



Appeal Decision

Site visit made on 3 July 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Appeal Ref: APP/T5150/W/23/3333765

33 Crummock Gardens, Brent, London NW9 0DE

- 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 Bedri Krasniqi against the decision of the Council of the London Borough of Brent.
 - The application Ref 23/2736, dated 9 August 2023, was refused by notice dated 26 October 2023.
 - The development proposed is the change of use from a Class C3 dwelling to a Class C4 HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted updated drawings with the appeal, detailing numerous amendments, comprising: alterations to the internal layout, including reduction in the number of kitchens provided, introduction of a laundry room, and amendments to the ground floor configuration; and alterations to the external layout, including reduction of hardstanding and parking provision, introduction of landscaping, and relocation of refuse storage. The appeal process should not be used to evolve a scheme and, given the level of changes proposed, I have considered the appeal on the plans which formed the basis of the Council's decision to avoid the interests of any party being prejudiced.
3. On 30 July 2024 the Government published a consultation on "Proposed reforms to the NPPF and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation". A Written Ministerial Statement entitled "Building the homes we need" was also published on 30 July 2024. I have had regard to these publications but have not deemed it necessary to seek parties' comments due to the nature of the proposal.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the living conditions of future occupiers, with regard to light and outlook;
 - whether the proposed development would achieve an appropriate level of fire safety;
 - whether the proposed development would contribute appropriately to meeting local housing need;

- whether the appeal site would provide an appropriate location for a House in Multiple Occupation having regard to proximity to public transport and local facilities; and
- the effect of the proposed development on the living conditions of surrounding occupiers, with regard to noise and disturbance.

Reasons

Living Conditions – Future Occupiers

5. The appeal site comprises a two storey family dwelling on Crummock Gardens, a predominantly residential area. However, Edgware Road is located to the east, along which a range of both residential and commercial premises are situated. The proposal seeks permission for the change of use of the appeal property to a six-person House in Multiple Occupation (HMO).
6. Policy BH7 of the Brent Local Plan (the BLP) relates to proposals for non-self contained or self-contained residential accommodation with shared facilities, and states that such proposals would be permitted where a range of tests are met. This includes where the accommodation proposed is of an acceptable quality, meeting appropriate standards for the needs of its occupants including appropriate communal facilities.
7. The proposal includes two kitchens at the appeal property, one on the ground floor and one on the first floor. However, these rooms do not have any windows. In the absence of such windows, the light, ventilation and outlook provided to these kitchens would be limited, leading to them feeling oppressive and enclosed, particularly given the potential for such spaces to be used by multiple occupants at a time. This would unduly affect occupiers' enjoyment of these spaces during their use, and negatively impact their living conditions in this regard such that the kitchens as proposed would not represent appropriate communal facilities.
8. My findings are supported by the guidance of the Brent Houses in Multiple Occupation Supplementary Planning Document 2022 (the SPD), which is clear that all communal areas must have adequate light and ventilation. Furthermore, the SPD states that in the conversion of existing multi-storey dwellings, kitchens should only be present on the ground floor of the dwelling. In providing a first floor kitchen the proposal would be contrary to this guidance.
9. For the reasons given, the proposal would have a significant adverse effect on the living conditions of future occupiers, with regard to light and outlook. As such it would fail to comply with Policies BH7 and DMP1 of the BLP and the SPD insofar as they seek to ensure development provides high levels of internal amenity and appropriate communal facilities.

Fire Safety

10. Policy D12 of the London Plan 2021 is clear that all development proposals must achieve the highest standards of fire safety, including ensuring that they incorporate appropriate safety measures and features such as fire alarm systems and equipment for firefighting, are constructed to minimise the risk of fire spread, provide suitable means of escape, and develop a robust strategy for evacuation.

11. Although the appellant asserts that signage and fire safety equipment is installed throughout the property and that each room is fitted with fire doors, these have not been shown on submitted plans such that I cannot be certain they would be retained. No fire statement or evacuation strategy has been submitted and, while reference is made to an appendix showing fire safety equipment, this has not been provided. As I am dismissing for other reasons, I have not found it necessary to seek further information on this.
12. Coupled with the concerns of the Council regarding a unit of accommodation towards the rear of the property accessed via a narrow corridor, I cannot be certain on information provided that the proposal would be able to achieve the highest standards of fire safety.
13. For the reasons given, the proposal would fail to achieve an appropriate level of fire safety. As such, it would fail to comply with Policy D12 of the London Plan 2021 in this regard.

Need

14. Policy BH7 also states that accommodation such as that proposed must demonstrate that there is a specific Brent need for the particular use. The proposal would replace a family sized dwelling, which the Strategic Housing Market Assessment identifies as a specific need in the borough. Nevertheless, the main parties agree that there is also a need for HMOs such as that proposed, with the SPD outlining that these play an important role in housing people in the borough.
15. However, the SPD guidance is clear that the unmet need for family homes within the borough will be balanced against the quality of the HMO being provided. It continues that where the Council considers that this quality is not sufficiently high, it is more likely to tilt the balance in favour of retaining the premises as a family dwelling. Based on my observations, I have no reason to disagree with this stance.
16. Given that I have found that the proposal would not meet the highest standards of fire safety and, in particular, would not provide appropriate communal facilities as per Policy BH7, this would therefore tilt the balance in favour of retaining the family dwelling at the site.
17. For the reasons given, the proposal would not contribute appropriately to meeting local housing need. As such, it would fail to comply with Policies BH7 and DMP1 of the BLP and the SPD insofar as they seek to ensure that development does not result in the loss of buildings for which there is an identified need.

Public Transport and Local Facilities

18. Policy BH7 also contains the criteria that accommodation such as that proposed is located in an area with good access to public transport and other amenities, including shops (normally within 400m).
19. The main parties agree that the site is categorised with a PTAL of 2 and, on this basis, the Council argues it is not an appropriate location for a HMO, where typically access to private cars will be low and access to public transport is necessary. However, Policy BH7 does not specify a minimum PTAL rating.

20. I observed that the appeal site is located within reasonable walking distance to bus stops on both Kingsbury Road and Edgware Road, which the appellant's Transport Technical Note states are 190m and 270m from the site respectively. It is also within easy walking distance to a convenience store on Edgware Road, with additional shops present in Colindale town centre, also in reasonable walking distance.
21. As such, while I agree with the Council's assessment that the Hendon Railway Station does not fall in easy walking reach of the site at some 1300m away, and note the PTAL rating, I do not find that the accessibility of the site is such that it would fail to comply with the test of Policy BH7. While I note the guidance of the SPD suggests that HMOs be located in an area with a minimum PTAL score of 3, in this case I observed the site specific circumstances to be that the appeal property has good access on foot to public transport and other amenities to support the day to day living of occupiers.
22. For the reasons given, the appeal site would provide an appropriate location for a HMO having regard to proximity to public transport and local facilities. As such, there would be no conflict with Policy BH7 of the BLP in this regard.

Living Conditions – Neighbouring Occupiers

23. Policy BH7 also contains a requirement for accommodation such as that proposed to include management arrangements agreed with the Council suitable to its proposed use to not unacceptably impact on neighbour amenity. No specific concerns or issues regarding the potential for the proposal to have an effect on neighbour amenity were raised by the Council. However, it remains that no management plan was submitted with the application. While a management plan was submitted at the appeal stage, this has not been agreed with the Council in line with the provisions of Policy BH7.
24. Nevertheless, in the absence of specific concerns relating to potential noise and disturbance arising from the proposal, I find that, had the proposal been acceptable in all other aspects, this could have been dealt with by way of a suitably worded planning condition requiring such a management plan to be agreed between the parties prior to the change of use proposed.
25. For the reasons given, subject to the imposition of a suitably worded condition, the proposal would not result in significant adverse effects on the living conditions of surrounding occupiers with regard to noise or, accordingly, impact the residential character of the area. As such, there would be no conflict with Policy BH7 of the BLP in this regard.

Other Matters

26. Although not cited as reasons for refusal, the Council has raised further concerns relating to the proposal. This includes, among other things, an over provision of off-road car parking spaces; a lack of soft landscaping to achieve the requisite urban greening factor score; and an under provision of cycle parking. The main parties have agreed that this could be addressed by a pre-commencement condition requiring a revised front garden layout plan to be submitted and approved. However, as I am dismissing the appeal for other reasons, I have not explored these issues further.

27. The appellant has referred to the licence for a 10-person HMO in respect of the appeal property. However, the licence relates to a separate regulatory regime and does not mean that planning permission is not required or will be granted.

Conclusion

28. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR