance to the other occupiers. This is because the proposal does not provide spacious living conditions, and the potential noise from the shared kitchen, particularly to room 3 which adjoins it, would result in a poor-quality living environment.
14. Therefore, the proposal would not provide satisfactory living conditions for future occupiers with regards to both internal and outdoor space resulting in noise and disturbance. It would not accord with DPD Policy DM17 A d., as well as LP Policies D6 and D3, which collectively require appropriate space standards and high-quality accommodation.

Refuse storage

15. Policy DM4 of the DPD requires on-site provision for general waste, recycling and organic material for composting. This includes both internal and external storage space. Furthermore, any refuse must be located and screened to avoid nuisance and visual impact.
16. There is no external or internal refuse collection point shown on the proposed plans, although I noticed that there were domestic waste bins containing green and black bags in the shared kitchen area.
17. Whilst it is true that refuse storage would also be an issue if the building was used as a family home, there is no substantive evidence that the amount of waste generated is less when it is being used as an HMO, as the occupiers would only be generating waste at night-time and at weekends. Indeed, at the time of my site visit, which was during a weekday morning, two of the rooms were occupied. Moreover, it is more likely that 8 individuals would generate more waste than a family occupying this building. Based on the relatively limited space within the appeal site, it has not been explained how refuse could be stored in a satisfactory manner internally.
18. As there is no external area for storing waste and recycling, and a refuse plan has not been submitted, this suggests that refuse bags would need to be left on the pavement for collection. This has the potential to result in rubbish spilling out onto the street which would have a visual impact and harm the

surrounding area. Based upon the evidence before me, it has not been demonstrated, and I am not satisfied that suitably worded planning conditions could address this matter.

19. Therefore, with regard to this issue, there would not be appropriate refuse storage for the proposed development. It would not accord with DPD Policies DM4 and Policy DM1 which requires delivering high quality design and addressing issues of odour likely to arise from activities of the development. It would also not accord with Policy DM17 A b. and d. of the DPD which requires adequate and convenient refuse storage and collection, and that there should be no adverse amenity impacts on the surrounding neighbourhood.

Cycle storage

20. The proposed development has no cycle parking. Although the appellant considers that this is not required as there is good public transport, the nature and frequency of local provision has not been fully explained. Moreover, good local public transport provision is only one element of mitigating effects of development upon transport infrastructure and maximising sustainable transport. LP Policy T5 specifically requires new development to provide cycle parking, or where this is not possible within residential developments, alternative solutions should be provided. No evidence has been provided that other solutions have been considered and can be reasonably discounted.
21. Consequently, the proposal does not provide appropriate cycle parking. Therefore, the proposed development would not accord with LP Policy T5 and Policy T1 which supports cycling as part of a strategic aim for 80% of all trips in London to be by foot, cycle or public transport by 2041. Furthermore, it would conflict with the aim that HMOs are accessible by cycling in DPD Policy DM17 Ac.

Highway safety

22. The site is in a Controlled Parking Zone (CPZ), and a Public Transport Accessibility Level (PTAL) 5 area. The proposal does not incorporate on-site parking. Given that the appeal site is within a CPZ and the local highway conditions, the Council expects a car parking survey to be submitted to demonstrate that there is a parking supply locally to meet the needs of the occupiers of the proposal. Without this, a legal agreement restricting future occupiers from applying for parking permits and thereby increasing street parking congestion is expected by the Council.
23. The Council's concern appears primarily that there is insufficient parking capacity on the public highway in the vicinity of the appeal site and were any of the future occupiers of the proposal to own a motor vehicle, it would result in conditions that would be prejudicial to highway safety. Whilst my visit can only represent a brief snapshot in time, the appeal site has no parking and is located on a busy highway with a constant movement of vehicles including buses. Whilst there is some on-road parking along Muswell Hill Broadway, this is limited to a few hours. Likewise, residential streets in the vicinity of the appeal site were tightly packed with cars and so any additional car use would add to the local congestion.
24. However, as there is no legal agreement in place, any occupiers of the site who have personal vehicles would add to the pressure on on-street parking which

would increase congestion and affect highway safety in the area. Based upon what I saw and the substantive evidence before me, it has not been demonstrated that the proposal would provide satisfactory parking arrangements, and therefore it would affect highway safety.

25. Therefore, the proposal would not accord with LP Policy T4 which requires financial contributions to address identified transport impacts from development and DPD Policy DM32 which seeks to restrain car use and improve highway safety.
26. Whilst Policies LP Policy T1 and DPD Policies DM17 and DM31 have been referred to by the Council, these do not directly refer to the Council's main concern regarding local highway conditions and safety.

Other Matters

27. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The site is within the Muswell Hill Conservation Area (CA). The significance of the site stems from its historical and architectural interest being a surviving former house within what is now largely a commercial area. No 124A is a semi-detached property, and whilst the front of the building has been removed to create the retail properties, the 1st floor arched windows and decorative architectural features remain. The pale yellowish brick also contrasts with the taller red brick three storey shops and residential properties in the vicinity of the site. It therefore retains the features associated with its former use as a semi-detached villa adjacent to the adjoining road.
28. The appeal site is within an area characterised by being both a busy retail centre and a residential area. Most of the buildings lining this stretch of road were likely built for this dual purpose. As the proposal does not include any external alterations to the building, it would preserve the character or appearance and significance of the CA and so would not conflict with the Act or with chapter 16 of the Framework.
29. There is no dispute that the location of No 124A is convenient for working adults. Whilst the appellant states that communal space would be created by removing one bedroom, all 5 bedrooms had been let out to tenants at the time of my site visit, and no evidence has been provided as to how in practical terms, the creation of this communal space could be achieved. This therefore has limited weight.
30. The Council has suggested the proposal conflicts with the aim of its Family Housing Protection Zone (FHPZ). As I am dismissing this appeal for other substantive reasons, I have not considered this matter in detail. A finding that it would not conflict with the FHPZ would be a neutral matter in the balance.
31. Whilst the Council has suggested that HMO concentrations can lead to an adverse impact on neighbouring residents, and that the proposal would result in a higher intensity of use than its use as a single dwelling, no evidence has been provided as to whether there is an over concentration of HMOs in the area. Furthermore, the flat is located between commercial properties, in a busy retail centre. Therefore, it is unlikely that the proposal would harm the living conditions of neighbouring properties. As such, this is a neutral matter.

Planning Balance

32. The proposed development would create residential accommodation in a building that previously had been empty. Both the temporary jobs created during the conversion of the property and the increase in occupiers living there, would contribute to the local economy and provide moderate economic benefits. However, the proposal would not provide satisfactory living conditions for future occupiers, and it has not been demonstrated that adequate refuse storage provision has been made. Furthermore, the scheme would conflict with the aims of policies for cycle parking provision, and it has not been demonstrated that the proposal would not result in conditions that would be prejudicial to highway safety. The harm and policy conflicts are such that they significantly outweigh the benefits of the development. Therefore, the appeal should not succeed.

Conclusion

33. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and that warrant a decision other than in accordance with the development plan.
34. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR