

**Location** 51 Brent View Road London NW9 7EJ

**Reference:** 21/5499/FUL Received: 15th October 2021  
Accepted: 22nd October 2021

Ward: West Hendon Expiry: 17th December 2021

**Case Officer:** Madara Tukisa

Applicant: Mr Michael Fitzgerald

Proposal: Change of use of the property from a single family dwelling (Class C3) to a House in Multiple Occupation (HMO) (Class C4) for up to 6 people

### **OFFICER'S RECOMMENDATION**

Approve subject to s106

AND the Committee grants delegated authority to the Service Director – Planning and Building Control to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chair (or in their absence the Vice-Chair) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

### **RECOMMENDATION I:**

That the applicant and any other person having a requisite interest be invited to enter by way of an agreement into a planning obligation under Section 106 of the Town and Country Planning Act 1990 and any other legislation which is considered necessary for the purposes seeking to secure the following:

1. Paying the council's legal and professional costs of preparing the Agreement and any other enabling agreements;
2. All obligations listed below to become enforceable in accordance with a timetable to be agreed in writing with the Local Planning Authority;
3. - A contribution of £2,392.01 to ensure that the new occupants are prevented from purchasing CPZ parking permits;  
  
- A contribution of £101.10 to meet the Council's costs of monitoring the planning obligation.

## **RECOMMENDATION II:**

That upon completion of the agreement specified in Recommendation I, the Service Director for Planning and Building Control approve the planning application subject to the following conditions and any changes to the wording of the conditions considered necessary by the Service Director for Planning and Building Control:

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Plan: ENF/0446/21

Survey Drawings: Rev A

Proposed Drawings: 211005/02 Rev B (dated OCT 2021)

Planning Statement (produced by Henry Planning; uploaded 15 Oct 2021)

Letter from AtoZ Property Services (dated 8th September 2021)

Letter from Homeview (dated 10th September 2021)

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 This development must be begun within three years from the date of this permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 Before the development hereby permitted is first occupied, cycle parking spaces as shown on approved plan 'Proposed Drawings: 211005/02 Rev B (dated OCT 2021)' shall be provided and shall be permanently retained as such thereafter.

Reason: To ensure that cycle parking facilities are provided in accordance with the minimum standards set out in Policy T5 and Table 10.2 of The London Plan (2021) and in the interests of promoting cycling as a mode of transport in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 4 Before the development hereby permitted is first occupied, the proposed closed-board timber screen fence to the rear of the middle bedsit at ground floor level, as shown on approved plan 'Proposed Drawings: 211005/02 Rev B (dated OCT 2021)', shall be provided at a minimum height of 1.7m and not exceeding 1.8m and

shall be permanently retained as such thereafter.

Reason: To ensure that the development does not prejudice the amenity of future occupiers or the character of the area in accordance with policies DM01 and DM02 of the Development Management Policies DPD (adopted September 2012), the Residential Design Guidance SPD (adopted October 2016) and the Sustainable Design and Construction SPD (adopted October 2016).

- 5 The House of Multiple Occupation hereby approved shall be occupied by no more than 6no persons at any time.

Reason: To safeguard the amenities of neighbouring occupiers in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).

### **RECOMMENDATION III:**

- 1 That if the above agreement has not been completed or a unilateral undertaking has not been submitted within three months of the date of the resolution of the Committee, unless otherwise agreed in writing, the Service Director for Planning and Building Control REFUSE the application under delegated powers for the following reason(s):

The proposed development does not include a formal undertaking to meet the costs of amending the Traffic Management Order. The proposal would therefore not address the impacts of the development by mitigating on-street parking demand in the vicinity of the site, contrary to Policies CS9 and CS15 of the Local Plan Core Strategy DPD (2012), Policy DM17 of the Local Plan Development Management Policies DPD (2012) and the Planning Obligations SPD (2013)

### **Informative(s):**

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 A Planning Obligation under Section 106 of the Town & Country Planning Act 1990 (as amended) relates to this permission.

## **OFFICER'S ASSESSMENT**

### **1. Site Description**

The application site relates to a two-storey, terraced property which is situated on the north-western side of Brent View Road. The surrounding area is mostly residential and commercial in character, comprising of predominantly terraced properties and purpose-built flatted developments. The site is not located within a conservation area and is not subject to any other relevant restrictions. The site is located within the West Hendon ward.

### **2. Site History**

#### Planning

Reference: 20/3420/HSE  
Address: 51 Brent View Road, London, NW9 7EJ  
Decision: Approved subject to conditions  
Decision Date: 23 September 2020  
Description: Single storey rear extension

Reference: 20/3421/192  
Address: 51 Brent View Road, London, NW9 7EJ  
Decision: Lawful  
Decision Date: 26 August 2020  
Description: Roof extension involving rear dormer window with juliette balcony and 2no front facing rooflights

#### Enforcement

Reference: ENF/0446/21  
Address: 51 Brent View Road, London, NW9 7EJ  
Status: Notice Issued  
Description: Without Planning Permission, the sub-division of the property, in to 7no self-contained units.

Reference: ENF/0743/21  
Address: 51 Brent View Road, London, NW9 7EJ  
Status: Case closed on 18/06/2021  
Description: Without planning permission, the change of use of the property into a C4 House of Multiple Occupation (HMO)

### **3. Proposal**

The proposal relates to the change of use from a single family dwelling to a House in Multiple Occupation (HMO - Class C4) for up to 6 people.

It has been noted that the property is currently in an unauthorised use as self-contained flats which are subject to an enforcement investigation. An enforcement notice has been

issued which sets out the following requirements:

- 1 Cease the use of the property as self-contained flats.
- 2 Restore the interior of the building to its last lawful state. The restoration should match the approved drawing plan no. 200723/10 PD of approved application reference, 20/3421/192.
- 3 Permanently remove from the property of all constituent materials resulting from the works in 2 above.

The lawful use of the property remains a single family dwellinghouse - which forms the context for this application. The proposal will result in 3no ground floor ensuite bedsit/rooms, 2no at first floor level and 1no at second floor/roof level. A communal kitchen will be provided at first floor level. A new fence, to safeguard the privacy of the middle room at ground floor level is also proposed.

#### **4. Public/ Internal Consultation**

127 consultation letters were sent to neighbouring properties.  
A site notice was erected on 28/10/2021  
6 responses have been received, comprising 6 letters of objection.

The objections received can be summarised as follows:

- concerns regarding parking
- uncharacteristic
- concerns regarding waste and fly tipping
- impact to community
- the enforcement notice should be adhered to
- noise

The London Borough of Barnet Environmental Health department have been consulted and have advised that the property received a HMO licence in 2021 for 5 years. The licence limits the occupation of the premises to 9 persons in 7 households.

#### **5. Planning Considerations**

##### **5.1 Policy Context**

###### National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was amended on 20 July 2021. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for

people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

### The Mayor's London Plan 2021

The London Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital for the next 20-25 years. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

### Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS4, CS5, CS9.
- Relevant Development Management Policies: DM01, DM02, DM03, DM09, DM17.

The Council's approach to extensions as set out in Policy DM01 is to minimise their impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

Barnet's Draft Local Plan -Reg 22 - Submission was approved by the Council on 19th October 2021 for submission to the Secretary of State. Following submission the Local Plan will now undergo an Examination in Public. The Reg 22 document sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. It represents Barnet's draft Local Plan.

The Local Plan 2012 remains the statutory development plan for Barnet until such stage as the replacement plan is adopted and as such applications should continue to be determined in accordance with the 2012 Local Plan, while noting that account needs to be taken of the policies and site proposals in the draft Local Plan and the stage that it has reached.

### Supplementary Planning Documents

Residential Design Guidance SPD (adopted October 2016):

- Sets out information for applicants to help them design an extension to their property which would receive favourable consideration by the Local Planning Authority and was the subject of separate public consultation. The SPD states that large areas of Barnet are characterised by relatively low density suburban housing with an attractive mixture of terrace, semi detached and detached houses. The Council is committed to protecting, and where possible enhancing the character of the borough's residential areas and retaining an attractive street scene.
- States that extensions should normally be subordinate to the original house, respect the

original building and should not be overly dominant. Extensions should normally be consistent in regard to the form, scale and architectural style of the original building which can be achieved through respecting the proportions of the existing house and using an appropriate roof form.

- In respect of amenity, states that extensions should not be overbearing or unduly obtrusive and care should be taken to ensure that they do not result in harmful loss of outlook, appear overbearing, or cause an increased sense of enclosure to adjoining properties. They should not reduce light to neighbouring windows to habitable rooms or cause significant overshadowing, and should not look out of place, overbearing or intrusive when viewed from surrounding areas.

Sustainable Design and Construction SPD (adopted October 2016):

- Provides detailed guidance that supplements policies in the adopted Local Plan and sets out how sustainable development will be delivered in Barnet.

## **5.2 Main issues for consideration**

The main issues for consideration in this case are:

- Principle of development
- Whether harm would be caused to the character of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents;
- Whether the proposal provides satisfactory living accommodation for future occupiers
- Highways impact
- Refuse and Cycle storage

## **5.3 Assessment of proposals**

Principle of development:

As of 29 May 2016 planning permission is required anywhere in Barnet to convert a dwelling house (Use Class C3) to a small HMO (Use Class C4) where between 3 and 6 unrelated people share basic amenities such as a kitchen or bathroom. Within the planning system an HMO can be either a house split into separate bedsits, a shared house or shared flat. The introduction of an Article 4 across the borough is recognition that HMOs need to be controlled and their proliferation can be harmful to a more permanent residential character. The use of the property by a large number of separate households is likely, on the basis of the criteria identified above, to change the character of the street and to undermine the more permanent residential nature afforded by single dwelling houses.

Policy DM09 advocates that proposals for new HMO's will be encouraged provided that:

- they meet an identified need;
- can demonstrate that they will not have a harmful impact on the character and amenities of the surrounding area;
- are easily accessible by public transport, cycling and walking; and
- meet the relevant housing standards for a HMO.

Core strategy policy CS4 aims to maximise housing choice by providing a range of sizes and types of accommodation that can meet aspirations and increase access to affordable

and decent new homes. Barnet's growing and increasingly diverse population has a range of needs that requires a variety of sizes of accommodation. HMO's are recognised as an important source of low cost, private sector housing for students, those on low incomes and those seeking temporary accommodation. HMOs can involve an intensification of use creating more activity and can adversely affect the appearance of a street through, for example, the provision of additional refuse facilities and more people movements and more deliveries, that can have an unacceptable impact on the established character of an area. The use of the property by a large number of separate households is likely, on the basis of the criteria identified above, to change the character of the street due to the level of intensification above and beyond properties which are in single family occupation or have been converted into flats.

The host property forms part of a terrace of which nos. 48-53 appear to be in use as single family dwellinghouses, based on council tax records. The properties at no. 46 and 47 appear to be in use as flats. There is historic planning history related to both of these properties being in use as flats. There is no planning history relating to conversions at nos. 48-53 apart from the host property.

Further along Brent View Road there is a terrace of properties from no. 1 to no. 19 of which nos. 13, 16 and 19 appear to be in use as flats, based on council tax records. There is no planning history relating to these conversions.

The Councils HMO register reveals that only on. 51 and no. 9 have received HMO licences. The host property has received a HMO licence for 9 persons (ref: HMOM/21/64277) and the property at no. 9 received a HMO licence in 2018 for 5 persons (ref: HMOAA/18/59266).

The rest of Brent View Road features flatted developments along the eastern side of the road.

Brent View Road adjoins West Hendon Broadway which is characterised by commercial and residential uses. Moreover, the host property is located a 4 minute walk to Hendon Station.

As part of the submission, the applicant has provided 2 letters from local estate agents which confirm that there is a demand for HMO properties in the area.

Taking into consideration the mixed character of the area, the accessibility to the site by public transport and the identified demand for HMO's in the area it is considered that the principle of converting the host property into a 6 person HMO is appropriate.

Impact on the character of the area:

Policy DM01 sets out that 'proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets'. The proposal does not include any extensions or external alterations to the property therefore it is not considered that the proposal would harm the visual appearance of the host property or the surrounding area.

In terms of increased occupancy and levels of activity, as identified above, the area is characterised by a mixture of single family dwellings, flatted development and conversions. Furthermore, the existing property has already been substantially enlarged and is capable



of accommodating a large family with a similar occupancy level. Whilst occupants of the proposed six person HMO would likely operate independently of one another in contrast to that which could be expected from a single family household, taking into consideration the mixture of uses and its proximity to busy highway thoroughfares, it is considered that such a level of occupancy would integrate into the surrounding environment and would not appear alien to the area.

It is therefore considered that the proposal is in compliance with Policy DM01 in terms of its impact on the character of the area.

#### Impact to Neighbouring Amenity:

Policy DM01 states that 'development proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users'. The proposal does not incorporate any operational development to extend the property beyond what is currently in situ. As such, there would be no material impact on neighbour amenity in terms of light, outlook or privacy.

In terms of intensification and associated noise and activity, the existing enlarged property is capable of accommodating a large sized family comparable to the occupancy level proposed. This in combination with the relatively high ambient noise levels due to proximity of the site and street to major roads and the surrounding mixture of uses would ensure any increased level of activity would suitably integrate into the context of the site and wider area without resulting in material harm to neighbouring occupiers.

It is therefore considered that the proposal is in line with Policy DM01 in terms of its impact to neighbouring amenity.

#### Amenity of future occupiers:

The proposal must ensure an adequate level of amenity for the future occupiers of the development. The proposed units would be assessed against the Council's adopted HMO standards (2016) and planning policies including Policies DM01 and DM02 and the Sustainable Design and Construction SPD.

The Residential Design Guidance states at Para 15.6: "Where the conversion of a single family home into a small HMO or subdivision into flats is proposed the following should all be considered:

- The property should be large enough to be converted without the need for substantial additional extensions and
- There should normally be access to the rear garden for all flats and
- There should be adequate space off street to meet parking standards set out in DM17 and
- There should be adequate space to provide suitable refuse storage in line with council guidance for architects and
- Unit sizes should conform with the London Plan's minimum space standards

Paragraph 4.1.1 of Barnet's HMO standards stipulates that "Each household shall, where practicable, have its own kitchen separate from and being not more than one floor distant from the sleeping room or within the unit of accommodation". The proposed HMO would

have kitchen facilities on the first-floor which would provide the best access for all floors. Communal kitchens should not have a floor area less than 6m<sup>2</sup>. The proposed kitchen would meet this requirement.

The minimum standards as set out in adopted HMO standards are a minimum of 8.5 sqm floor area for a single occupancy room, which all of the rooms would comply with as they're single occupancy. Each bedsit would also provide a shower room and provide adequate outlook/light.

Though there is no prescribed requirement for HMO, with regard to amenity space, Section 2.3 of the Sustainable Design and Construction SPD (2016) states that 'Outdoor amenity space is highly valued and suitable provision will help to protect and improve the living standards of residents as well as contribute to maintaining and enhancing the wider character of the borough'. Occupants of unit 3 would have sole access to the rear garden, however it has been noted that Brent Reservoir which offers good quality outdoor space is located a 5 minute walk away. It is therefore considered that on balance the proposal would be acceptable in terms of providing outdoor amenity space.

Overall, it is considered that the proposal would offer good quality accommodation for future occupiers.

Highways:

The Public Transport Accessibility Level (PTAL) for the site is 3 which is considered to be an average level of connectivity.

It has been noted that Brent View Road is subject to a CPZ which restricts parking on the road for residents only. Therefore, in the event of approval, the proposal would be subject to a S106 agreement, restricting future occupiers from obtaining parking permits. This would ensure that the proposal does not put stress on parking availability in the area. Moreover, the property is located a few minute walk from Hendon station, therefore it is considered that accessibility to the site is adequate.

Refuse and cycle storage:

It has been noted that the refuse for all the properties along the terrace of which the host property forms a part of are located within the forecourt. The proposal includes 2 refuse bins and 2 recycling bins which are considered sufficient for the proposed HMO.

The proposal also includes the provision of a vertical cycle rack within the property which appears to provide space for 3 cycles. It is considered that this is sufficient for the number of people.

## **5.4 Response to Public Consultation**

Most of the objection comments have been addressed within the assessment of the proposal. It has been noted that the property is subject to an enforcement notice which requires for the property to cease the use as self-contained flats. The current proposal is not considered to conflict with the enforcement investigation.

## 6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

## 7. Conclusion

Having taken all material considerations into account, it is considered that the proposed development would have an acceptable impact on the character of the area and would not result in an adverse impact to neighbouring occupiers, future occupiers or the highway network. This application is therefore recommended for APPROVAL

