



Appeal Decision

Site visit made on 9 July 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 01 October 2024

Appeal Ref: APP/N5090/W/24/3338598

51F Station Road, Barnet, Hendon, Barnet, London NW4 4PN

- 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 Michael Strom against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/0702/FUL.
 - The development proposed is demolition of existing HMO (House in Multiple Occupation) building and construction of 3-storey building to provide 8-room HMO at ground and first floor levels; and 2-bed self-contained flat at second floor; with associated refuse storage and cycle parking facilities.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There have been several planning applications for this site, including demolition and construction of a 12 room HMO in a three-storey building, which was dismissed at appeal.¹ Subsequently, permission was granted in December 2020 for an 8 room HMO in a two-storey building². This is referred to as an extant planning permission, although there is limited substantive evidence as to whether this permission has been implemented.
3. Concurrently with the submission of the application subject to this appeal, an application³ for the demolition of the building and the provision of a 11-bedroom HMO was submitted. This is recommended for approval and the main parties agree that it resolves the concerns in the application subject to this appeal. However, this does not affect the determination of the appeal before me which must be determined based on its own merits.
4. The Council has stated that following examination, Main Modifications to the Local Plan are out to public consultation. As I have not been provided with details of any policies in the emerging local plan, or which policies are subject to any unresolved objections, I afford the emerging local plan only limited weight.
5. The Council has highlighted that the information submitted by the appellant in appendices 1-3 of their appeal statement, post-dates the application decision. Whilst the appellant considers that this was part of ongoing discussions with the Council, this information was not formally available to the Council,

¹ APP/N5090/W/20/3254257; Ref 19/4432/FUL

² Ref 20/3572/FUL

³ Ref 23/0701/FUL

consultees or third parties. Therefore, whilst I have considered the revised information, applying the principles established by 'Holborn'⁴, I consider that this is a fundamental change to the proposal. It is important that the appeal is determined on the basis of the plans as originally submitted and upon which the Council based its decision. To do otherwise would prejudice the interests of third parties and consultees who have not been consulted on these revisions. I have therefore proceeded to determine the appeal on the basis of the plans as originally submitted.

Main Issues

6. The main issues are:

- the effect of the proposal on the living conditions of the occupiers of No 51E Station Road with regards to outlook;
- whether the proposal would provide acceptable living conditions for future occupiers with regard to the provision of internal space; and
- whether the proposal would provide satisfactory parking arrangements and the effect on highway safety.

Reasons

7. The appeal site is at the rear of No 51, a two-storey residential block which has been extended at the rear with an elongated, two-storey, flat roofed development. Attached to this is the appeal site which is a single storey building, currently used as a 6-bedroom HMO, and accessed via a narrow lane between Nos 49 and 51 Station Road. The entrance to the building is located between No 51E and two attached garages to the rear of No 49. The area is largely residential in character with two and three storey residential blocks surrounding the site. However, the southern elevation adjoins a parking area next to a car repair premises accessed between No 31 and The Midland public house.
8. The proposed development is the demolition of the existing building and the construction of a three storey 8 room HMO, with a two-bedroom self-contained flat on the 2nd floor.

Living conditions of No 51E

9. The proposed development would adjoin No 51E. This is a two-storey flat with the 1st floor located above the entrance and proposed cycle store for the appeal site, No 51F. Flat No 51E has a bedroom window facing north-west. This would look towards the gable end of the proposed three-storey building. The proposed building is stepped back, reputedly by 5 metres at 2nd floor level, which did not occur in the previous scheme⁵. The Council states this would result in the east gable elevation of the proposal being a distance of 7.3 metres away. This has not been disputed by the appellant.
10. However, No 51E is at an angle to the proposed linear building. The daylight and sunlight assessment⁶ shows that the daylight assessment-based calculation of the vertical sky component (VSC) on the rear window of No 51E would be in

⁴ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

⁵ Ref 19/4432/FUL

⁶ Richard W Staig, 18 November 2022

excess of 35% which the appellant considers would provide a practically unobscured outlook. Although, there is no dispute regarding the amount of daylight and sunlight that the flat would receive, particularly as it has another window on the opposing wall, the outlook from the rear window of a habitable room would be restricted. Although permission has previously been approved for a two-storey building in a similar alignment, the extra height and mass resulting from this proposal, and the close distance to the window, would be overbearing on the occupiers of the flat, resulting in a sense of enclosure. Therefore, despite the VSC calculation, I conclude that the position of the rear window in relation to the proposal would harm the outlook that the occupiers of the flat currently enjoy.

11. Therefore, the proposal would conflict with Policies CS1 and CS5 of Barnet's Local Plan Core Strategy, 2012, (CS) and Policies DM01 and DM09 of Barnet's Local Plan Development Management Policies, 2012 (DMP). Collectively these require high quality design with adequate privacy and outlook for adjoining occupiers, including as a result of new HMOs. It would also conflict with the Residential Design Guidance Supplementary Planning Document, 2016, (Residential SPD) and the Sustainable Design and Construction SPD, 2016, (Construction SPD) which together require adequate outlook for adjoining occupiers.

Living conditions for future occupiers

12. Barnet's Adopted Standards for Houses in Multiple Occupation, 2016, (HMO Standards) requires that for a one bedroom letting, there should be a minimum of 13 m² of accommodation, and for two occupiers, a minimum of 17m². The appellant states that five of the rooms are single occupancy size and up to three are doubles. This would provide room for 11 occupiers, although the Council has only referred to the proposal being for 8 people.
13. The main parties dispute whether the rooms are adequately sized, with the Council stating that rooms T3, T5, T6 and T7 do not achieve the relevant space standards for an HMO. Whilst HMO's usually have shared kitchens and bathroom facilities, in this development all the flats are self-contained, apart from toilets, with one toilet being provided on each floor. The standards do state, however, that the calculated floor area should not include any space taken up by an en-suite, bathroom or WC facilities. All the rooms contain separate showers and basins. Whilst the Council has calculated the floor area excluding the kitchen and shower areas, the figures on the proposed plan suggest that these have already been excluded. In which case, the accommodation would accord with the Council's minimum standards.
14. I therefore conclude that the proposed development would provide acceptable living conditions for future occupiers with regard to the provision of internal space. It would not conflict with CS Policy CS5, DMP Policy DM09 and the Residential SPD and the Construction SPD. These policies together seek to provide high quality places that meet the relevant housing standards for HMOs.

Parking and highway safety

15. The streets surrounding the site are in a Controlled Parking Zone (CPZ) and it is within a Public Transport Accessibility Level (PTAL) 4 area. The proposal does not include any on-site parking, although the Council considers that the development requires four parking spaces. A parking survey which would

identify whether there is a parking supply locally to meet the needs of the occupiers has not been provided. However, the Council has stated that as the site has a good PTAL rating, the development would be acceptable if there was a planning obligation to amend the Traffic Management Order to prevent residents getting residential parking permits.

16. The site is close to both Hendon railway station and underground stations. Whilst no on-site parking is provided, there would be cycle storage for 16 cycles within the building. The appellant considers that by not providing car parking, it would not undermine cycling, walking and public transport use. Furthermore, they contend that in general there is a low level of car ownership amongst occupiers living in this type of accommodation, and that the previously approved development on this site was car free.
17. Despite the intention to make it car free, there is limited substantive evidence as to whether there is adequate parking within the surrounding area if an occupier did own a car. In addition, despite it being in a CPZ, there is limited evidence as to whether the proposal would lead to unacceptable effects on parking and congestion in the area, meaning that it would be necessary to prevent the issuing of residential parking permits. Notwithstanding this, there is no allocated car parking, and the main parties support the use of alternative, more sustainable modes of transport. Therefore, to ensure that the development does not contribute to parking and congestion, I am satisfied that a planning obligation is necessary and would accord with the requirements for obligations set out in paragraph 57 of the Framework.
18. Therefore, I conclude that without a planning obligation, the proposal would not provide satisfactory parking arrangements and would therefore affect highway safety. It would conflict with CS Policy CS9 and DMP Policy DM17. Collectively these policies seek to provide, safe, effective and efficient travel including promoting cycling and walking, as well as requiring a legal agreement to restrict future occupiers from obtaining on street parking permits.

Other Matters

19. The principle of a three-storey block in terms of design and the amenity of the occupiers of the housing in front of the site, particularly No 49 Station Road, was not disputed by the inspector in the previous appeal⁷. Moreover, in this appeal, there is no dispute between the main parties that the proposal would harm the character and appearance of the area. In addition, there would be no direct facing of windows into neighbouring properties, and it would provide appropriate levels of daylight and sunlight. In terms of the 2nd floor flat, it would exceed the minimum unit size, would be dual aspect, and would provide adequate levels of light and outlook.
20. The proposed development would not provide any internal communal space or external amenity space. However, the appellants refer to the previous appeal⁸ where a fallback position of an earlier permission having no internal or external amenity space was accepted by the inspector. Whilst I have no substantive evidence of this permission, the lack of amenity space is not a matter of dispute. Therefore, I will not consider this matter further.

⁷ APP/N5090/W/20/3254257

⁸ APP/N5090/W/20/3254257

21. A third party has stated that there is a need for improvements to the building to enhance living conditions. There is little substantive evidence of the current state of the building, and I did not enter the premises. This is therefore a neutral matter.

Planning Balance

22. The proposed development would provide an 8-bedroom HMO and a two-bedroom self-contained flat. This would increase the number of units on the site from the current six. This would contribute to providing low-cost housing, particularly within the west side of the borough where there is a focus on growth. It would also result in housing being built on brownfield land in a sustainable location.
23. However, there is evidence of an extant planning permission for an 8-bedroom HMO in a two-storey building. Furthermore, whilst the National Planning Policy Framework seeks to boost the supply of homes, there is no evidence to suggest that the Council is unable to demonstrate a five-year supply of deliverable housing sites. Moreover, I have already found that the proposed development would harm the living conditions of the occupiers of No 51E with regards to outlook and a planning obligation to ensure satisfactory parking arrangements has not been secured.

Conclusion

24. 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.
25. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR