



## Appeal Decision

Site visit made on 18 June 2025

by **L Clark BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3<sup>rd</sup> September 2025

**Appeal Ref: APP/N5090/W/25/3359907**

**36A Sedgemere Avenue, East Finchley, Barnet, London, N2 0SX**

- 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 Freeths LLP against the decision of the Council of the London Borough of Barnet.
- The application Ref is 24/2244/RCU.
- The development proposed is retention of change of use from Class C3 (Residential) to Use Class C4 (HMO)

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council adopted a new Local Plan after its refusal of planning permission. The new Local Plan, Barnet Local Plan 2021-2036 (the Local Plan), has superseded policies in Barnet's Local Plan (Core Strategy) Development Plan Document 2012 and Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP). The Council states that its Supplementary Planning Document: Residential Design Guidance SPD (2016) (the RDG) and Sustainable Design and Construction 2016 (SPD) remain extant. In these circumstances, I am required to determine the appeal against the current development plan for the area at the time of my Decision. The Council has provided relevant policies within their evidence, and the main parties have had the opportunity to comment on these during the appeal process.
3. An Article 4 Direction has been made by the Council restricting certain types of development in the designated area that would otherwise be "permitted development". This came into effect in 2016 and therefore forms part of my assessment of this appeal.
4. From the evidence before me and the undertaking of my site visit, it is clear that the appeal premise (No 36A) was in use as an HMO as set out in the plans. I have dealt with the appeal on that basis, and planning permission is sought retrospectively for the change of use.
5. The appellant has drawn my attention to an Enforcement Notice having been issued against the current use<sup>1</sup>. Any enforcement process is a separate matter and falls outside the scope of my assessment, which must focus on the planning merits of the appeal proposal.
6. I also note that an HMO Licence<sup>2</sup> has been granted for No 36A, this is a matter for other regulations outside the planning regime.

<sup>1</sup> ENF/1318/24

<sup>2</sup> HMOAA/23/68019

7. There are discrepancies in the appellant's evidence with regard to the level of demand for smaller HMOs. For clarity, with regard to the demand, I have taken the higher percentage of 45% as stated in Hamways letter dated 24 May 2024 and not the 35% as cited in paragraph 5.20 of their Statement.
8. There are also discrepancies in the evidence with regard to whether the appeal site is in a Controlled Parking Zone (CPZ). Both parties have been asked to comment; however, only the Council have replied. The Council clarify that No 36A does not fall within a CPZ. The Council's response, therefore, accords with my observations and, as such, I have dealt with the appeal on the basis that No 36A is not in a CPZ.
9. I am dealing with a separate appeal<sup>3</sup> for the retention of change of use from residential (Use Class C3) to HMO (Use Class C4) at 49A Sedgemere Avenue by the same applicant, which is the subject of a separate decision.

## Main Issues

10. The main issues are the suitability of the development, having regard to the development plans approach to the provision of HMOs, and the effect of the development on highway safety, with particular regard to parking.

## Reasons

### *Whether the site is suitable*

11. The appeal property is an upper-floor flat located within a predominantly residential area. The appearance of the property is similar to most other dwellings in the street, which has a distinctive, suburban character. Despite the appellant contending that No 36A is 30 minutes from central London, the area has a Public Transport Accessibility Level (PTAL) score of 1b – Very Poor.
12. Policy HOU03 relates to residential conversions and re-development of larger homes and states that the Council will optimise the potential for housing delivery, subject to a number of criteria A-G. Criterion A states that sites should have existing or planned public transport access levels (PTALs) 3-6 or be located within 800m walking distance of a station or town centre boundary. There is no dispute that No 36A is located within PTAL 1b. Whilst I saw several shops on East End Road which included, amongst other things, cafes, bakers, a pharmacy, dry cleaners, hot food takeaways, beauty and hair salons and convenience stores, I have not been advised whether the site is located within 800m of a town centre. As such, from the evidence before me, its use does not meet Criterion A of Policy HOU03.
13. Policy HOU04 of the Local Plan relates to specialist housing. Criterion C relates to HMOs and identifies a number of criteria a) to d) which must be met. Given that No 36A benefits from an HMO licence, the use of the appeal site complies with criterion a) of this Policy.
14. I have nothing before me to demonstrate that there would be a harmful concentration of HMOs. Notwithstanding this, whilst the appellant's evidence<sup>4</sup> demonstrates that there has been an approximate 45% increase in the need for HMO accommodation in the 12 months to June 2023, it is not a local needs survey and does not provide sufficient quantitative analysis of housing supply and demand in the area to satisfy

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<sup>3</sup> APP/N5090/W/25/3359908

<sup>4</sup> Appendix 7

criterion b). Table 7 of Policy HOU02 of the Local Plan demonstrates the Council's housing need by tenure and identifies that there is a 40% need for 3-bedroom units, which is the highest identified housing need in the Borough. I note that Policy HOU02 has not been referenced in the decision notice; however, it has been referred to by the Council in its Statement and given that the first main issue relates to housing need, and Table 7 demonstrates the Borough's need for housing size by tenure, it is applicable in this instance. As such, even though the percentage identified by Hamways is more than the housing need identified by the Council, the difference is not, in my mind, significant.

15. Given the above, even if the news articles demonstrate that there is a housing crisis in London, the evidence before me does not substantiate that it only relates to HMO accommodation; rather, it demonstrates a need for accommodation across all types and tenures.
16. Policy HOU04, criterion C. c) and Policy HOU03 criterion D. relate to character. The Council contend that the introduction of an HMO, and subsequent use by a large number of separate households, is likely to change the character of the street. However, it provides little evidence to demonstrate that its use results in harm. Given the above, if I were minded to allow the appeal, I am satisfied that an HMO Management Plan addressed by a suitably worded condition could ensure its use would not harm the character of the surrounding area, which includes the living conditions of residents and occupiers of neighbouring properties.
17. Policy HOU04, Criterion d) states that the accommodation should be easily accessible by public transport, cycling and walking. In this case, the site is in a PTAL deemed very poor. I conducted my site visit by public transport and walked to the appeal site from East Finchley station. Whilst my route was relatively flat and took approximately 15 minutes, it did require me to cross a number of roads and junctions. If I were less mobile, had young children with me, or was carrying shopping, it would have likely taken significantly longer.
18. I saw that bus stops were on the opposing sides of Ossulton Way, close to the junction with Sedgemere Avenue. Services from these stops included the 143, H3 and N20. However, the H3 operates Monday to Saturday only, and the N20 is a night bus. Whilst the 143 operates Monday to Friday every 10-13 minutes between the hours of 07:00 and 19:00, outside of these times, and on Saturday and Sundays, the time between each service is longer. The timing of the wider public transport network contributes towards its low PTAL rating, which limits the convenience and practicality of travel choices for its occupants.
19. I note the appellant contends that the use of No 36A does not result in the loss of a family dwelling. However, whilst No 36A would be retained for residential purposes and submitted plans show 3 bedrooms, planning permission has been sought for its conversion from a family dwelling to an HMO. This removes it from being classed as a family dwelling for planning purposes.
20. The appellant also contends that the layout is not convenient for family living given the small kitchen, separate living room and upper-floor accommodation. However, whilst I saw that the kitchen was compact, it appeared to contain all the necessary items for family living, with direct access via a staircase to the garden below. I acknowledge that whilst the two rooms (kitchen and living room) were separate, they were on the same floor, close to each other, and with no open stairs for a child to access. To my

mind, the ability to safely watch children whilst in the kitchen is therefore no different from any other room where a child is separated from an adult. I therefore cannot agree that its layout would be any less convenient for a family. As separate rooms are not uncommon in family accommodation, I give this matter little weight.

21. The submitted Block Plan shows that there is a passageway to the flank elevation of No 36A, and that the garden is of a sufficient size to accommodate a bike store. Given these factors, it has not been demonstrated that the external staircase is the only form of access to the garden. Moreover, this plan shows that there would also likely be space retained in the garden after the bike store to accommodate the storage of a pram if one were required. In addition, as stairs are not uncommon in family accommodation, I give these matters little weight.
22. The appellant contends that the layout is impractical; however, I saw that each of the bedrooms contained double beds and had storage with circulation space, and that the living room was of sufficient size to accommodate a sofa, a work desk with a seat, TV, and a number of shelving units. There was also a bathroom with a bath, an en-suite shower room and a separate toilet. Even if the overall size of No 36A does not meet modern standards, I saw that the rooms within it function for their specific use. I therefore do not agree that its layout is impractical as the appellant contends.
23. I have not been provided with any substantive evidence to demonstrate that the presence of windows to the ground floor would either make the flat unappealing to families or make the garden space unsafe. To the contrary, I saw that the external area was being used by an occupant of No 36A for sunbathing and drying clothes.
24. Given the Council's introduction of an Article 4 Direction, it appears that the policy impetus is to ensure a sufficient supply of family homes to meet the borough's housing needs. Even if No 36A is being occupied as an HMO and there has been a level of demand for this type of unit, it was previously occupied by a family as highlighted by Hamways management agency. This must therefore be balanced against the Policy requirement that HMOs should be prioritised in areas with good access to public transport, and the loss of a family-sized dwelling in a low PTAL area.
25. Whilst I acknowledge that HMO accommodation can provide affordable accommodation for tenants whose alternative housing choices may be limited, no substantive evidence has been put before me to demonstrate that there is a lack of demand for family accommodation within the Borough.
26. For the reasons set out above, it has not been demonstrated that the site is suitable for use as an HMO. Accordingly, there would be conflict with Policies HOU03 and HOU04 of the Local Plan, which seek to ensure sites for residential conversions are within PTAL 3-6 or located within 800m walking distance of a station or town centre boundary.

### *Highway Safety*

27. Policy TRC03 of the Local Plan relates to parking management. Criterion A. states that the Council will expect residential development to provide parking in accordance with Table 20. Table 20 of the Local Plan demonstrates maximum spaces per unit alongside the PTAL rating.
28. Given the PTAL rating, the Council contend that the development requires a maximum of 3.75 parking spaces. No parking has been proposed, and the Parking

Stress Survey states that the development will be car-free. However, without any mechanism to secure a car-free development, it is unclear how this could be controlled and enforced in this location. Therefore, as the appeal site is not within a CPZ, residents of the proposed development would be free to park on Sedgemere Avenue and the surrounding streets, as they are public highways.

29. Notwithstanding the above, the appellant has submitted a Parking Technical Note prepared by Milestone Transport Planning (the Survey) alongside the planning application, which has been undertaken using the 'Lambeth Methodology' guidance (the LM). The LM is a recognised means for measuring parking conditions based on establishing a ratio of spaces available to observe demand and practical driving routes. The LM adopts an 85% parking stress threshold as a level at which capacity is considered to be close to being reached, and anything at or over this level is considered to be an area of high parking stress.
30. The Survey demonstrates that parking stress within Sedgemere Avenue, Manor Park Road and Brackenbury Road on unrestricted areas was 98%, with an average of 1 space on Sedgemere Avenue and Manor Park Road and an average of 2 spaces on Brackenbury Road. There was also 38% parking stress on unrestricted areas of East End Road, with an average of 23 spaces on unrestricted areas. This results in an average of 90% parking stress for the study area during the night-time period, with an average of 28 spare spaces generally available.
31. The Council's Highway Services state that it has observed the surrounding roads to experience parking pressures. This correlates with the survey, which shows parking stress significantly beyond the level which would be considered saturated. This, together with the comments made alongside the appeal from residents, indicates that Sedgemere Avenue and the surrounding streets are, in fact, experiencing parking stress.
32. The Council have also identified shortcomings with the parking survey, namely the distance of available parking spaces on East End Road being further than the 200 metres or 2-minute walk identified within the LM. The appellant, in paragraph 5.58 of their Statement, does not dispute that areas in the study fall further than distances within the LM, but contends that a degree of flexibility should be afforded. Whilst I recognise that the LM is guidance, it is nevertheless an important tool for understanding parking demand and therefore represents a 'reasonable' walking distance for residents. Any further distance would, in my mind, compound an existing inconvenience and frustration for residents, especially given that some may have mobility issues or young children. Given the degree of parking stress and observations made by residents, together with the addition of a further HMO at No 49A, I do not agree in this instance that flexibility in this approach is applicable.
33. I acknowledge that No 36A is in use and has been for approximately one year; however, permission is being sought for the use as an HMO and not for an additional tenant. Given the location of No 36A, and that residents of HMOs are often associated with leading independent lives from one another, occupants would be more likely to own cars and thus require parking spaces. Its use, therefore, is unlikely to generate only one additional car as the appellant contends.
34. The appellant has suggested that off-street parking spaces located to the rear of 49 Sedgemere Avenue (No 49) could be made available to the occupants of No 36A should they require. Whilst Plan No 3 shows land outlined in red to the rear of No 49,

which I saw contained garages, I have no mechanism to ensure their availability, nor do I have details of whether the space(s) could accommodate vehicles. I therefore give limited weight to this suggestion.

35. I conclude that No 36A would not provide appropriate levels of car parking, which would lead to the displacement of parked vehicles on surrounding roads. This would, in turn, have an unacceptable effect on highway safety. Accordingly, there would be conflict with Policies T4, T6 and T6.1 of the London Plan and Policies TRC01 and TRC03 of the Local Plan, which seek, amongst other matters, to ensure the safety of all uses is taken into account and provide appropriate levels of parking.
36. The Council contend that the development would be contrary to Policy TRC02 of the Local Plan. However, this policy relates to transport infrastructure and, in my mind, significantly larger proposals than before me. This policy is therefore not considered to be applicable in this instance.

### **Other Matters**

37. The presence of amenities on East End Road, Church Lane and High Lane is not determinative as to whether the use of No 36A would affect free-flow on traffic.

### **Planning Balance and Conclusion**

38. I acknowledge that HMO accommodation can provide affordable accommodation for tenants whose alternative housing choices may be limited, and that this type of accommodation forms an important part of the housing supply in the Borough. However, even if the proposed development could provide sufficient cycle parking to promote sustainable modes of transport and a management plan could be agreed, the proposal would still result in the loss of a 3-bed dwelling from the Borough's housing stock, which is suitable for family accommodation where there is a known demand. It would also fail to provide appropriate levels of car parking. These harms are not outweighed by the benefits I have identified and are sufficient to justify dismissing the appeal.
39. The development has been found to conflict with the development plan as a whole, and there are no material considerations to indicate a decision otherwise than in accordance with the development plan.
40. For the reasons given above, I conclude the appeal should be dismissed.

*L Clark*

INSPECTOR