

Location 49 Garth Road London NW2 2NH

Reference: 20/4631/FUL Received: 1st October 2020
Accepted: 1st October 2020

Ward: Childs Hill Expiry 26th November 2020

Case Officer: Will Collier

Applicant: Mr Dhan

Proposal: Change of use of the existing HMO (Class C4) into Sui Generis HMO (7 persons). Associated cycle store and refuse/recycling area (AMENDED DESCRIPTION).

OFFICER'S RECOMMENDATION

Approve subject to conditions

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)

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

EXISTING FRONT/REAR ELEVATION EX-E001
EXISTING SIDE ELEVATION 1 EX-E002
EXISTING GROUND FLOOR PLAN EX-P001
EXISTING FIRST FLOOR PLAN EX-P002
EXISTING LOFT PLAN EX-P003
EXISTING ROOF PLAN EX-P004
EXISTING SECTION AA EX-S001
EXISTING OS MAP AND LOCATION EX-L001

PROPOSED FRONT / REAR ELEVATION PR-E001 REVISION B

PROPOSED OS MAP AND LOCATION PR-L001 REVISION B
PROPOSED GROUND FLOOR PR-P001 REVISION C Received 6th October 2022
PROPOSED FIRST FLOOR PR-P002 REVISION C Received 6th October 2022

PROPOSED LOFT PLAN PR-P003 REVISION C Received 6th October 2022
PROPOSED ROOF PLAN PR-P004 REVISION B
PROPOSED SIDE ELEVATION 1 PR0E002 REVISION B

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 The House of Multiple Occupation hereby approved must be occupied by no more than 7 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).

- 4 a) Within 2 months of the date of this decision, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority.

b) The development shall be implemented in full accordance with the details as approved under this condition within 2 months following the approval of the details.

Reason: To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012); CS14 of the Adopted Barnet Core Strategy DPD (2012); and Policies D6 and SI7 of the London Plan 2021.

- 5 The cycle parking spaces and cycle storage facilities shall be provided in accordance with the approved details within 2 months of the date of this permission.

Reason: To ensure that cycle parking facilities are provided in accordance with the

minimum standards set out in Policy 6.9 and Table 6.3 of The London Plan (2016) 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.

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.

OFFICER'S ASSESSMENT

1. Site Description

The site comprises a two storey semi-detached property on the north side of Garth Road at a 90 degree turn in the road on a splayed plot, currently in use as a house of multiple occupation (HMO). Garth Road consists of 1950s Council properties, a number of which are in private ownership. The buildings have tiled roofs and rendered facades many of which have been extended.

The dwelling has a two storey side extension, rear box dormer, and single storey wrap-around side/rear extension across the full width of the house.

Levels rise gently up Garth Road from its junction with the A41.

The HMO has a current HMO Licence.

2. Site History

Reference: F/05116/13

Address: 49 Garth Road, London, NW2 2NH

Description: Conversion of existing single family dwelling into two self contained Flats.

Decision: Refused

Decision Date: 1 November 2013.

Reasons for refusal:

1. The development introduces flats within an area characterised by single family dwellings. The proposal results in the loss of a large single family dwelling and introduces a use that is out of character with the prevailing character of the locality, harmful to the amenity of the area and contrary to policies DM01, DM02 and DM08 of the Adopted Development Management Policies 2012 and Supplementary Planning Document Sustainable Design and Construction and Residential Design Guidance.

2. The proposal would result in an intensification of the use and noise generating activities at the site such as residents entering and exiting the site and parking on the surrounding road network that would result in an increase in noise and activities that would be out of character with the surrounding area to the detriment of the amenity of occupiers of the adjoining residential properties contrary to Policies DM01 and DM04 of the adopted Local Plan.

3. The proposal would provide substandard accommodation which would be detrimental to the amenity of future residents and fails to meet the requirements of the London Plan, Policy DM02 of the adopted London Plan and the Councils Adopted Supplementary Planning Document 'Sustainable Design and Construction'.

Reference: F/03585/12

Address: 49 Garth Road, London, NW2 2NH

Description: Retention of the conversion of residential dwelling into 9-bed HMO.

Decision: Refused (dismissed on appeal, ref APP/N5090/A/13/2193792)

Decision Date: 9 October 2012.

Reasons for refusal:

1. The development introduces a House in Multiple Occupation (HMO) within an area characterised by single family dwellings. The proposal results in the loss of a large single family dwelling and introduce a use that is out of character with the prevailing character of the locality, harmful to the amenity of the area and contrary to policies DM01, DM02, DM08 and DM09 of the Adopted Development Management Policies 2012 and Draft Supplementary Planning Document Sustainable Design and Construction and Residential Design Guidance.

2. The proposal would result in an intensification of the use and noise generating activities at the site such as residents entering and exiting the site and parking on the surrounding road network that would result in an increase in noise and activities that would be out of character with the surrounding area to the detriment of the amenity of occupiers of the adjoining residential properties contrary to Policies DM01, DM04 and DM09 of the adopted Local Plan.

3. The proposal would provide substandard accommodation which would be detrimental to the amenity of future residents and fails to meet the requirements of Policy DM09 of the adopted Local Plan for the provision of a Houses in Multiple Occupation.

Reference: F/02844/11

Address: 49 Garth Road, London, NW2 2NH

Description: Single storey rear extension. Roof extension including rear dormer window and two front rooflights to facilitate loft conversion.

Decision: Approved.

Decision Date: 7 July 2011.

Reference: C08001

Address: 49 Garth Road, London, NW2 2NH

Description: Two storey side extension

Decision: Approved.

Decision Date: 24 March 1983

3. Proposal

The applicant seeks planning permission for a change of use of the existing HMO (Class C4) into Sui Generis HMO (7 persons) with associated cycle store and refuse/recycling area.

The physical alterations include cycle store and extended bin store to the front.

The proposal has been amended during the application stage, reducing the number of rooms from 8 to 7 for 7 persons only.

4. Public Consultation

Consultation letters were sent to 55 neighbouring properties and a site notice was displayed on 10th October 2020.

27 objections were received. In summary the following concerns were raised:

- o Given history of previous refusals, should be refused.
- o Already pressure on traffic by larger developments.
- o Would cause increased traffic.
- o Puts pressure on local services.
- o Scale of the HMO would be out of character with the area, which is typically 2-3 bedroom houses.
- o Tenants are younger demographic with no commitment to the area.
- o Likely to lead to more crime and noise.
- o Operates without a licence
- o Application states incorrectly that the house was previously a small HMO - it has been a large HMO for 11 and never had planning permission for a smaller HMO.

- o Adverse impact on neighbours in regards to noise and disturbance.
- o Rubbish accumulates to the front and there is anti-social behaviour.
- o Inaccessible to public transport.
- o Concern about safety of children.
- o Already parking problems in Garth Road.
- o Childs Hill becoming a dumping ground due to this sort of development.
- o Threatens neighbourhood safety.
- o Sewage system not designed to take this number of people.

There was one letter of support, stating the change of management has greatly improved the HMO in terms of cleanliness and social behaviour.

Internal consultations

Highways Comments have been received. The consultee states the following:

The site fronts onto Garth Road. It is in a CPZ that operates between 1-8pm and it lies in an area with a PTAL score of 2(low). However, 6 bus routes can be accessed from stops within 6-8 minutes walking distance of the site.

The change of use from the existing HMO (Class C4) to 8 bedroom (HMO) will attract a maximum parking provision of 8 car parking spaces. The forecourt can accommodate 1 car parking space if a wider opening was constructed. However, no parking is proposed and this is acceptable subject to the applicant agreeing to enter into a section106 agreement with the council to deny occupants of the development the right to purchase CPZ permits.

8 cycle parking spaces are required, and 8 spaces are proposed which is acceptable. The type of cycle store proposed is acceptable. A cycle parking condition is recommended.

The design and access statement indicates that existing refuse storage proposals will remain but no details are provided on the proposed ground floor plan. Details of refuse storage are therefore requested by way of a planning condition.

Waste / Refuse:

No objections subject to conditions.

Environmental Health:

No objections.

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 revised National Planning Policy Framework (NPPF) was published on 20th 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, creates better places in which to live and work and helps make development acceptable to communities...being clear about design expectations, and how these will be tested, is essential for achieving this'. 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 Development 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 to 2050. 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, CS5.
- Relevant Development Management Policies: DM01, DM02, DM04, DM09

Barnet's Draft Local Plan on 26th November 2021 was submitted to the Planning Inspectorate for independent examination which will be carried out on behalf of the Secretary of State for the Department of Levelling Up, Housing and Communities. This is in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2021 (as amended).

The Regulation 22 Local Plan sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. 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)

Sustainable Design and Construction SPD (adopted October 2016)

- Provide 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 the development
- Impact on character and visual amenity
- Impact on neighbouring properties
- HMO Standards
- Highways and parking

5.3 Assessment of proposals

- Principle / the need for an HMO in this location/Character;

Policy DM01 of Barnet's Development Management Policies (2012) states that the loss of houses in roads characterised by houses will not normally be appropriate.

Garth Road is a short road characterised by single family dwellings. A search of the Council tax records for the street show no flats in the street. On investigation of the planning history of properties along Garth Road, no other permissions for HMOs or flats were found and as such, the character of the area is predominantly single family dwellinghouses.

In assessing the principle of HMOs, Policy DM09 states that the Council will seek to retain existing HMO provided they meet an identified housing need. Proposals for new HMO 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 HMO.

In terms of accessibility, the site is located within an area with a PTAL rating of 2 which is considered poor. In general, HMOs arise in areas with good access to public transport (in particular bus routes) and local services such as near to town centres or in areas with more mixed character. It is not considered that an HMO use in an area of poor transport accessibility is desirable or in accordance with what the standards for HMOs seeks to achieve.

In this case the principle of HMO use for the building has been established by virtue of its change of use to a small HMO under permitted development before the introduction of the Article 4 Direction on 29th May 2016, which has been verified and confirmed in past enforcement cases.

Furthermore, the outcome of an appeal against the refusal of a 9 bed HMO for the site should be noted and given weight (APP/N5090/A/13/2193792). In the report, dated 10th September 2013, the Inspector confirmed that an identified need for an HMO had been met, dismissing it only on the grounds of the HMO having an adverse impact on neighbouring properties and on the living conditions of future occupiers of the HMO.

Thus, giving weight to the specifics of the case, in particular the fact that the property was converted to a small HMO under permitted development before the imposition of the Article 4 Direction, and taking into account the appeal decision described above, the principle of the development is supported.

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;

Any scheme for the site will need to respect the character and appearance of the local area, relate appropriately to the sites context and comply with development plan policies in these respects. This will include suitably addressing the requirements of development plan policies such as DM01 which states that all proposals should preserve and enhance the local character of the area, as well as policies CS05 (both of the Barnet Local Plan), D1, D3 and D6 (of the London Plan).

The inspector also agreed that the previous 9-bed HMO did not have an adverse impact on the character of the area, stating: 'In the terms of the proposed use of the dwelling, the normal occupation of an HMO would not in itself be out of keeping with the predominantly residential character of Garth Road. In addition, despite having been extended the property retains the visual appearance of a single residential dwelling' (para 5).

The proposal in this case would lead to no change to the external appearance of the property other than the addition of refuse storage and a bike store at the front of the property, both of which are of a scale and position that would have no significant impact on the character of the property and locality.

- Whether harm would be caused to the living conditions of neighbouring residents.

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 use of the property by a large number of separate households is likely to undermine the more permanent residential nature afforded by single dwelling houses and purpose-built flats.

The building forms one of a pair of semi-detached dwellings. The adjoining neighbour (no. 51) is a single household.

In assessing the impact on neighbouring properties through the intensification of the use, it is helpful to compare the proposal to previous decisions on conversions to the property. The previous planning application (F/05116/13) was for conversion to two flats (1x 2 bed and 1 x 3 bed). There were three refusal reasons including over-intensification of use, which was merely based on an assessment of the density level appropriate for the area according to the London Plan (2011). It is considered that such a method of assessing the conversion against density levels is not necessary in light of current planning policy.

There is also a previous planning application (F/03585/12) to convert the property to a 9-bed HMO which was refused on three grounds. Over-intensification of use through increased activity and comings and goings associated with 9 households in the property was one of the reasons for refusal, which was subsequently upheld at appeal. Indeed, as stated by the inspector in the appeal decision, "I consider this to be a relatively large HMO....This leads me to conclude that the level of noise and disturbance from the occupation of an HMO of this size, in his location would result in noise and disturbance to occupiers of neighbouring properties significantly above that which would be usual in this locality".

In this case, taking into account that the use of the property as a small HMO (up to 6 person) is permitted development by virtue of the fact that it pre-dated the Article 4 Direction, and given that the number of occupants in the proposal is restricted to 7 persons only, just one over the permitted development level, it is considered it would not therefore have an undue impact on neighbouring amenity above the permitted development level, and is significantly less than the previously refused 9-bed HMO. On balance, therefore, it is considered acceptable in this respect.

- Whether the scheme complies with HMO standards.

On conversions, the Residential Design Guidance states that subdivision requires careful consideration of the layout of each unit and the size and features of the rooms, so that the proximity of the new units to each other does not cause their occupants or neighbours undue disturbance.

In terms of internal standards, the Council uses the Barnet HMO Standards (2016) as a guide. Whilst not an adopted planning document, it is used as an effective measure of internal space and facility standard that contribute to the adopted Local Plan requirements to "meet the relevant housing standards for HMOs (Policy DM09)."

This is also in accordance with the approach advocated in the Mayors Housing Supplementary Planning Guidance (adopted March 2016) under paragraph 3.5.1 states that LPAs should ensure "...schemes are of good quality and meet all relevant Housing Act and HMO standards and requirements."

The application seeks permission for the use as the property as a 7-bedroom (7 person) House in Multiple Occupation (HMO) HMO for up to seven people.

The Adopted Standards for Houses in Multiple Occupation have regard to its internal floorspace and layout. Paragraph 2.1 states 'where there are five or more occupiers each separate household shall, where practicable, be provided with a wash hand basin'. Para. 2.2 states that 'each separate occupancy shall, where practicable, be provided with its own readily accessible bath or shower room of adequate size with sufficient space for drying and changing'.

The development meets these requirements as each room shown on the proposed floor plans would have its own basin with bath/shower room.

Paragraph 4.1.1 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".

This test would be met, two communal kitchens (on ground floor and first floor) are proposed of acceptable size, providing two sets of kitchen facilities, on the ground floor and first floor.

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'.

While there are no minimum outdoor amenity space standards for HMOs, the application site provides a spacious communal rear garden as seen on the location plan and confirmed via satellite imagery. On this basis, the intended amenity space provision is deemed acceptable.

The conditions of the HMO are therefore acceptable for future occupiers.

- Highways and Parking.

The site fronts directly onto a bend in Garth Road - a residential road. It is in a CPZ that operates between 1-8pm and it lies in an area with a PTAL score of 2(low). However, 6 bus routes can be accessed from stops within 6-8 minutes walking distance of the site.

Highways were consulted when the scheme was for 8 bedrooms before being amended to 7 and advised that a car free development would be acceptable if the applicant enters into a S106 agreement to deny occupants of the development the right to purchase CPZ

permits.

In this case, taking into account that the HMO is permitted development for a small HMO which imposes no parking requirements, and given that the previous appeal dismissed highway and parking issues as a refusal reason (para. 7, Appeal ref. APP/5090/A/13/2193792) it is not therefore considered necessary to require such a S106 to make the proposal acceptable.

The proposed development is required to provide long stay cycle parking spaces in accordance with the London Plan Cycle Parking standards. The block plan shows that an appropriate cycling facility can be achieved, and this would have limited impact upon the street scene given its scale.

5.4 Response to Public Consultation

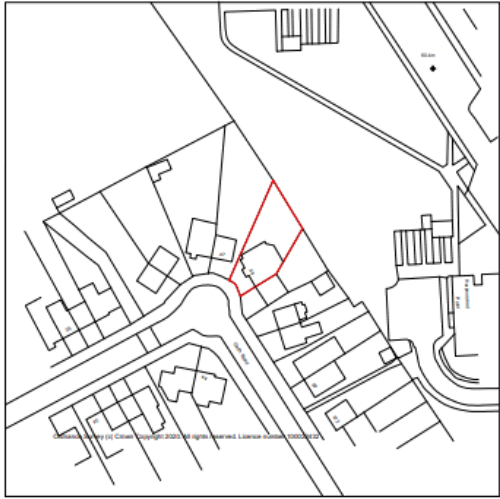
Many of the comments surrounding character and amenity have been answered in the report. There are numerous concerns relating to the fear from anti-social behaviour however good citizenship is not a material planning consideration.

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 subject to compliance with the attached conditions, the proposed development would have an acceptable impact on the character and appearance of the application site, the street scene and the locality. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for approval.



OS Map

