
Appeal Decision

Hearing held on 8 January 2014

Site visit made on 8 January 2014

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 February 2014

Appeal Ref: APP/N5090/A/13/2205096

33 Manor Park Crescent, Edgware, Middlesex, HA8 7NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Alliance Property Holdings Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref H/02683/13, dated 26 June 2013, was refused by notice dated 30 August 2013.
 - The development proposed is change of use of property to an HMO¹.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the hearing the appellant confirmed that the appeal was being made in the name of Alliance Property Holdings Ltd.
3. The appeal is made on the basis of submitted plan ref MPC11-E-01. During the site visit I noted that this appeared to vary from the development implemented on site. In particular, the depth of the outbuilding in the garden was found to be larger than indicated on the plan², and the provision of cooking facilities which on the plan are not shown in Rooms 8, 9, 11, 12.
4. The description of development was changed by the Council to "retention of use of property as HMO (12 Units)". However, retention is not an act of development. During the hearing it was confirmed that the property was occupied as a HMO and that the application was therefore retrospective. It was also contended by the Council that the nature of the use being carried out on site would be more accurately described as studio flats, rather than a HMO.
5. I note the Council views in relation to the form of development, and examine the effect of this below. However, having regard to the main issues identified below, and the adequacy of the development I viewed on site, I do not consider that the decision turns on whether a description of a HMO or studio flats is used. I am therefore content to determine the appeal on the basis of the original description put forward by the appellant.

¹ House in Multiple Occupation

² Measurements taken on site by the parties indicated that Room 11 measured 4.5m by 2.7m internally excluding the ensuite.

6. As part of the submission the appellant provided further information relating to the existing use of the property, and this was expanded upon during the hearing. However, any reference to its claimed lawfulness, irrespective of the merits of the appeal, needs to be pursued by means of an application for a Certificate of Lawful Development under s191 of the Town and Country Planning Act 1990. This is not a matter which is before me.
7. Notwithstanding this, based on the evidence supplied by the appellant in relation to the previous use of the site, the Council confirmed at the outset of the hearing that they no longer considered that the development amounts to the loss of a large single family dwelling. It was therefore no longer considered contrary to policy DM08 of the *Adopted Barnet Local Plan* (Local Plan)³ and the Council did not wish to pursue this matter as a reason for refusal.

Main Issues

8. Accordingly, the main issues for the appeal are:
 - Whether the buildings provide satisfactory living conditions for occupiers of the development.
 - The effect of the use of the property as a HMO on the character of the area;
 - The effect of the use of the property as a HMO on the living conditions of adjoining residential occupiers.

Reasons

Background

9. 33 Manor Park Crescent is located close to Edgware town centre. The road is predominantly in residential use, and although some properties in the immediate area have been converted to flats, a high proportion remain in use as single family dwelling houses. The appeal relates to a two storey terraced property set back from the road by hard standing used as a single parking space. Access to the rear is shared with the adjoining No 35 through a passage which runs under the first floor of the properties. The rear garden is modest in size and houses a single storey detached outbuilding which has recently been constructed. The property has also recently been extended with the addition of a single storey rear extension, and a dormer roof extension on the rear roof-slope. The main building comprises 10 rooms internally and 2 are provided within the outbuilding in the garden.

Living Conditions of Occupiers of the Development

10. The Local Plan was adopted in 2012 and Policy DM09 provides guidance in relation to HMOs. The policy requires that such accommodation should meet the Council's minimum housing standards for HMOs. These include minimum room sizes, and guidance on the configuration of spaces.
11. The guidance sets out a minimum net room size for single occupiers where cooking facilities are provided within the room, of 13sqm. The plan submitted shows 12 individual letting rooms, of varying sizes. Room 9 appears to measure 8sqm, and is poorly configured, reducing the usability of the space.

³ The Barnet Local Plan includes the Core Strategy and development management policies contained within the Development Management Policies Development Plan Document.

Room 10 appears to measure around 10sqm. Room 8 is located at the front of the property in the roof-space. Although it appears to measure over 14sqm and therefore exceeds the minimum space standard, one side of the room is within the roof-slope, and this reduces the usability of the space provided within. The rooms in the outbuilding, Rooms 11 and 12, on plan appear to measure approximately 8sqm although measurements taken on site indicated that they measured around 12 sqm. In this regard, a significant proportion of the letting rooms within the building fall markedly short of the minimum space requirements outlined within the housing standards.

12. With regard to the quality of the space provided. Room 2 receives external light from a single glazed door which faces onto a small area of communal yard adjacent to the entrance alley. Although I was unable to view this room during the site visit I am nonetheless of the view that the size and position of the door in relation to the size of the room indicated is insufficient to provide more than only limited light and outlook. Furthermore, Room 3 has a single window facing onto the through route to the alley and sits around 3 metres from the boundary fence. This juxtaposition provides limited outlook from the room within, and also limited privacy, with other occupiers passing the window with an open view of the accommodation within.
13. I note the appellant's view that standards of accommodation are controlled by the Housing Act 2004 and need not be covered by planning legislation. Notwithstanding this, a number of adopted policies in the Local Plan, GD01, GD02 and GD09 seek to provide minimum acceptable standards for residential accommodation, and as such the matter is a legitimate planning concern. I also note the appellant's view that bedroom accommodation need not have outlook to be considered acceptable. However, in this building each room provides more than sleeping space. It provides the sole living, eating and sleeping space for the occupiers as no alternative communal space other than the small garden is present within the development. In this regard, the deficiencies identified and the intensive manner in which the accommodation is used provide a poor living environment which falls short of the basic standards residential occupiers should reasonably expect to enjoy.
14. I therefore conclude that the development fails to comply with policy DM09 of the *Adopted Barnet Local Plan* which seeks minimum residential standards of occupation for Houses in Multiple Occupation. It also fails to comply with Policy DM01 which seeks to provide adequate daylight, privacy and outlook within new development. This is consistent with guidance contained within the *National Planning Policy Framework* (the Framework), which seeks a good standard of amenity for all existing and future occupiers of land and buildings.

Character of the Area

15. The property lies on the edge of Edgware town centre. Whilst some commercial uses lie in close proximity, the road nevertheless retains a quiet residential character with many single family dwelling houses in evidence. The Council contend that the nature of the development is effectively 12 self contained studio flats, and that this is detrimental to the character of the locality. The matter was discussed in detail at the hearing. Insofar as the rooms are used independently, the pattern of occupation, in my view, has much the same impact as a development of 12 studio flats. This pattern of occupation varies significantly from that evident in the surrounding streets,

where properties, be they flats or houses, are likely to be less intensively occupied and so in general, will generate less noise, disturbance and activity.

16. I note that from the road the property does not appear visually different from other property conversions in the wider area. I also note the appellant's view, that the built form of the development could have been carried out if the property was a single dwelling. Nevertheless, the activities associated with 12 individual lets, with differing patterns of coming and going are likely to be notably more intensive than either occupation by a large single family, or a HMO with only 7 letting rooms, as was historically in use at the site. This is likely to be evident in the higher number of people entering and leaving the site, and in noise arising from within, particularly in summer when windows are more likely to be open.
17. The intensive pattern of occupation is likely to be most notable to the rear of the property. The effect of this is exacerbated by the close pattern of terraced development and the relatively small size of the dwelling and garden, which provides the only communal space available.
18. On the second matter I therefore conclude that the development gives rise to harm to the quiet residential character of the area and is therefore contrary to Local Plan Policies DM01 and DM09 which together seek to ensure that HMO development does not detract from the character of the local area.

Living Conditions of Adjoining Occupiers

19. The property is adjoined on both sides by residential occupiers. During the hearing the Council contended that the additional activity which the development generates is detrimental to the amenity of adjoining residential occupiers, due to noise and disturbance arising from increased activity on site. I also note that third parties have raised concerns relating to residents congregating in the street and that this has caused disturbance such as that previously reported. The appellant advised that congregation in the street did not occur, and that disturbance had occurred due to the behaviour of one tenant who had since been removed. Whilst I am not aware that such incidents to date have been anything other than isolated, it appears to me that with increased occupation comes the propensity for increased disturbance, particularly when residents live independently.
20. The impact on adjoining living conditions is likely to be most notable for occupiers of No 35. The access to five of the rooms is through an undercroft which runs partly below the first floor of this property, and as such is more vulnerable to disturbance arising from the 5 occupants of rooms to the rear entering and leaving the property. The appellant has advised that No 35 is occupied by residents of a Housing Association. This does not in my view diminish the impact the proposal has on occupiers of this adjacent property.
21. I note that the appeal property meets standards for sound proofing internally, however this cannot fully mitigate against the potential for noise emanating from the property through open windows arising as a consequence of the more intensive pattern of use, or disturbance from residents entering or leaving the property. I also note that the appellant's view that the property generates a low level of car ownership, and that on street parking, and any disturbance arising from it, could be mitigated by an agreement to not supply parking permits for residents of the development. I agree that car ownership is likely

to be low, and note that the site is in a controlled parking zone. However, control of parking at the site would not mitigate against residents arriving on foot or by taxi, deliveries, and other comings and goings which would naturally arise due to the high level of occupation.

22. On the third issue I therefore conclude that the use is harmful to the living conditions of adjoining residential occupiers arising from increased noise and disturbance. In this regard the proposal is contrary to Policies DM02 and DM09 of the Local Plan which together seek to ensure noise from HMO developments does not detract from the amenity of adjoining occupiers. This is consistent with guidance contained within the Framework, which seeks a good standard of amenity for all existing and future occupiers of land and buildings.

Conclusion

23. I have found that the proposal is harmful to the character of the area, and the amenity of adjoining occupiers. It also fails to provide adequate standards of living accommodation for occupiers of the development. Whilst I note that the development is fully occupied, and provides relatively affordable accommodation in an accessible location, I do not consider that these benefits outweigh the harm identified above.
24. Therefore, for the reasons set out above, and having regard to all other matters raised, the appeal is dismissed.

Anne Jordan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Alvin Ormonde	PPMS
Mr Michael Fejdman	Property Ideal, 4 Manor Park Crescent, Edgware.

FOR THE LOCAL PLANNING AUTHORITY:

Mr Clive Townsend	London Borough of Barnet
Ms Emily Benedek	London Borough of Barnet

INTERESTED PERSONS:

Mr Leo Kaufman	Interested Party - 100 Princes Park Avenue,
London, NW11 0JX	

DOCUMENTS SUBMITTED AT THE HEARING:

1. List of Tenants – 33 Manor Park Crescent