



Appeal Decision

Site visit made on 09 December 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Appeal Ref: APP/N5090/W/24/3339184

47 Netherlands Road, New Barnet, Barnet EN5 1BP

- 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 Tagbo Umenyilora against the decision of Barnet London Borough Council.
 - The application Ref is 23/4759/RCU.
 - The development proposed is change of use of the property from a single family dwelling (Class C3) to a 5 bed House in Multiple Occupation (HMO) (Class C4).
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Decision

1. The appeal is allowed and planning permission is granted for change of use of the property from a single family dwelling (Class C3) to a 5 bed House in Multiple Occupation (HMO) (Class C4) at 47 Netherlands Road, New Barnet, Barnet EN5 1BP in accordance with the terms of the application, Ref 23/4759/RCU, subject to the conditions in the attached schedule.

Preliminary Matters

2. In the interests of clarity and precision, the description of the development is taken from the decision notice, insofar as it describes development.
3. The application was submitted retrospectively. My attention has been drawn to a scaling error on the submitted plans. However, I was able to observe the interior of the HMO on my site visit. I have therefore based my assessment of the internal accommodation on my observations of the development as well as the submitted evidence.
4. Since the application was determined, the Council has received the Inspector's report following the examination of the draft Barnet Local Plan 2021 to 2036 (BLP) which states that, subject to the recommended main modifications, the BLP is legally sound. Given its very advanced stage, it is unlikely that the policies in the BLP would change prior to its adoption. The BLP therefore carries considerable weight. I have referred to the relevant emerging policies in this decision, alongside the policies in the statutory development plan.
5. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024, to which I have had regard in this decision. There have been no fundamental changes to the Framework insofar as it is relevant to the main issues in this appeal.

Main Issues

6. The main issues are:

- whether the site is suitable for a HMO, having regard to local character, the supply of family housing, and accessibility by sustainable travel modes;
- the effect of the development on the living conditions of neighbours, with particular regard to noise and disturbance; and
- whether the development provides an adequate standard of accommodation for its occupiers, with particular regard to the internal living space and kitchen facilities.

Reasons

Whether the site is suitable

7. The appeal site is a two-storey semi-detached dwelling with off-road parking to the front and a large garden area to the rear. The appearance of the property is similar to most other dwellings in the street, which has a distinctive, suburban character. The area has a Public Transport Accessibility Level (PTAL) score of 2. However, the site lies within a short walking distance (less than 10 minutes) to Oakleigh Park railway station, and there are regular bus services nearby on Longmore Avenue.
8. Policy DM09 of the Barnet's Local Plan (Development Management Policies) Development Plan Document (September 2012) (DMP) states that proposals for new HMOs will be encouraged where, amongst other things, they meet an identified need, can demonstrate they will not have a harmful impact on the character and amenities of the surrounding area, and are easily accessible by public transport, cycling and walking. Emerging Policy HOU04 of the BLP echoes support for new HMOs in similar circumstances, adding that they are required not to create a harmful concentration of HMOs in the local area. A harmful concentration is defined in emerging Policy HOU04 as where three or more of the ten nearest properties are HMOs.
9. Netherlands Road predominantly comprises a mix of family-sized dwellings, for which there is evidence of an ongoing priority need as set out in Policy DM08 of the DMP. Indeed, an Article 4 Direction, which came into force in 2016, removed permitted development rights for the conversion of dwellings to HMOs across the Borough, to enable the Council to manage the loss of family housing to HMO accommodation.
10. I have not been directed to any specific methodology by which an identified need for the HMO should be demonstrated. However, the fact that the HMO is currently occupied, and has been for many years, demonstrates there is a need for this type of accommodation in the local area. Indeed, the marketing data provided by the appellant shows the HMO has consistently been in high demand for some time.
11. Moreover, and in addition to identifying the need for family homes, Policy DM08 of the DMP recognises the need for a mix of dwelling types and sizes to provide choice for a growing and diverse population. This aligns with the Framework, which supports the delivery of homes to meet the needs of different groups in the community. HMOs provide an important source of housing for those on low incomes, as is recognised in the supporting text to Policy DM09 of the DMP. Overall, and in the absence of substantive evidence to the contrary, I am satisfied there is a need for the appeal development.

12. The evidence suggests there is one other HMO on Netherlands Road, and one property that has been converted to flats. Therefore, even with the appeal development, HMOs represent a minority of properties on the street. Consequently, the proportion of HMOs in the area falls well below the definition of a 'harmful concentration' in emerging Policy HOU04 of the BLP. It follows that the development has not significantly changed the housing mix in this residential area, and the character of the street remains one that is predominantly made up of family homes. Moreover, given that no internal or external alterations have taken place to facilitate the HMO, the development does not preclude its occupation as a family home in the future, even though some of the ground floor rooms are currently used as bedrooms.
13. The Local Plan Supplementary Planning Document: Residential Design Guidance (October 2016) (RDG) states that the conversion of existing dwellings can have a cumulative impact on environmental quality and the character of established residential areas through changing external appearance, increased movements of cars and people, parking stress, and additional rubbish and deliveries. However, I have not been directed to substantive evidence of any such issues arising from the development since it was licensed as a HMO. Furthermore, on my site visit, there was no discernible evidence that the building was occupied as a HMO rather than as a family home. Therefore, the evidence does not persuade me that there has been a harmful change to the character of the area due to the development.
14. Neither Policy DM09 of the DMP nor emerging Policy HOU04 of the BLP defines 'easily accessible'. However, the supporting text to emerging Policy HOU04 indicates HMOs should be sited in areas with a PTAL score of 3-6, which does not include the appeal site. I have also been provided with a copy of emerging Policy HOU03 of the BLP, which takes a more flexible approach to the siting of residential conversions, stating that they could also be located within 800 metres walking distance of a station. This broadly reflects the supporting text of The London Plan (March 2021), which in summary supports small sites, including residential conversions, within 800m of a station.
15. Given the site's proximity to Oakleigh Park railway station, and the frequent bus services from Longmore Avenue, there is good accessibility to the site by public transport. Moreover, from my observations, the site is within a short cycling distance of a range of services and facilities on High Road and East Barnet Road, amongst others. Therefore, notwithstanding its PTAL rating, I am satisfied the site accords with the accessibility objectives of Policy DM09 of the DMP and emerging policy HOU04 of the BLP.
16. The evidence refers to two dismissed appeals for conversions to HMOs at Princes Park Avenue and Prayle Grove, in which the effect on local character and the supply of family housing was a main issue¹. In both of those appeals, the relevant Inspectors attributed limited weight to the BLP due to the stage of its preparation. Conversely, emerging Policy HOU04 of the BLP and its definition of over-concentration carries considerable weight in my assessment of the development on local character. Therefore, the circumstances before me are not directly comparable to these other appeal decisions.

¹ Appeal Decision Refs. APP/N5090/W/24/3340448, dated 27 August 2024 and APP/N5090/W/22/330822, dated 26 May 2023

17. Overall, I conclude that the appeal site is suitable for a HMO, with particular regard to local character, the supply of family homes, and accessibility by sustainable travel modes. There would be no conflict with Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document (September 2012) (CS) and Policy DM01 of the DMP which seek to conserve and enhance local character and the distinctiveness of Barnet as a place to live, work and visit.
18. There would also be no conflict with Policy DM08 of the DMP insofar as it seeks to ensure an appropriate mix of dwelling types and sizes; and Policy DM09 of the DMP and emerging Policy HOU04 of the BLP, which support new HMOs including where they do not create a harmful concentration of HMOs in the local area, protect local character, and where they are easily accessible by public transport, walking and cycling. It follows that there would be no conflict with Policy CS NPPF of the CS in respect of this main issue, which broadly reflects the presumption in favour of sustainable development in the Framework.

Living conditions

19. The decision notice cites concerns about the potential effects of the development on the living conditions of neighbours due to noise generating activities and increased comings and goings from the property.
20. At a maximum of 5 tenants, the population of the property could be similar to that of a family occupying a 3-bedroom dwelling, whereby individuals could feasibly operate to a variety of schedules for working, schooling, and leisure activities across various times of the day. Moreover, in any typical suburban area, it is common to overhear noise arising from the communal use of gardens by residents and visitors of all ages.
21. There is no substantive evidence to suggest that the use of the property as a HMO generates a greater number of visitors or deliveries than other residential properties in the area. Furthermore, the property has off-road parking for at least 2 vehicles, and I did not observe evidence of on-street parking pressure or excessive traffic arising from the development on my site visit.
22. Therefore, in all reasonable likelihood, the level of activity generated both inside and outside the appeal property would not be significantly different to those that could arise from other residential uses on the street. Consequently, the proposal would accord with an underlying objective of RDG and the Local Plan Supplementary Planning Document: Sustainable Design and Construction (October 2016) (SDC SPD) which is to protect the living conditions of neighbouring occupants.
23. I conclude that the development has not caused a material increase in noise or other disturbance, so as to cause harm to the living conditions of neighbours. The development therefore complies with Policies CS1 and CS5 of the CS, Policies DM01, DM04, and DM09 of the DMP, and emerging Policy HOU04 of the BLP insofar as they seek to safeguard the local amenity, public spaces, and surroundings, including from unacceptable noise levels.

Standard of accommodation

24. Taken together, Policy DM09 of the DMP and emerging Policy HOU04 of the BLP expect HMO developments to meet the requirements of the Council's HMO Licensing Schemes and to comply with any other relevant standards for HMOs.
25. It is common ground that the appeal property benefits from a HMO License for up to 5 people. Whilst the license could have been issued subject to compliance inspections, the Council's HMO Team is referenced in the delegated report as being satisfied the development meets the relevant standards. Moreover, given the passage of time since the license was issued, there is limited evidence to suggest the license is likely to be revoked or amended due to the standard of the accommodation.
26. On my site visit, I observed that most of the bedrooms are large double rooms with high ceilings and sufficient space for a range of furniture suitable for single person occupancy. One of the bedrooms on the first floor has a smaller floorspace than the others, but it is nonetheless large enough for a single bed, a built-in wardrobe, and other furniture. When combined with the large garden and kitchen, which is a good size and well-equipped for 5 people, I have no reason to conclude that the accommodation is substandard or that it fails to meet the objectives of the RDG or the SDC SPD in terms of providing high quality accommodation.
27. I conclude that the development provides an adequate standard of accommodation for its occupiers. Therefore, there is no conflict with Policies D3 and D6 of the LonP, Policy CS5 of the CS, and Policies DM01 and DM09 of the DMP which, when read together, expect development to be high-quality with adequately sized rooms that meet the Council's standards for HMOs.

Conditions

28. The Council provided a list of suggested conditions, which I have considered against the tests set out in the Framework and the Planning Practice Guidance. Where appropriate, I have adjusted the wording of the conditions to improve precision and enforceability, and to reflect the retrospective nature of the application. Both parties have been provided with an opportunity to comment on the conditions listed in the attached schedule, and I have taken the comments received into account.
29. The development has already commenced therefore I have not included the standard time limit condition.
30. I have included a condition to define the plans, to provide certainty over the development permitted.
31. Condition 2 requires the submission, approval, and implementation of refuse and waste storage and recycling facilities. This condition is necessary to protect the character and appearance of the area. However, there is no proposal to change the waste collection point therefore it is not necessary to require this detail to be submitted and approved.
32. Condition 3 requires the submission, approval, and implementation of bicycle parking facilities. This condition is necessary to ensure the development enables travel by sustainable modes for its occupants.

33. Conditions 2 and 3 have strict timetables for compliance because permission is being granted retrospectively, and it is not possible to use negatively worded conditions to secure the approval and implementation of the details before the development takes place. The timetables incorporated into the conditions ensure the requirements can be enforced against.
34. A condition is included to limit the number of residents to five. This condition is necessary because it has not been demonstrated that a higher occupancy level would secure a satisfactory standard of accommodation for future occupiers, or that it would safeguard the living conditions of neighbours and local character.
35. The Council suggested a condition that prevents the installation of cooking facilities in bedrooms, to safeguard the property as a HMO. However, it is clear from the description of the development that the property is a HMO. Nonetheless, in the interests of ensuring a satisfactory standard of accommodation for all occupants of the property, I have included a condition requiring details of any proposed cooking facilities to be submitted for approval.
36. The Council requested a condition to secure details of car parking and access arrangements. However, given the layout and capacity of the existing driveway, and the lack of proposed alterations to the existing parking and access arrangements, it is not necessary to secure these details through a condition.

Conclusion

37. I have found the proposal to be in conformity with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

E Catchside

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following drawings: Unnumbered Site Location Plan, Page 1 of 4 Rev 1, Page 2 of 4 Rev 1, Page 3 of 4 Rev 1, Page 4 of 4 Rev 1.
- 2) Unless within one month of the date of this decision, details of enclosures and screened facilities for the storage of recycling containers, wheeled refuse bins, and any other refuse storage containers, is submitted in writing to the local planning authority for approval, and unless the approved details are implemented within one month of the local planning authority's approval, the occupation of the development shall cease until such time as details are approved and implemented.

If no details in accordance with this condition are approved within four months of the date of this decision, the occupation of the development shall cease until such time as details approved by the local planning authority have been implemented.

Upon implementation, the approved enclosures and facilities specified in this condition shall be permanently retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition shall be suspended until that legal challenge has been finally determined.

- 3) Unless within one month of the date of this decision, details of bicycle parking facilities are submitted in writing to the local planning authority for approval, and unless the approved details are implemented within one month of the local planning authority's approval, the occupation of the development shall cease until such time as details are approved and implemented.

If no details in accordance with this condition are approved within four months of the date of this decision, the occupation of the development shall cease until such time as details approved by the local planning authority have been implemented.

Upon implementation, the approved bicycle parking facilities specified in this condition shall be permanently retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition shall be suspended until that legal challenge has been finally determined.

- 4) The development hereby permitted shall not be occupied by more than five residents at any one time.
- 5) No cooking facilities, including hot plates, shall be installed in the bedrooms of the development hereby permitted unless details have first been submitted to and approved in writing by the local planning authority. Any cooking facilities shall thereafter only be implemented in accordance with the details that have been approved pursuant to this condition.

END OF SCHEDULE