



Appeal Decision

Site visit made on 4 July 2025

by **N Perrins MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 July 2025

Appeal Ref: APP/T5150/W/25/3363599

3 Lansdowne Grove, Brent, London NW10 1PL

- 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 Saj Hussein against the decision of The London Borough of Brent.
 - The application Ref is 24/3565.
 - The development proposed is change of use of dwellinghouse to 7 bedroom / 7 person HMO and works to include demolition of front porch, single storey rear extension, rear dormer window, 3 front rooflights, creation of rear terraces on rear projection and first floor with replacement of window and door, alteration of fenestration, boundary treatment, provision of refuse storage and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. As part of its appeal submissions, the appellant submitted amended plans and information that seek to address some of the issues raised by the Council when they refused the planning application. These comprise removal of a kitchenette to change 'Studio 01' to a single room within the HMO, removal of the second-floor terraces, lowering of boundary fence and bin store to the front and updated information on the number of HMOs nearby.
3. I have had regard to the 'Wheatcroft' principles including whether the proposed amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity. I have also had regard to *The Procedural Guide – Planning Appeals – England*, which makes clear that if an appellant thinks that amending their application proposals will overcome the local authority's reasons for refusal, they should normally make a fresh planning application.
4. The proposed changes to the plans, whilst on face value could be positive, are fundamentally different to those originally presented in terms of their likely impact and are clearly presented as seeking to overcome some, or all, of the reasons for refusal. Some of the changes would also conflict with the description of development as originally submitted. As such, I have decided not to accept the amended plans as they should be subject to notification, to not prejudice any party, through a fresh planning application rather than be considered through this appeal. I have, however, decided to accept the additional information on the numbers of

HMOs in the area as that is seeking to clarify what had already been submitted at application stage.

Main Issues

5. The main issues are:

- (i) Whether satisfactory living conditions are provided and the loss of a single family dwelling is justified;
- (ii) The effect of the proposed development on the character and appearance of the host property and surrounding area;
- (iii) The effect of the proposed development on the living conditions of neighbours with particular regard to noise, disturbance and privacy;
- (iv) The provision of cycle parking; and
- (v) Fire safety.

Reasons

Standard of accommodation and loss of family dwelling

- 6. The appeal property is a two-storey terraced dwelling in use class C3 of the Use Classes Order. The proposal would change this to a larger House of Multiple Occupation (HMO), which is classed as sui generis. Although I was unable to access the property during my inspection of the site and surrounding area, the submitted documentation is thorough and detailed, and sufficient for me to assess the merits of the appeal proposal against the relevant planning policy and guidance.
- 7. Policy BH7 of the Brent Local Plan 2019-2041 (BLP) confirms that an HMO proposal will be supported where it meets all of five prescribed criteria. There is no dispute between the parties that the proposal meets criterion Policy BH7 (a) that relates to accessibility of the location, and Policy BH7 (c) that requires management arrangements to be agreed with the Council. I agree with this as the site is in an area with a PTAL rating of 4, and there is a submitted management plan before me that clearly sets out the use and how its tenants will be managed. The matters in dispute, therefore, are Policy BH7 criteria (b), (d) and (e). In assessing compliance against these criteria, I have regard to the Council's HMO Supplementary Planning Document adopted in 2022 (SPD).
- 8. Policy BH7 (b) requires HMOs to be of an acceptable quality meeting appropriate standards for the needs of its occupants including external amenity and communal space. The application was submitted to accommodate 7 persons across 7 single occupancy bedrooms. The Council contend that due to the size of some of the bedrooms the HMO would be able to accommodate up to 10 people as some of the rooms are large enough for double beds.
- 9. Whilst I understand that the application has been made for 7 people it is not clear precisely how this level of occupancy would be controlled to this level. The appellant suggests that one option could be a planning condition albeit without any suggested wording presented or confirmation as to how it would be enforceable. Without clarity on how occupancy could be controlled to the level applied for, it

remains relevant to consider the suitability of the accommodation for the maximum that could be accommodated based on the room sizes, which is for 10 people.

10. However, of more concern than the numbers of people is that of the 7 units, the unit labelled on the floor plans as 'Studio 01' would be a self-contained flat due to it being proposed to have its own kitchen and bathroom. This unit, as a self-contained flat, would not comply with the space standards as set out in Policy D6 of the London Plan 2021 that requires a 1 bed 2 person flat to have a minimum floor area of 50 sqm. It would also be contrary to the guidance in the SPD where it states that individual rooms are prohibited from having kitchens. When both aspects are considered together, 'Studio 01' would not provide a suitable living environment for its occupants due to being too small for the type of accommodation proposed.
11. In terms of outlook and privacy, 'Single Room 02' would look out onto the proposed outside courtyard. This arrangement would normally result in people using the courtyard being able to look directly into this room, which would result in an intrusive and uncomfortable environment for future occupants in respect of their privacy. A plant buffer is proposed to help alleviate this as well as raising the window sill height to 1.8m; further details would be needed to confirm whether these measures would be appropriate and not have the reverse adverse impact in terms of blocking out future occupants' outlook. Whilst the outlook and privacy for 'Single Room 02' is unacceptable as presented, there are no adverse impacts for any of the other rooms, which would have acceptable front or rear facing outlooks and privacy.
12. The Council have raised concerns with the ceiling heights for some of the rooms in that they do not meet the guidance set out in the SPD. The appellant disputes this and confirms that the SPD guidance is in fact met. Were the appeal to be allowed the appellant's position would need to be corroborated to conclusively confirm floor to ceiling heights are acceptable but it does not appear to be a matter of itself that would justify refusing planning permission.
13. The communal kitchen is of a sufficient size to accommodate the proposed development and accords with the SPD guidance in this regard. I am satisfied that the proposal would be acceptable in terms of laundry facilities, which would be provided for in the kitchen area. The communal living room area would also be acceptable in size terms should the occupancy be limited to the 7 persons applied for; it would not be large enough to meet the guidance for 10 persons. However, of more concern is that both the communal kitchen and living room would have sub-standard outlooks as the openings look straight out onto the small courtyard area and very nearby boundary fences.
14. Moreover, access to daylight and sunlight to these rooms would be from the same openings to the small courtyard or small lightwell at the rear of the site by the boundary. The courtyard would be enclosed by the existing property and proposed extension as well as located right up to the adjacent neighbour's boundary. For these reasons the courtyard would likely have a restricted level of access to daylight and sunlight. This also then raises significant doubts over the resultant provision of daylight and sunlight to the kitchen and living room areas. No evidence such as a daylight and sunlight assessment has been provided to demonstrate that the proposed arrangement is acceptable in this respect. As such, based on the information before me I am not satisfied that the kitchen and living room would be

served by adequate daylight and sunlight, without which the living conditions for future occupants would be unacceptably affected.

15. External amenity space is proposed to be provided by the small courtyard area and 2 No. terraces on upper floor levels. The courtyard would have a footprint of around 14.6 square metres, which is below the minimum 20 square metres at ground floor advised in the SPD. I do accept, however, the appellant's point that the internal space would somewhat offset this by providing in most cases generously sized rooms. The terrace areas also do not comply with the SPD guidelines as they are not accessible from a communal living area. The second floor terrace would, however, provide additional communal external space of around 7.5 square metres for occupants to use. When this is considered with the ground floor space, the size and provision of the external amenity space would not conflict with the SPD to the extent it would justify a refusal of planning permission of itself.
16. Overall, however, and to summarise in respect of Policy BH7 (b) the proposal as set out is deficient in several areas regarding the quality of the proposed accommodation contrary to various provisions set out in the SPD. As a result, and taking all matters together, the proposal is contrary to Policy BH7 (b).
17. Regarding Policy BH7 (d), the Council agree that there is a need for HMOs in the area at the present time, which this proposal would contribute towards meeting. However, the second part of Policy BH7 states that the loss of existing accommodation, will only be acceptable where it is demonstrated that there is no need for the accommodation type, or it can be provided better elsewhere, or the existing standard of accommodation is unsatisfactory. There is a need for family dwellings in the area as well as HMOs and the existing accommodation has not been proven to be no longer suitable for this purpose.
18. Policy BH11 of the BLP also seeks to prevent the loss of family housing unless proposals meet prescribed criteria including that the conversion results in a least a 3-bedroom dwelling, which is not met in this case. It is accepted that this requirement can be overcome where an HMO would provide adequate accommodation in compliance with Policy BH7. As the quality of the HMO accommodation would not be acceptable in this case, the loss of the family dwelling is by default also not justified and contrary to both Policy BH7 and Policy BH11 of the BLP in terms of impact on the provision of family dwellings.
19. Policy BH7 (e) states that HMOs will be acceptable where it would not result in an over concentration of HMO properties. The parties have a difference of opinion as to whether this proposal would result in an over concentration of HMOs in the area. The appellant has, however, provided evidence during the appeal that looks in some detail at uses within the nearest properties. This takes the approach of treating individual self-contained flats within converted houses as being separate properties, which is a reasonable one to take.
20. The evidence presented when applying this approach demonstrates that there would not be an unacceptable over concentration of HMOs in the local area were the appeal property changed to an HMO. The Council has also not disputed the appellant's submission in this regard, which supports my view that the approach taken is credible and based on available data sources as well as approaches applied elsewhere in the area. As such, I find that Policy BH7 (e) is met based on the information before me, which also confirms that subject to the quality of

accommodation being sufficient and other matters of design being resolved the principle of development is acceptable.

21. To conclude, however, the standard of accommodation proposed is deficient in several areas contrary to the requirements of Policy BH7 (b) and related guidance in the SPD. The sub-standard level of accommodation proposed also means that the loss of a family home is not supported. Accordingly, the proposal is contrary to Policy BH7 and BH11 of the BLP.

Character and appearance

22. The character of the area is residential with properties mainly laid out as terraced housing. Several alterations and additions are proposed to the property including demolition of front porch, erection of a single storey rear extension, rear dormer window, 3 front rooflights, creation of rear terraces at first and second floor levels, new front door and changes to fenestrations, openings and boundary treatments.
23. I agree with both parties that the demolition of the front porch, rear dormer, new front door and alterations to fenestration, openings, rear terraces and rear boundary treatments are acceptable in design terms and would not have any adverse impacts on character and appearance. The matters in dispute in design terms are the rear extension and front boundary treatments.
24. The proposed extension would extend to the rear boundary with a total depth of around 4.5 metres. I note that the Council's Residential Extensions and Alterations Supplementary Planning Document 2025 (RE SPD) states that extensions to outriggers, such as that proposed in this case, should not extend more than 3 metres. The proposal is clearly contrary to the guidance in the RE SPD in this regard. The effect of the depth would be to create an overly dominant extension that would significantly reduce the external amenity space.
25. This would be an over development of the plot that would be out of character with the prevailing pattern of development along the street where properties retain back garden space to boundaries even where they have been extended to the rear. I acknowledge that the appellant considers the proposed approach is preferable to the wraparound approach advised in the RE SPD, but this fails to address the substantive issue of excessive depth within the plot and impact it has on built coverage. The proposed extension would, therefore, be an overly large and incongruous addition to the property that loses much of the external amenity space and unacceptably detract from the character and appearance of the area.
26. The front boundary treatment would comprise a timber fence with a height more than 1 metre, which conflicts with the related guidance in the RE SPD. The excessive height of the proposed front boundary fence would also create the appearance of enclosure to the front of the property that would appear unacceptably at odds with the low boundary wall and generally open character of properties along the terrace. The proposed front boundary treatment would, therefore, have an unacceptable and prominent adverse and discordant effect on the character and appearance of the street scene.
27. To conclude, the proposal would result in harm to the character of the area by reason of the overly large rear extension and incongruous front boundary treatment. Accordingly, the proposal does not accord with Policy D4 of the London

Plan 2021, Policy DMP1 of the BLP or guidance within the Council's RE SPD, all of which seek to deliver good design that complements the locality.

Neighbouring living conditions

28. The council's concerns relate to the prospect of noise to nearest habitable rooms at No 5 Lansdowne Grove from the proposed courtyard area and second floor terrace if used by occupants at the same time. Whilst a management plan has been submitted, it would be difficult to control people using these spaces. The second floor terrace would in particular have potential to result in unacceptable and intrusive levels of noise due to its proximity to habitable rooms at an incongruously elevated height. This would unacceptably harm neighbouring amenity contrary to the requirements of Policy DMP1 of the BLP, which requires development to not unacceptably increase exposure to noise.

Cycle parking

29. Policy T5 of the London Plan requires the development to provide 9 cycle parking spaces. No cycle parking is provided due to the small front garden. In such circumstances Policy T5 suggests that on-street provision could be made but no details are provided by the appellant that explores this possibility. Therefore, based on the information before me the proposal is contrary to Policy T5 of the London Plan and Policies BT1 and BT2 of the BLP, which require development to provide suitable cycling facilities to meet adopted standards.

Fire Safety

30. Policy D12a of the London Plan requires that development must achieve the highest standards of fire safety by meeting six prescribed requirements. The application was submitted without any detail on how fire safety would be achieved other than reference to other planning applications granted by the Council that did not include this information. This is not an acceptable justification for not providing any details regarding fire safety, particularly given the numbers of people who are proposed to live in the proposed development. I note that the appellant contends that this could be addressed by condition. However, I do not need to consider this option further in this decision as have found it to be unacceptable for other reasons.

Conclusion

31. For the reasons given above and considering all matters raised, I conclude that the proposal does not accord with several policies of the development plan in terms of the quality of accommodation proposed, living conditions, character and appearance, cycle parking and fire safety. No material considerations have been presented that outweigh the conflicts with the development plan and the appeal is dismissed.

N Perrins

INSPECTOR