



Appeal Decision

Site visit made on 15 July 2025

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2025

Appeal Ref: APP/T5150/W/25/3359579

100 Wembley Park Drive, Brent, Wembley HA9 8HR

- 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 Mant Mandair (The Legal Practice) against the decision of the Council of the London Borough of Brent.
 - The application Ref is 24/2539.
 - The development proposed is change of use from Office to House in Multiple Occupation including a ground floor rear extension, rear amenity area and car parking space.
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Decision

1. The appeal is dismissed.

Main Issues

2. Through its appeal statement, the Council has indicated that the imposition of planning conditions would address the concerns set out under its refusal reason number 3 on the absence of a management plan, number 4 on excessive car parking provision, number 5 on cycle parking and number 7 on urban greening. I find no reason to disagree with the Council on these matters. As such, the main issues are (i) whether the loss of commercial floorspace as a result of the proposal would be contrary to the policies of the Brent Local Plan 2022 (the LP), (ii) whether the development would provide acceptable living conditions in terms of outlook, noise, privacy as well as the layout and size of rooms, (iii) flood risk, resistance and resilience, and (iv) air quality.

Reasons

Loss of commercial floorspace.

3. The development relates only to the ground floor of the appeal property. This is described on the planning application form as a vacant solicitors' office. The property lies within the Wembley Park Town Centre and within a secondary shopping frontage as defined under the LP. Under the terms of LP policy BE4, unviable secondary frontage properties will be promoted for workspace, social infrastructure and residential uses. However, to benefit from this policy support it is necessary to demonstrate the existing office use is unviable.
4. A letter from an estate agent indicates a marketing exercise associated with the appeal property has fail to attract any potential tenants for over a year. Also, the appellant states the property has been marketed for rent since September 2023 and there has been no interest. However, there is no information before me on the price at which the unit has been marketed and no evidence to show the marketing

price reflects the property's value having regard to its condition and its location. Paragraph 6.4.33 of the LP states that a professional valuation of the asking price or rent will be required from at least 3 agents to confirm it is reasonable. No evidence has been provided to show this requirement has been met and so I am unable to conclude the property has been marketed appropriately.

5. Consequently, the evidence fails to convincingly demonstrate that the existing office unit is unviable or that the proposal would avoid the loss of office premises for which there is an identified need. For these reasons, I conclude the development would result in the unacceptable loss of commercial floorspace, contrary to LP policies DMP1 and BE4.

Living conditions.

6. The proposed House in Multiple Occupation (HMO) would provide 6 bedrooms and a communal kitchen, lounge and dining area to the rear. All of the bedrooms apart from that at the front would be served by a single window on the side elevation. These would face onto a narrow drive that provides vehicular access between the road and the rear of the appeal site and other properties in the adjacent parade of commercial units.
7. The views from the side windows towards the front of the HMO would be onto the main part of a house at 98 Wembley Park Drive (No 98). This dwelling is set slightly away from the access drive and the separation would ensure reasonable views out from windows to the front bedrooms. However, the windows serving 2 bedrooms at the back would be very close to the side wall of a garage to No 98, with only the narrow access drive in between. These rear bedroom windows would provide a poor and restricted outlook, mainly of the blank flank wall to the garage.
8. Moreover, it is likely that noise from vehicles using the access drive would be heard within the bedrooms, particularly if windows are open for ventilation purposes. Occupants would have no control over these vehicle movements and their living conditions could be detrimentally affected by associated noise.
9. The proposed front bedroom would be served by a window onto the pavement outside the property with no garden or other private space in front. The window would allow pedestrians outside the property to easily see into the bedroom at close quarters. As such, the front bedroom would not provide its occupiers with acceptable levels of privacy, unless blinds or curtains are drawn. This would lead to the bedroom having a poor outlook in order to provide sufficient privacy.
10. All the bedrooms would meet the minimum size requirements as laid out in policy D6 of the London Plan 2021 (the LonP) as well as paragraph 5.11 of the Council's Houses in Multiple Occupation Supplementary Planning Document 2022 (the SPD). However, the single bedroom next to the communal kitchen, living and dining room would have an awkward shape due to the en-suite shower room. Its useability would also be compromised by the need to allow space to open the bedroom and shower room doors. The floor plan fails to show how this room would accommodate a bed, bedside table, desk with chair, drawers and a wardrobe as referred to under paragraph 5.16 of the SPD. It is difficult to envisage how this room could accommodate furniture required for its use as well as provide sufficient circulation space. The layout of this room would not provide an acceptable living environment for its resident, even if the shower room were found to be of a sufficient size to meet the standard as set out in paragraph 5.18 of the SPD.

11. The proposed communal room would provide sufficient space for facilities, for preparing and eating food and for relaxing in light of guidance within the SPD. However, the bedrooms would be the only private space for the residents of the HMO and so it is important that they in themselves provide sufficient living environments. I note there is a need to obtain a housing license. Nevertheless, any requirement in these respects does not negate the need to consider the adequacy of living conditions within the development as part of this planning appeal.
12. For the above reasons, I conclude the development as a whole would provide unacceptable living conditions having regard to the issues of outlook, noise, privacy and the layout of the single bedroom adjacent to the communal kitchen and living area. In these regards, it would not accord with LP policies DMP1 and BH7 and LonP policy D6. Amongst other things, these look to ensure residential development is of a high quality design with good levels of internal amenity.

Flood risk, resistance and resilience.

13. The appellant states the appeal property has never flooded in recent history. However, they have not sought to dispute the Council's claim that the site is in Flood Zone 3a and that it is prone to surface water flooding. Indeed, photographs provided by the Council show standing water at the rear of the site.
14. In light of the flood risk and paragraph 6.7.37 of the LP, a flood risk assessment (FRA) should be provided in support of the planning application leading to this appeal. It is noteworthy that this requirement applies to change of use schemes in flood zone 2 or 3. LP policy BSU13 states a FRA should show how a development will be resistant and resilient to all sources of flooding including surface water. This requirement is consistent with advice at paragraph 181 of the National Planning Policy Framework (the Framework) that all applications for development in flood zone 3 should be supported by a site specific FRA.
15. No FRA has been submitted as part of the appeal and so there is no evidence to show how the development may be affected in the event of a flood event. The appellant suggests that a FRA should have been requested at validation stage. Nevertheless, without a FRA I conclude that the development would be contrary to LP policies BSU13 and DMP1 as it has not been shown the development would reduce exposure to flood risk and that it would be flood resistant and resilient.

Air quality.

16. I am advised the appeal property lies within an Air Quality Focus Area. LP policy BSU12 states that major developments within such areas will be required to be air quality positive. However, it is evident that LP policy BSU12 only sets out air quality requirements for major development. The HMO would provide 6 separate bedrooms and so it would not meet the definition of major development as set out in the glossary to the LP. As such, LP policy BSU12 is irrelevant.
17. Part (f) of LP policy DMP1 looks for development to avoid an unacceptable impact on air quality. It is unclear from the Council's submissions as to how it considers the proposal would cause air pollution. There is little information to demonstrate the HMO would lead to extra trips to and from the site by private car when compared to the existing office use. Indeed, through the imposition of a condition, the proposal would include no on-site car parking spaces whereas currently the rear part of the site could be used for parking associated with the offices. As such,

it is likely the development would not lead to air pollution associated with traffic over and above that already caused by the office use.

18. The Council raises a concern that residents of the HMO would be exposed to air of poor quality and that appropriate ventilation of the development would be required. However, even if I agree that this is a matter of concern, I am satisfied the issue could be appropriately and reasonably addressed through the imposition of a planning condition. Therefore, I conclude the development would have an acceptable effect in respect of air quality. In these regards, it would accord with LP policy DMP1 and it would not conflict with LP policy BSU12.

Other Matters and Planning Balance

19. The proposal would not accord with the development plan for the reasons set out under the first 3 main issues. It follows to consider whether other factors justify granting planning permission contrary to the development plan.
20. The renovation of the building to allow the HMO use would improve its energy efficiency. The site's location within a busy urban area means residents would have good access to a range of local facilities and public transport links. The proposal would represent the efficient use of an under-utilised building as supported by the Framework at sub-paragraph 124(d). It would also contribute to the housing stock and so it would support the objective to boost the supply of homes as laid out at paragraph 61 of the Framework. The benefits of the scheme collectively attract significant weight in support of allowing the appeal.
21. At the same time, the failure to provide acceptable living conditions for residents means the development would be contrary to sub-paragraph 135(f) of the Framework and the aim to secure places with a high standard of amenity for future users. In these regards, the proposal would represent poor design and so paragraph 139 of the Framework indicates permission should be refused. Also, the absence of a FRA brings the development in conflict with paragraph 181 of the Framework. The identified policy conflict in respect of the first main issue also attracts weight against allowing the appeal. Overall, I find the benefits of the scheme would be insufficient to outweigh the harm caused by the proposal's conflict with planning policies.

Conclusion

22. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. Therefore, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR