



Appeal Decision

Site visit made on 24 July 2025

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

Appeal Ref: APP/T5150/W/25/3364415

93 Barry Road, Brent, London NW10 8DE

- 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 Usher Mann (Keren Invest Ltd) against the decision of the Council of the London Borough of Brent.
 - The application Ref is 25/0386.
 - The development proposed is a single storey rear extension in association with the change of use from a 5-bedroom 6-person HMO to a 6-bedroom 6-person HMO.
-

Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension in association with the change of use from a 5-bedroom 6-person HMO to a 6-bedroom 6-person HMO at 93 Barry Road, Brent, London NW10 8DE in accordance with the terms of the application, Ref 25/0386, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Usher Mann (Keren Invest Ltd) against the decision of the Council of the London Borough of Brent. This is the subject of a separate decision.

Preliminary Matters

3. The proposed floor plans and elevations on which the Council made its decision do not correspond, as one plan indicates that both bedrooms 2 and 3 would be served by a door giving access to the rear garden, whilst the other shows only bedroom 2 would. To address this, as part of the appeal, the appellant submitted amended elevations via plan BR.93.PR.202 Rev B, which corresponds with the proposed floorplans, and confirms that bedrooms 2 and 3 would each be served by a door.
4. Despite their lack of correlation, altogether, the originally submitted plans determined and consulted upon show external access doors serving both bedrooms 2 and 3. Abutting the appeal site, and flanking the proposed extension, is a blank elevation of No 91 Barry Road (No 91). No 91's position would screen the proposed extension from properties farther to the north. Elsewhere, neighbouring residential properties orientated towards the extension's proposed position are set away from the appeal site, separated by roads, footpaths and gardens. The Council has commented upon amended plan BR.93.PR.202 Rev B, and it has not raised an objection to its submission.

5. Taking all these factors into account, I am satisfied that the amended elevations do not constitute a fundamental change to the proposal nor that acceptance of them would result in anyone involved in the appeal being the subject of procedural unfairness. Consequently, in my decision, I have taken plan BR.93.PR.202 Rev B into account.

Background and Main Issues

6. Given the content of the Council's reason for refusal, and other evidence before me, it is clear that a main issue in the appeal must concern whether, upon completion of the proposed development, the appeal site's external amenity space would be acceptable.
7. The Council's reason for refusal is unrelated to cycle parking. However, it is also clear from the evidence before me that the amount of cycle parking necessary to serve the development proposed is a matter on which the Council and appellant do not agree. Much of the evidence before me also focuses upon cycle parking. Consequently, the subject of cycle parking is another main issue in the appeal.
8. Therefore, my main issues are:
 - Whether, upon completion of the proposed development, the external amenity space available to serve the site's occupiers would be appropriately designed and acceptable; and
 - Whether, upon completion of the proposed development, the provision made for cycle parking would be acceptable.

Reasons

The external amenity space

9. Within the context of an appeal under section 78 of the Town and Country Planning Act 1990 (the Act), it is not within my remit to formally determine whether the occupation of the host property as an HMO, and by how many people, is lawful. To ascertain this, an application under section 191 of the Act could be made.
10. However, the Council's evidence sets out that the use of the property as an HMO is lawful, and I have no reason to disagree. Given some of the conflicting evidence before me, it is unclear whether the host property is currently occupied by 6 persons, or whether it has permission to be. I have noted the references to the planning application¹ which granted permission for the HMO to be occupied by 5 persons and, coupled with other submissions made to me, it seems very likely that, at the least, the host property can lawfully be occupied by 5 people. My conclusions in this regard are for the purposes of this appeal only and are made without prejudice to any future conclusions that could be drawn, for instance, under an application for a lawful development certificate.
11. Amongst other matters, Policy DMP1 of the Brent Local Plan 2019-2041 (the BLP) requires development proposals to achieve high levels of internal and external amenity. Meanwhile, BLP Policy BH7 requires development proposals to be of an

¹ Planning Permission 17/5012

acceptable quality, meeting appropriate standards for the needs of occupants including in respect of their external amenity space.

12. The Council's Houses in Multiple Occupation Supplementary Planning Document (the SPD) does not form part of the development plan. However, it provides guidance in support of relevant development plan policy and assists in its interpretation. Some of the SPD's guidance on HMOs is quite prescriptive, and this extends to its content on external amenity spaces which refers to the likes of the size, layout and access arrangements of them.
13. Upon completion of the proposed development, no purposefully designed or dedicated defensible space would be positioned between bedrooms 2 and 3 and the external amenity space. However, the space's shape is irregular, and not all of it would be beside the windows and doors of these bedrooms. Some of the external amenity space is around the corner, beside a side elevation which would have direct access from the kitchen/dining/lounge within the proposed layout. Furthermore, the more eastern sections of the external amenity space would remain quite well-separated from bedrooms 2 and 3.
14. This layout would enable areas of the external amenity space to be used in a manner whereby a less intimate relationship with bedrooms 2 and 3 would ensue. This would provide some mitigation in the absence of purposefully designed or dedicated defensible space.
15. Upon completion of the proposed development, the external amenity space would exceed the SPD's minimum space standard. It would be functionally laid-out and, during my visit, I noted that it contained a combination of grassed areas and patio which would suit different seasons, a combination which I have no reason to conclude would not endure. The external amenity space would not be unduly overlooked by neighbouring property occupiers, and it would receive adequate light. Furthermore, the proposed access from the HMO's kitchen/dining/lounge area would provide an improved communal access arrangement to the external amenity space.
16. For these reasons, although purposefully designed or dedicated defensible space has been omitted from the proposal, in other regards, set against the guidance of the SPD, the external amenity space to serve the completed development fares well.
17. Moreover, in applying development plan policies, and supplementary guidance, regard should be had to a proposal's context. In other scenarios, BLP Policies DMP1 and BH7, and the SPD, would be being applied to the likes of changes of use from Use Class C3 dwellinghouses to newly proposed HMOs. That is not the context here, since an HMO already exists and bedrooms 2 and 3 already back onto the external amenity space without defensible space. In this specific regard, the proposal would not be introducing a relationship between internal and external space at the appeal site which is not already at play.
18. Having regard to all of the above factors, I find that, upon completion of the proposed development, the external amenity space available to serve the site's occupiers would be appropriately designed and acceptable. I also find that, overall, both Policies DMP1 and BH7 of the BLP, and the guidance within the SPD, is complied with.

Cycle parking

19. BLP Policy DMP1 requires that development proposals are satisfactory in terms of parking and that they are provided with the physical infrastructure necessary to serve them. BLP Policy BH7 requires developments to meet appropriate standards for the needs of its occupants, including appropriate communal facilities. I find that these policy references and requirements to parking, infrastructure, facilities and standards apply to the matter of cycle parking provision.
20. London Plan Policy T5 is not before me, but its cycle parking standards are referenced within the SPD, and the SPD sets out what these standards are for HMO developments: 1 long stay space per occupant and 2 visitor spaces for 5 or more occupants.
21. Upon completion of the proposed development, a 6-bedroom HMO would be formed. However, I am mindful that the host property is, already, a 5-bedroom HMO. Given this, I find that a requirement to deliver 6 long stay cycle parking spaces and 2 short stay visitor spaces would make demands of the proposal which would be disproportionate and which would not be commensurate with the development that has been applied for.
22. Consequently, I find that the bike storage shed proposed on plan BR.93.PR.01 to be acceptable, satisfactorily meeting the requirements of the development that has been applied for. Therefore, given the context and the particular circumstances of the case, I find the proposal complies with BLP Policies DMP1 and BH7 as well as the guidance contained within the SPD.

Other Matters

23. Although the Council expressed some concerns other aspects of the proposal within its delegated report, and indicated that the proposed development would not meet some of the development plan's requirements in relation to the likes of urban greening, biodiversity gains and water conservation, none of these concerns are articulated within its reason for refusal. The Council's appeal statement does not focus on these matters, neither have the cited development plan policies been provided. I also note that none of these matters are addressed by the Council's suggested conditions. In the circumstances, it is not clear to me that any of the Council's concerns in such regards are at all substantive ones and, accordingly, I have no firm grounds on which to conclude that the proposal is in any way deficient in these regards, nor in turn, unacceptable.
24. Aside from the main issues in the appeal, and those areas of dispute between the Council and the appellant, public representations before me raise some other concerns. Since the host property is already an HMO, the proposal would not add to the number of such properties in the area, and any contribution to the number of HMO occupants residing in the area would only be a limited one. Consequently, the proposal would not result in a harmful overconcentration of HMO accommodation to the detriment of the balance of the community.
25. Since any increase in the occupation of the host property arising from the proposal would be modest, I have no firm grounds on which to conclude that it would result in any harmful effects upon the living conditions of neighbouring occupiers through noise and disturbance or waste accumulations. The construction process itself may cause some disruption, but it would be for a limited period, and it does not

constitute a reason to withhold planning permission. Any damage caused to other properties during construction would principally be a private matter between the parties involved.

26. It is asserted that the host property should return to being a 3-bedroom house, but that is not the development before me, and I must determine the appeal proposal on its own merits. Finally, the evidence before me indicates that a neighbouring occupant is disabled, and I am mindful of the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. However, I have very limited evidence before me on the nature of the disability or, because of this, the reasons why the individual with the protected characteristic would be affected in a particular way by the proposal. On the basis of the evidence before me, I have no reason to conclude that permitting the development would give rise to any negative impacts in relation to the aims of the PSED. Consequently, the PSED provides no reason to dismiss the appeal.

Conditions

27. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the tests for the imposition of conditions set out within the National Planning Policy Framework (the Framework) and the content of the Planning Practice Guidance (PPG). Having regard to the Framework and the PPG, and in the interests of clarity or precision, I have made some amendments to the Council's suggestions.
28. Condition 1 sets out the standard time limitation. Condition 2 is necessary to ensure that the proposed development is carried out in accordance with the approved plans for the reason of certainty. In the interests of the character and appearance of the area, I have imposed condition 3.
29. To ensure that the occupancy of the property is defined and controlled and that suitable management measures are deployed in the interests of the living conditions of residents, I have imposed conditions 4 and 6. To promote sustainable transport modes and to secure essential waste infrastructure to support the functioning of the property, condition 5 is necessary.
30. Since my conditions require the development to be completed in accordance with the submitted plans, secure essential infrastructure and limit occupancy, I am satisfied that they will exert sufficient control over the development. I find that some of the content of the Council's suggested condition 4, which would go beyond this, to be extraneous in nature. Therefore, I have not included all of the detail suggested to me.

Conclusion

31. The proposed development accords with the development plan taken as a whole, and there are no material considerations which indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed, subject to the conditions in the attached schedule.

H Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings 569 E 01, BR.93.PR.01 and BR.93.PR.202 Rev B.
- 3) The external materials of the extension hereby permitted shall match those used in the existing building.
- 4) The HMO hereby permitted shall be occupied by no more than 6 people at any one time.
- 5) The 6-bedroom 6-person HMO hereby permitted shall not be occupied until the waste, recycling and bike storage has been completed in accordance with the details shown on drawing BR.93.PR.01.
- 6) The 6-bedroom 6-person HMO hereby permitted shall be operated and managed in accordance with the submitted HMO management plan "HMO Management Procedure for 93 Barry Road, London, NW10 8DE, UK" at all times.