

**Location** **24 Babington Road London NW4 4LD**

**Reference:** **22/3574/FUL** Received: 11th July 2022  
Accepted: 30th August 2022

Ward: Hendon Expiry: 25th October 2022

**Case Officer:** **Anestis Skoupras**

Applicant: Mr N Khimani

Proposal: Change of use of the property from a single family dwelling (Class C3) to a House in Multiple Occupation (HMO) (Class C4) for 5 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. The applicant and any other person having a requisite interest in the site are invited to enter into a section 106 Agreement to secure the following:
  1. 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 financial contribution of £2,022 towards the amendment of the Traffic order to restrict occupants of the development from obtaining a parking permit.
4. Meeting 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:

24BABINGTONRD-201 dated on the plans 06.07.2022, 24BABINGTONRD-202 dated on the plans 06.07.2022, Site Location Plan undated.

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 5no persons at any time.

Reason: To protect the amenities of future and neighbouring residential occupiers in accordance with Policies DM02 and DM04 of the Development Management Policies DPD (adopted September 2012) and the Sustainable Design and Construction SPD (adopted April 2013).

- 4 a) Within 3 months of this decision notice, 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 prior to the first occupation and retained as such thereafter.

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 S17 of the London Plan 2021.

5 a) Within 3 months of this decision notice, details of 5 cycle parking spaces including the type of stands, gaps between stands, location and type of cycle store facilities shall be submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the details as approved under this condition and the spaces shall be permanently retained thereafter.

Reason: To ensure that cycle parking facilities are provided in accordance with the minimum standards, in the interests of promoting cycling as a mode of transport and to safeguard the visual amenities of the building and surrounding area, in accordance with Policy T5 and Table 10.2 of The London Plan (2021), Barnet's Local Plan Policies CS NPPF, CS1 and CS9 of Core Strategy (Adopted) September 2012, and Policies DM01 and DM17 of Development Management Policies (Adopted) September 2012.

### **RECOMMENDATION III:**

1 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:

### **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. A pre-application advice service is also offered. 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**

### **Site Description**

The application relates to a two storey mid-terraced property on the southern side of Babington Road. The neighbouring property to the west is No.22 and to the east is No.26 Babington Road. The property benefits from existing non-original additions in the form of a single storey rear extension, rear dormer and a rear outbuilding. The street largely comprises terraces of stylistically similar dwellings, which typically benefit from small front gardens or driveways and private rear amenity space and a number have already been converted to HMO.

The site is not within a Conservation Area, nor subject to any other relevant planning designations.

### **Relevant Site History**

Reference: 21/2586/HSE  
Address: 24 Babington Road, London, NW4 4LD  
Decision: Approved subject to conditions  
Decision Date: 24 June 2021  
Description: Two single storey rear extensions

Reference: 21/3561/192  
Address: 24 Babington Road, London, NW4 4LD  
Decision: Approved  
Decision Date: 1 July 2021  
Description: Two single storey rear extensions

Reference: W13222/03  
Address: 24 Babington Road, London, NW4 4LD  
Decision: Refused  
Decision Date: 21 May 2003  
Description: Single storey rear conservatory.

### **3. Proposal**

Change of use of the property from a single-family dwelling (Class C3) to a House in Multiple Occupation (HMO) (Class C4) for 5 people.

This application proposes a conversion of a single dwelling house into a five person HMO. The ground floor would provide 2 bedrooms and a communal kitchen /dining room. Access to the shared garden will be provided by the kitchen entrance leading to a patio area. The first floor would provide two bedrooms, one of them with an en-suite bathroom, and a shared bathroom at first floor level would occupy the outtrigger. The second floor (loft level) would provide one bedroom with an en-suite bathroom.

In addition, the proposal would provide no.2 cycle storage to the rear garden.

## 4. Public Consultation

205 consultation letters were sent to neighbouring properties.

8 objections letters received with the following content:

- Under provision of parking spaces
- Overcrowding
- Increased noise and disturbance as a result of an over-intensified site
- Impact on established character of street and loss of dwellinghouse.
- Anti-social behaviour as a result of visitors
- Reduced quality of life for residents

## 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 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 new London Plan which sets out the Mayor's overarching strategic planning framework for the next 20 to 25 years was adopted on the 2nd March 2021 and supersedes the previous Plan.

#### 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, DM08, DM09, DM17

#### Barnet's Local Plan (Reg 19) 2020

Barnet's Draft Local Plan -Reg 19- Publication was approved for consultation on 16th June

2021. The Reg 19 document sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. It is 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.

### Supplementary Planning Documents

Residential Design Guidance SPD (adopted October 2016)  
Residential Design Guidance SPD (2016) and Sustainable Design and Construction SPD (adopted October 2016)

On 26 May 2016 the Council implemented an Article 4 Direction across the borough requiring planning permission for any change of use from buildings used as dwelling houses (Use Class C3) to buildings used as small scale houses in multiple occupation (Use Class C4).

## **5.2 Main issues for consideration**

The main issues for consideration in this case are:

- i. Principle/ the need for an HMO in this location
- ii. Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- iii. Whether harm would be caused to the residential amenity of neighbouring residents.
- iv. Whether the proposal provides satisfactory living accommodation for future occupiers
- v. Parking and highways
- vi. Refuse and recycling storage

## **5.3 Assessment of proposals**

### i. Principle / the need for an HMO in this location

A Class C4 House in Multiple Occupation (HMO) is a dwelling in which three to six unrelated people (separate households) share communal facilities such as bathrooms, kitchens and living rooms. On 29 May 2016 an Article 4 Direction was introduced to remove the permitted development rights to convert a dwelling house (Use Class C3) into a small HMO (Use Class C4). Therefore, planning permission is now required for such proposals.

Policy DM09 part a) states that "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 standards for HMO."

Policy H.9-part d) of the London Plan 2021 states that "Boroughs should take account of the role of houses in multiple occupation (HMOs) in meeting local and strategic housing needs. Where they are of a reasonable standard they should generally be protected." Para 4.9.4 continues "Houses in multiple occupation (HMOs) are an important part of London's housing offer, reducing pressure on other elements of the housing stock".

Para.3.4.1 of the Housing Supplementary Guidance SPG 2016 states that "There are 21,000 mandatory licensable HMOs in London and an estimated 195,000 in total. Collectively, they are a strategically important housing resource, providing flexible and relatively affordable accommodation through the private market. Outside London they are sometimes associated with concentrations of particular types of occupiers e.g., students, leading to concerns about the social mix of some localities. In London, the occupier profile tends to be more broadly based and HMOs play a particularly important role in supporting labour market flexibility (especially for new entrants), and in reducing pressure on publicly provided affordable housing. However, as elsewhere in the country, their quality can give rise to concern."

Para 3.4.2 states the importance of "striking a careful balance between local concerns, such as those to protect large houses for local family occupation, and the contribution they can make to meeting strategic and local needs if converted to HMOs."

As discussed above, planning permission is sought for the proposed change of use of a single-family dwelling house into a HMO for 5 persons. The surrounding area is of mixed character and comprises houses in single family occupation, three units registered as self-contained units and - with regard to the HMO register - 9no licensed HMO (and a further one at No 30 due to be approved under delegated authority). These are Nos 12, 22, 32, 38, 42, 48, 52, 60, 64.

Officers note that following a site visit, the works for the change of use have already taken place. It is therefore considered that this application is retrospective.

The applicant has not provided supporting evidence to demonstrate the need of a HMO in this location. However, in view of recent appeal decisions, given the retrospective nature of the application in an area with other HMO approvals, the proposal is on balance considered to demonstrate a demand within this locality.

With regard to meeting an identified need or demand, demand could be identified by way of an emphasis on differing demographics and or job centres in the area which depends on HMO's in the area. It is equally acknowledged that this need could also include institutions which would attract demand for low-cost accommodation nearby. To this end, it should also be noted that the application site is located less than 150m away from Middlesex University - with a student body of over 19,000 in London.

In view of the presence of a number of HMO in the street, it is not considered that the proposal would unduly impact upon character or amenity - and the development would meet the relevant standards. Although only PTAL 2/3, the local source of demand from Middlesex University is highly accessible relative to this location and is in any event only 3 min walk to the closest bus stop (in turn with services to Hendon Central and Golders Green Underground Stations, Hendon mainline station and Brent Cross). As such, it would be consistent with the expectations of DM09. Although the property would result in the conversion of a family dwelling, the Article 4 Direction in place does not prohibit the return change of use - and as such, the property could be restored to use as a family house in the future without express consent.

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

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.

Development proposals involving the redevelopment of sites are required to reflect the character of their street and the scale and proportion of surrounding houses. This is supported by Policy DM01 of Council's Development Management Policies which states that development should understand local characteristics and 'preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets'.

The proposal seeks no extensions to the dwelling house and as such there will be very limited physical impact on the character and appearance of the site, street scene or locality. However, the National Planning Policy Framework indicates that the character of an area is made up of much more than its physical appearance but includes how it functions and contributes to local identity and sense of place.

Nonetheless, as noted above, Babington Road is of mixed character and comprises houses in single family occupation, self-contained units and several HMO and as such, it would not appear out of character.

### **iii. Whether the proposal provides satisfactory living accommodation for future occupiers**

Paragraph 15.6 of the 'Residential Design Guidance' states that:

'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;
- There should normally be access to the rear garden for all flats;
- There should be adequate space off street to meet parking standards set out in DM17;
- 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 set out in Appendix 2 of this SPD or for HMO the Councils adopted Housing Standards.

The Council's adopted Standards for Houses in Multiple Occupations (adopted 2016) provides guidance on the recommended standards and states that it is expected that all HMOs will comply with these standards where reasonable and practicable.

The guidance stipulates at para 1.2 that for two or more room lettings the minimum floor area for a single bedroom (1 person) should be 6.5m<sup>2</sup> and 9.5m<sup>2</sup> for a double (2 person). Any proposed rooms for kitchens should be a minimum of 4.5m<sup>2</sup>. The applicant has provided floor plans which demonstrate that the proposed floor areas for all the proposed rooms are acceptable. All bedrooms are of good size and all the shared facilities and rooms are of a generous size providing acceptable living standards.

All the occupants would have access to the rear garden providing good quality usable outdoor amenity space. In addition, there is adequate space to the front of the property for refuse storage.

Although the cooking facilities should not be more than one floor distant from the sleeping room (or be within the accommodation), the application property benefits from a HMO licence ref. HMOM/22/67075 and as such, the authority which enforces the standards have seen fit to make an exemption.



Therefore, it is considered that the proposal demonstrates general compliance with the above standards and guidelines and would provide a satisfactory level of amenity for future occupiers.

#### iv. Impact on the amenities of neighbours

The pre-existing dwelling was 4 bedroom 7 persons house- albeit arranged as a single household. The proposed HMO would result in a maximum no. of 5 persons. Given the mixed character of the street, it is considered that a reason for refusal based on the increase in noise and activities being out of character and harmful to residential amenity, would not be justified - notwithstanding the different pattern of use associated with multiple households.

Taking into account the considerations above, the development is considered to have an acceptable impact on the residential amenities of occupiers of neighbouring residential properties.

#### v. Highways and parking / Cycle Parking

The proposal does not provide any car parking spaces to serve the development. However, it is pertinent to note that the original dwelling when in a single-family use had 4 bedrooms which also benefitted from no car parking provisions.

The site is in close proximity and within easy walking distance to both the University and Brent Town Centre. It also has relatively good transport links and a slight under subscription in resident car parking bays.

The application site sits on the border of PTAL level 2 and 3 zones. The Highways officers have been consulted as part of this application. No comments have been received however, Officers consider that the proposal would be acceptable subject to a S106 or Unilateral agreement.

The required number of cycle parking spaces for the proposal is 5no spaces. The location of the cycle storage has been presented on the plans and is considered acceptable. Final details of cycle parking including the type of stands, gaps between stands, location and type of cycle store proposed shall be submitted to and approved in writing by the Local Planning Authority. Cycle parking and cycle storage facilities should be provided in accordance with the London Cycling Design Standards (LCDS).

Prior to occupation of the development refuse collection arrangements shall be in place in accordance with the submitted planning application.

### **5.4 Response to Public Consultation**

- Under provision of parking spaces
- Overcrowding
- Increased noise and disturbance as a result of an over-intensified site
- Impact on established character of street and loss of dwellinghouse.

The above concerns raised have been duly addressed within the main body of the report.

- Anti-social behaviour as a result of visitors
- Impact on sewage and drains

The above concerns raised are not material planning considerations and therefore have not been explored as part of the assessment nor do they determine the decision.

## 6. Equality and Diversity Issues

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

## 7. Conclusion

This application is therefore recommended for APPROVAL.

