



Appeal Decision

Site visit made on 27 February 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6TH March 2025

Appeal Ref: APP/T5150/W/24/3350554

13 Brenthurst Road, London NW10 2DX

- 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 Patrick McDonald against the decision of the Council of the London Borough of Brent.
 - The application Ref is 24/0407.
 - The development proposed is described as 'Retrospective Change of use from single dwelling (Class C3) to HMO (Class C4).'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the proposal is partly retrospective, the layout of the communal space in the kitchen and living room differs from the submitted drawings of the proposed development wherein it shows the kitchen separated from the living room by a wall. Although the existing drawings fail to show the current layout, for the avoidance of doubt I have based my decision on the proposed plans.

Main Issues

3. The main issues are:
 - whether the proposal accords with the Council's housing policies concerning Houses in Multiple Occupation (HMO);
 - whether the proposal would provide suitable living conditions for future occupiers with particular regard to the size and quality of communal space;
 - whether the proposal would be harmful to the living conditions of nearby residents;
 - whether the proposal makes adequate provision for cycle and refuse storage;
 - whether the proposal can provide suitable fire risk mitigation; and
 - whether the proposal makes adequate provision for urban greening.

Reasons

Housing policies

4. The appeal site comprises a two-storey mid-terraced property in a street of similar buildings. It previously comprised a single dwellinghouse. The property has a small yard to the front and garden at the rear. The proposal seeks to provide a 5-bedroom HMO.
5. Policy DMP1 of the Brent Local Plan 2019 – 2041, February 2022 (the Local Plan), sets out that development will be acceptable provided it results in no loss of other land/buildings for which there is an identified need. Local Plan Policy BH7 requires proposals with shared facilities to demonstrate that there is a specific Brent need for a HMO, and to ensure it will not lead to an over concentration.
6. The Council's Houses in Multiple Occupation Supplementary Planning Document 2022 (the SPD) supports the above policies. It advises that HMO accommodation is likely to compete for the same properties with families who also need 3 bedroom dwellings or larger. The SPD goes on to advise that the need for family accommodation is significant in the borough. It further states the aim of preventing over concentration is to support mixed and balanced communities.
7. Although the property is occupied, the appellants have provided no evidence to demonstrate that there is a specific Brent need for the HMO. Nor has it been shown that there is a deficiency of available HMO accommodation that would equate to an identified need.
8. It was not possible, from my site visit, to note how many dwellings are HMOs on Brenthurst Road as this could be done with minimal external changes, which would not indicate it is in multiple occupancy. However, Local Plan Policy BH7 sets out that an overconcentration is defined where three or more of the ten nearest properties are HMOs.
9. I have not been provided with a radius map which shows the front entrances of the ten nearest properties, which would clearly identify the nearest HMOs. Whilst this limits the weight I can attach to this evidence; the appellant has not provided substantive evidence which disputes the locations of the HMOs contained within the officer report, the Council's statement of case or the Council's property licensing register. Based on the evidence before me there are more than three HMO within close proximity to the appeal site. Nos 7, 9 and 10 Brenthurst Road could reasonably be considered to fall within the ten nearest properties.
10. Even if the aforementioned properties are not HMO, it is evident that there are numerous licensed properties very close the appeal site. The additional provision of a house in multiple occupation would undermine the Council's aim of supporting mixed and balanced communities. Ultimately there is no substantive evidence before me which would justify setting the requirement for need contained within Policy BH7 aside. In the absence of evidence which identifies a need for the additional provision the proposal would result in the unjustified loss of a single dwelling, which given the need for such homes in the borough would also be harmful.
11. Consequently, I conclude that the proposal would not accord with the Council's housing policies concerning HMO. The proposal would be contrary to Local Plan

Policy BH7, which identifies that the majority of housing needs will be met through self-contained residential accommodation.

Living conditions

12. The communal kitchen, dining and lounge space was open plan at the time of my site visit. However, the submitted floor plans show a separate kitchen of 8.4m² and living room of 15m² floor area. Both would exceed the Council's required kitchen and living space standards for five people.
13. However, the Council state that the property could be occupied by as many as seven residents due to the indicated bedroom sizes. Although a suitably worded condition to limit occupancy to five people would not be unreasonable or unworkable, the appellant has not provided any further clarity on occupancy. Therefore on this basis, I am not satisfied that the proposal would provide adequate communal space for the potential number of occupants who could reside there. This would result in cramped conditions, which would be likely to affect the day to day living requirements of occupants.
14. Furthermore, based on the submitted plans, the window to the living room would be too small in an enclosed room to provide direct and unrestricted natural light and ventilation to a living room of the size proposed. The proposed living space would not be provided with a suitable level of daylight or sunlight. This would make the living accommodation feel oppressive and make it even less likely to be used.
15. I therefore conclude that the proposal would be harmful to the living conditions of future occupiers. The proposal would therefore be contrary to Local Plan policy DMP1 and BH7. Together these seek to ensure development achieves high levels of internal amenity meeting the needs of its occupants.

Living conditions of neighbouring residents

16. The appeal property is located in a mid-terraced location on a street which leads directly off a busy main road, to a nearby college. There are commercial premises, bus and tube links nearby. From my observations during the course of my visit to the site, the street is not quiet and was busy with numerous people walking along it. Whilst far from a bustling high street, it is nonetheless has a general background level of activity and noise.
17. Crucially, given the above, I am not persuaded that the occupation of the appeal property even by up to seven people would give rise to a noticeable or harmful change in terms of noise, disturbance or comings and goings. The SPD advises that all HMO are expected to be mandatory or additionally licensed by the Council's Private Rented Sector housing team. I find that the proposal would not be of such a scale that the absence of management arrangements would inevitably result in harm to the neighbouring occupiers. Ultimately, I am also satisfied that the matter could also be addressed by a suitably worded planning condition to secure a management plan.
18. I therefore conclude that the proposal would not harm neighbouring residents living conditions. The proposal would therefore be in accordance with Local Plan Policy BH7, which seeks to protect the amenity of existing areas, and ensure development would be suitable for its proposed use and size.

Cycle and refuse storage

19. The Council do not object to the level of external space provided to the rear of the building. There is also space at the front of the site, where refuse or cycles could be stored. I have not been provided with substantive evidence that either of these areas would not be a suitable size or inconvenient for these purposes. Furthermore, cycle and refuse storage could be secured via a suitably worded planning condition.
20. I conclude that subject to conditions that the proposal would be able to provide adequate cycle and refuse storage. The proposal would not be in conflict with Local Plan Policies DMB1 and BT1. Nor would the proposal conflict with Policy T5 of the London Plan, March 2021. Together and insofar as they are relevant these seek amongst other matters to ensure development is satisfactory in terms of servicing and to remove barriers to cycling through the provision of cycle parking and provision of sustainable transport options.

Fire Risk

21. Part A of Policy D12 of the London Plan sets out that all development proposals must achieve the highest standards of fire safety, taking into account factors which include fire risk reduction, fire escape and evacuation and provision for firefighting. While the proposal may not provide all the requirements listed in Policy D12A having regard to the scale and nature of the development, I can see no reason that submission, approval and implementation of a satisfactory fire strategy to address the requirements of the London Plan Policy D12 could not be secured by means of a planning condition.
22. I therefore conclude on this main issue that subject to a condition, there would be adequate standards of fire safety. I find no conflict with Policy D12 of the London Plan in this respect.

Urban greening

23. Policy BH4 and BGI1 of the Local Plan requires all minor residential developments to deliver an Urban Greening Factor (UGF) of 0.4. The supporting text requires consideration as part of the application process. There is no evidence before me to demonstrate that an UGF of 0.4 would, or could, be delivered on-site. Given the above uncertainties the imposition of a condition to secure details would not be appropriate in this particular instance.
24. Consequently, the proposal would be contrary to Policies BH4 and BGI1 of the Local Plan. Combined these seek to protect and enhance the existing levels of green infrastructure and achieve a net gain in biodiversity.

Balance and Conclusion

25. The provision of HMO form an important part of the housing supply in the Borough. However, economic benefits would be small. Even if there are no harmful effects on the character of the area with particular regard to management of the accommodation, neighbouring living conditions, cycle and refuse storage or fire safety, I have found that there has not been sufficient evidence to demonstrate the need or that it would not lead to an overconcentration. The living conditions of occupiers would be compromised due to quality of communal space. The proposal also fails to provide any evidence regarding compliance with other policy

requirements relating to urban greening. Any benefits or alignment with the Framework do not outweigh the harm I have identified.

26. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and other relevant considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

K Williams

INSPECTOR

