

Location **15 West View London NW4 2SY**

Reference: **23/3794/RCU** Received: 4th September 2023
Accepted: 14th September 2023

Ward: Hendon Expiry 9th November 2023

Case Officer: **Zakera Matin**

Applicant: Mr Moti Friedlander

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; Associated refuse/recycling and cycle storage (Retrospective Application)

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:

01
02
01 a (Location Plan)
Parking Survey (8 Nov 2023)
Design and Access Statement

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 a total of 5no persons (one person in each room) at any time.

Reason: To protect the amenities of future and neighbouring 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) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to 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.

- 5 a) Before the development hereby permitted is first occupied, 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.

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.

- 2 In relation to fire safety and other matters to which they apply, the conversion work will need to accord with the current Building Regulations and an application/building notice to Building Control or an Approved Inspector should be made.

OFFICER'S ASSESSMENT

This application has been brought before the Committee by Cllr Prager for the following reason:

If officers are minded to approve this application I would like to call it in. This is on the grounds of a loss of a single-family home, which is contrary to Local Plan DM01 and particularly DM08.

1. Site Description

The property is a two-storey, semi-dwellinghouse located on the eastern side of West View, NW4 2SY. There are no significant variations in levels across the site or neighbouring properties.

The property is not listed nor located on land designated as Article 2(3) (Conservation Area). There exist no outstanding conditions on the adjoining properties which might limit development. There are no protected trees on or adjacent to the application site. The application site is not a listed building and does not lie within a Conservation Area.

2. Site History

Reference: ENF/01158/15
Nature: Unauthorised Building Works
Status: Case closed
Date: 18 December 2015

3. Proposal

The application proposes:
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 (Retrospective Application) Associated refuse/recycling and cycle storage

4. Public Consultation

Consultation letters were sent to 44 neighbouring properties.
1 letter of objection has been received.

The comment is summarised below:

- Concern regarding issues with noise, antisocial behaviours, rubbish collection

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 in 5th September 2023. 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. 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 document. Both were adopted in September 2012.

The following policy documents were consulted:

- Relevant Core Strategy Policies: CS NPPF, CS1, CS4, CS5.
- Relevant Development Management Policies: DM01, DM02, DM04, DM08, DM09, DM17.

Barnet's New Local Plan (Reg 24)

The Reg 22 version of the draft new Local Plan was approved by the Council on 19th October 2021 for submission to the Secretary of State. Following submission, the Local Plan underwent an Examination in Public (Reg 24). The Reg 22 document sets out the Council's draft planning policy framework together with draft development proposals for 65 sites.

As part of this stage (Reg 24), the Inspector in his Interim Findings and Next Steps letter of August 17th has set out how the Council can through making Main Modifications to the Local Plan address issues of legal compliance and deficiencies in soundness. These interim findings are a clear indication of what the Local Plan and the policies and site proposals within will look like at adoption, subject to making the Inspector's suggested Main Modifications. Whilst the Council moves forward to formal consultation on the Main Modifications (expected to commence in January 2024) the Interim Findings and Next Steps letter of August 17th shall be considered, in the interim, a relevant material consideration in the Council's decision making on planning applications.

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

Sustainable Design and Construction SPD (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).

Standards for Houses in Multiple Occupation London Borough of Barnet (Feb 2022)

5.2 Main issues for consideration

The main issues for consideration in this case are:

- i. The principle of HMO in this location
- ii. The Impact on the appearance and character of the area
- iii. The impact on the amenities of neighbouring occupiers
- iv. Whether the scheme complies with HMO standards
- v. Parking and highways
- vi. Refuse and recycling storage

5.3 Assessment of proposals

The principle of HMOs in this location

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.

A small House in Multiple Occupation (HMO) is a dwelling in which maximum six unrelated people (separate householders; unrelated to each other) share communal facilities such as bathrooms, kitchens and living rooms. An HMO larger than this is classed as a sui generis use.

On 29 May 2016 an Article 4 Direction was introduced to remove the permitted development right to convert a dwelling house (Use Class C3) into a small HMO (Use Class C4). Therefore, planning permission is now required for such proposals. When classed as sui generis will require planning permission as well.

The Core Strategy in Policy CS4 seeks to provide supported housing to maximise the independence of vulnerable residents including young people, people with disabilities, older people, homeless people and other vulnerable adults.

Policy DM08 states that, "Development should provide where appropriate a mix of dwelling types and sizes in order to provide choice for a growing and diverse population for all households in the borough."

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."

Paragraph 10.3.2 of the Development Management Policy states that, "HMO are an important source of low cost, private sector housing for students, those on low incomes and those seeking temporary accommodation."

Policy HOU04 of the draft new Local Plan includes provision for Houses in Multiple Occupation (HMO) and states that, HMOs will be supported where they meet the following criteria,

- it is demonstrated that they meet the requirements of the Additional Licensing Scheme and comply with any relevant standards for Houses in Multiple Occupation
- it is demonstrated that they meet an identified need and that they do not create a harmful concentration of such a use in the local area. A harmful concentration is defined as where three or more of the ten nearest properties are HMOs
- demonstrate that they will not have a harmful impact on the character and amenities of the surrounding area. A HMO Management Plan may be sought to protect living conditions for residents and occupiers of neighbouring properties
- are easily accessible by public transport, cycling and walking
- where an existing HMO is of a reasonable standard it will be protected unless it is demonstrated that there is no local need for such accommodation.

The site is located close to the primary retail area along Barnet Street and also located within 0.4 miles (less than 10 minute walk) from Henden Central Station. It is noted that neighbouring No.10 West View was previously granted permission to convert into HMO.

In addition to the location being accessible, weight has also been given to the mixed character of the application site. The application site is surrounded by single family dwellings, purpose built flats, educational and retail uses and other HMO. Based on the mixed character of the area surrounding the application site, it is not considered that the introduction of another HMO would harmfully alter the character of this section of West View. There would not be three or more HMO within the nearest ten properties.

Therefore, while the application site is not located within a town centre location, it is considered that the accessibility level is sufficiently good enough and the character of the area suitably mixed to justify a HMO at the application site. It is this that has been given the most weight in determining the suitability of the application site for a HMO. No.10 West View was granted permission on similar ground. It is not considered that the proposal would result in harmful concentration of such use at this location and will comply with emerging local plan.

The proposal would result in the change of use of a single family dwelling. However, the proposal would also provide low cost accommodation in this accessible location and outweighs the loss of the single dwelling with regard to Policies DM08 and DM09. With regard to the Article 4 Direction in place, it does not prevent the return change of use from C4 to C3 without a further grant of planning permission - and as such, the potential for use of the property as a single dwellinghouse remains.

The proposal would broadly meet the relevant standards for Houses in Multiple Occupation. Nonetheless, it is noted that the HMO Licensing Team have not identified any material harm from the smaller of the bedrooms such as to warrant withholding any approval. The need is demonstrated by the on-going occupation of the property as an HMO - consistent with the approach taken by the Planning Inspectorate in determining appeals elsewhere in the Borough - and there is an identified need for low-cost housing in the Local Plan.

In summary, it is considered that the principle of a HMO at the application site is acceptable given the mixed character of this section of West View and its proximity to key transit routes and modes. Furthermore, it is not considered that harm would be caused to the character of this section of West View and given there is sufficient space for off-street parking, and local amenities and transit stops are within walking distance, it is not expected that the amenity of neighbouring occupiers will be harmed as a result of the proposed HMO use.

The Impact on the appearance and character of the area

The proposal does not propose any alterations to the front elevation of the application site and no extension is proposed as part of the application. Therefore no harm is expected. The use of the application site as a HMO and its consequential impacts on the character of the application site and the surrounding area has been addressed in the section above.

In summary, it is not considered that significant harm would be caused to the appearance and character of the application site or the wider streetscene as a result of the proposed HMO use. It is therefore considered acceptable on character grounds.

Impact on the amenities of neighbouring occupiers

The pre-existing 4 bed dwelling accommodated a maximum of 7no persons. The proposed 5 bed HMO with single occupancy rooms would accommodate a maximum of 5no persons. In this respect the proposal would reduce the potential maximum occupancy level from pre-existing and is not considered to result in undue harm from additional noise and disturbance for the neighbours - notwithstanding that it would be arranged as separate single person households.

Whether the scheme complies with HMO standards

The proposed HMO rooms would be as below

Room 1 -15.7 sqm -single occupancy

Room 2 -12.3 sqm -single occupancy

Room 3 -14.5 sqm -single occupancy

Room 4 -7.1 sqm -single occupancy

Room 5 -12.3 sqm -single occupancy

Communal kitchen - 9.8 sqm

Communal living area-22.7 sqm

Standards for Houses in Multiple Occupation London Borough of Barnet (Feb 2022) requires as below:

- Minimum room for sleeping for single occupancy 10 sqm
- Minimum room for sleeping for double occupancy 14 sqm

The standard mentions that, shared kitchen may be provided in a ratio of one to five persons with floor area of not less than 6m². The HMO officer mentioned that, "whilst the standard says that such a kitchen should not be more than one floor distant from the user, the more generous shared spaces on the ground floor may suitably mitigate to overcome this and it might be allowed for licensing purposes." The communal kitchen of 9.8 sqm would meet the minimum standard.

It is noted that room 4 is below 10 sqm. The HMO officer mentioned that, "given the ample communal living rooms and reasonably generous shared kitchen on the ground floor, it is possible that this mitigates the rather smaller Room 4 and it may be permissible for this room to be occupied by 1 person."

It is noted that some rooms are more than 14 sqm and could accommodate 2 person in licensing terms. A condition would therefore be attached to limit the maximum occupancy to 5no persons arranged as single occupancy rooms.

The standard requires bathroom or shower room with sufficient space for drying and changing shall be provided in the ratio of one to every five persons.

At first floor one communal bathroom is provided which can serve 3 rooms of first floor and one room at ground floor. The loft room would have it's ensuite bathroom. The proposal is considered to meet the standard in this respect.

HMO officer concluded that, "notwithstanding size of the bedrooms, the facilities provided would more than likely make the house suitable for 5 persons with some discretion being exercised but that any decision for licensing purposes, would be subject to inspection."

The officer further mentions that, the house is likely to require a licence under the mandatory HMO licensing scheme, provided it does not fall to be exempt under Schedule 14 of the Housing Act 2004.

Barnet's Sustainable Design SPD (Oct 2016) section 2.4 states that glazing to all habitable rooms should not normally be less than 20% of the internal floor area of the room and bedrooms and living rooms/kitchens should have a reasonable outlook. It is considered that all of the proposed habitable rooms benefit from sufficient clear glazing and outlook and thereby provide an acceptable standard of amenity for future occupiers.

Additional fire and other licence conditions may be attached to a licence as necessary once the property has been inspected. In relation to fire safety and other matters to which they apply, the conversion work will also need to accord with the current Building Regulations and an application/building notice to Building Control or an Approved Inspector should be made.

Parking and Highways

Councils Highway officers were consulted on the proposal and their comments area as below;

In line with requirements set out on Policy DM17 of the Barnet Local Plan, as per the existing use the parking spaces requirement was 1no. off-street parking space. The required off-street car parking provision for this proposal is 5no. off-street parking spaces. Therefore, the difference between the existing and the new proposed is 4no. parking spaces.

The applicant has provided parking survey that presents a parking stress level of 70% which is below the threshold of 85% - 90%. There will be on-street availability of up to 4 parking spaces which is considered acceptable and has been agreed by the Highway Authority.

The proposed development will need to provide 5no. long-stay cycle parking spaces in accordance with the London Plan Cycle Parking Standards. The cycle parking spaces will need to be secured within a storage facility to be located in a safe, well-lit and overlooked area. The design details of cycle parking spaces and storage facilities need to comply with the London Cycling Design Standards (LCDS). A condition is attached to address this.

Refuse and recycling storage

The proposed location of the bin store has to be within 10 metres from public highway with clear and levelled pedestrian access to be provided for the refuse crews on collection days. Bin storage is shown in the front garden. Details regarding bin enclosures will be secured by condition.

5.4 Response to Public Consultation

Public comments have been acknowledged and have been addressed in the report. Anti-social behaviour is a matter for the Police and not relevant to the determination of this application.

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 and appearance of the application site and wider streetscene, would meet HMO standard and is not considered to have a significant adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for APPROVAL.

