



Appeal Decision

Site visit made on 4 June 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2024

Ref: APP/N5090/W/23/3335750

106 Mays Lane, Underhill, Barnet EN5 2LL

- 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 Mr E Aponso against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/4140/FUL.
 - The development proposed is conversion of house into a 7 room (7 person) HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have also dealt with another appeal APP/N5090/W/23/3330580 on this site. That appeal is the subject of a separate decision.
3. The Council has referred in its decision to policies within Barnet's Draft Local Plan (BDLP). The BDLP has reached the examination stage. However I have not been informed about the level of objection to the plan or the extent to which the policies within it may change. Consequently these policies can only be afforded limited weight.

Main Issues

4. In its Statement of Case, the Council has confirmed it no longer seeks to defend the third reason for refusal regarding the effect of the development on on-street parking subject to the imposition of conditions. My decision therefore centres on the remaining reasons for refusal on the Decision Notice, the main issues are:
 - whether the site is suitable for use as a HMO having regard to development plan policies and the effect of the development on the supply of family housing and the character of the area; and
 - the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to increased activity and noise.

Reasons

Family housing

5. 106 Mays Lane is a three bedroom family home within a residential area comprising mainly of single family homes. A number of minor external alterations are proposed to the existing fenestration.
6. Policy DM08 Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) is relevant because it relates to the Council's position on the need for homes with 3 bedrooms and the appeal scheme would result in the loss of a 3-bed house. Further, Policy HOU02 of the BDLP continues to support this position and identifies three bedroom properties as the highest priority; however as detailed above I afford this policy only limited weight.
7. Policy DM09 of the DMP sets out circumstances where new HMO will be encouraged, this includes where there is an identified need and where it would be easily accessible by public transport, cycling and walking.
8. Two letters from local estate agent states that there is demand for small single rooms and HMOs in the Borough and include general statements in relation to the cost of living crisis, interest rates and the proximity of Barnet Hospital, driving demand. However, the opinions detailed within the letters are not supported by any substantive evidence, and in the light of the general nature of the information provided I give it only limited weight.
9. In this case the site is in an area with poor access to public transport. As detailed within paragraph 10.3.2 of the DMP, HMOs are an important form of low cost housing, it is important that future occupants are able to access shops, services and places of employment are accessible to occupants without reliance on a private vehicle. 106 Mays Lane is around a 15 minute walk from High Barnet Underground Station and Chipping Barnet town centre. Nevertheless, the appeal site is within an area with a PTAL rating of 2 which indicates that there is poor access to the wider public transport network, which would limit the accessibility of the site for future occupants.
10. As detailed above the proposal includes only minor alterations to the existing fenestration and there is sufficient space within the front and rear gardens for the provision of cycle and waste storage facilities. Furthermore, I am satisfied that the proposed change of use would not harm the character of the area which includes residential development, as well as a school, community centre and shops in close proximity to the site. As such the proposal is in accordance with DM01 of the DMP which requires that development proposals are based on an understanding of local characteristics.
11. For the reasons set out above it has not been demonstrated that the site is suitable for use as a HMO having regard to development plan policies. Furthermore, the loss of a 3-bed house would have a harmful effect on the supply of family housing. Whilst I have not found that the conversion to an HMO would have an adverse impact on the character of the area this finding does not alter the harm that I have found in respect of those matters. Therefore, the proposal is contrary Policies DM08 and DM09 of the DMP and Policy CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document (2012) (CS). These policies seek to prioritise the provision of family housing in

the borough and allow new HMOs only when they, among other things, meet an identified need and are easily accessible by public transport.

12. Although Policies CS NPPF and CS1 of the CS, are cited in the reason for refusal, as these policies relate to general compliance with the National Planning Policy Framework (NPPF) and Barnet's overarching space shaping strategy they are not determinative in relation to this main issue.

Living conditions of neighbouring occupants

13. It is evident from the information before me that HMOs are not directly comparable to family dwellings, mainly because they appeal to different client groups such as those requiring short term accommodation and are more transient in nature. As such the level of activity of seven adults living independently is likely to be greater, to a degree, than that of a single family household.
14. However, I note that a certificate of lawfulness was granted recently for a group of up to six individuals living together as a single household¹, including as a care home. It is reasonable to assume the use of the building as a care home or similar facility would be likely to generate a similar pattern of use, with individuals living independently, receiving deliveries and also potentially members of staff coming and going from the building. Given the fallback position the proposed scheme for seven individuals living independently is not a materially significant increase from six individuals living as a single household.
15. For the reasons, detailed above the proposed scheme would not have a harmful effect on the living conditions of the occupiers of neighbouring properties, with particular regard to increased activity and noise. I therefore do not find conflict with the objectives of Policies DM04 and DM09 of the DMP which require consideration should be given to the relationship between noise sensitive and noise generating uses and does not have a harmful impact on the amenity of the surrounding area.
16. Policy CS1 and CS5 of the CS relates to Barnet's place shaping strategy and protecting and enhancing Barnet's character and Policy DM01 of the DMP relates to protecting Barnet's character. These policies are not determinative in my assessment of the living conditions of neighbouring occupants in regard to noise and disturbance.
17. Emerging Policies ECC02 and HOU4 of the BDLP relate to the relationship between noise sensitive and noise generating uses and the protection of amenities of the surrounding area. Notwithstanding the limited weight which can be afforded to these policies I find no conflict for the reasons detailed above.

Other Matters

18. The proposal would be in accordance with amenity standards for HMOs in relation to internal floor areas and the proposal includes a communal garden and cycle and waste storage provision. Further, the proposal would not have a harmful effect on road safety and the free flow of traffic. I have also found that the development would not have a harmful effect on the residential character of the area or the living conditions of neighbouring occupants. However, an

¹ 23/3143/192

absence of harm in these respects are neutral matters which neither weigh in favour of, not against the proposal.

Conclusion

19. The site is not a suitable location for an HMO and the proposed conversion would result in the loss of a 3-bed house which would have a harmful effect on the supply of family housing. Therefore, the proposed development would conflict with the development plan as a whole. There are no material considerations to indicate a decision otherwise than in accordance with the development plan.
20. For the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR