
Appeal Decision

Site visit made on 20 September 2016

by Lesley Coffey BA Hons BTP MRTPI

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

Decision date: 10 October 2016

Appeal Ref: APP/H1515/W/16/3152895

Rear of 188 Warley Hill, Warley, Brentwood CM14 5HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Prigg against the decision of Brentwood Borough Council.
 - The application Ref 16/00442/FUL, dated 1 April 2016, was refused by notice dated 14 June 2016.
 - The development proposed is change of use of existing office building to out of school/after school club and pre-school playgroup with minor changes to the access (providing a ramp to entrance door).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of existing office building to out of school/after school club and pre-school playgroup with minor changes to the access (providing a ramp to entrance door) at Rear of 188 Warley Hill, Warley, Brentwood CM14 5HF in accordance with the terms of the application, Ref 16/00442/FUL, dated 1 April 2016 , and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The use hereby permitted shall only take place between 07:15 hours and 18:15 hours Mondays to Fridays.
 - 3) The external area to the rear of the building shall only be used by the children for a maximum of four hours per day.
 - 4) The roof-lights in the northern elevation shall be permanently fixed shut prior to the commencement of the use and remain so thereafter.
 - 5) The two parking spaces shown on the submitted Proposed Block Plan (dated 18 April 2016) shall be provided before the use hereby permitted commences and shall thereafter be kept available at all times for the parking of motor vehicles by the occupants of the building.

Main Issue

2. I consider the main issue to be the effect of the proposal on the living conditions of the occupants of 23 Northend.

Reasons

3. The appeal property is a detached timber-boarded building situated to the rear of the retail properties at 176 to 188 Warley Hill. The site adjoins the boundary with the garden to 23 Northend.
4. The proposal is for a breakfast club, play group and after school club, which would operate sequentially during term time, as well as an out of school club during the school holidays. The use would operate from 07:15 hours am until 18:15 hours Monday to Friday and would accommodate between 12 and 15 children at any one time.
5. The appeal site includes an external area to the rear of the building which adjoins the boundary with the neighbouring residential property at 23 Northend. The Council is concerned that noise from children using the outdoor area could adversely impact on the living conditions of the occupants of 23 Northend. It is intended that the children using the breakfast club would not use the garden, whilst older children attending the after-school-club could be taken to the park, which is situated a short walk from the appeal property. Therefore the outdoor area would be mainly used by the younger children attending the playgroup during the middle part of the day.
6. The appellant is an experienced nursery operator and the children would be supervised when using the outdoor area. They would generally be engaged in constructive play activities. It is not uncommon for childcare facilities to be located adjacent to residential properties. Whilst the occupants of 23 Northend would probably be aware of activity when using their garden, due to the manner in which the outdoor area would be used, and the low number of children using the facility, any noise emanating from the proposed use would generally be similar to that arising from many domestic dwellings, particularly those where children are present.
7. Whilst I understand that the daughter of the occupants of 23 Northend, may be nervous of other children, children attending pre-school groups are supervised and there is no reason to suppose that their behaviour would be intimidating to any children living in the neighbouring dwelling.
8. The kitchen to the property at 23 Northend extends close to the rear boundary of the appeal site, but there would be no inter-visibility between the properties. Therefore there is no reason why children using the outdoor area associated with the appeal property should limit the extent or manner in which the occupants of 23 Northend use their kitchen. Moreover the proposed use would not extend into the evenings or weekends and the appellant is willing to limit the use of the external area to 4 hours a day. In my view limiting the hours during which the outdoor area is used would provide a reasonable balance between the requirements of the proposed use and the amenity of the occupants of 23 Northend.
9. I conclude that the proposed use would not unacceptably harm the living conditions of the occupants of 23 Northend and would comply with policy CP1 of the Brentwood Replacement Plan 2005 which amongst other matters seeks to protect the residents from undue noise and disturbance.

Other Matters

10. The appellant submitted an additional plan with the appeal. This shows the shared vehicular access and turning area outlined in blue. He confirms that the lease permits use of this area for access. This addresses the Council's second

reason for refusal, namely the absence of any pedestrian or vehicular access to the appeal site. Therefore I am satisfied that the proposal would make adequate provision for access. Concern has been raised that due to the restricted access and proximity of the site to the junction with Chindits Lane the use could be detrimental to highway safety and would not provide safe access to the appeal property for parents and children. The proposal would use the existing access. This serves a small car park shared with occupants of other commercial premises. The Highway Authority has not raised any safety concerns in relation to the proposal and there is no compelling evidence to suggest that the access to the car park is unsafe. Moreover, the proposal would only attract a limited number of trips and these would be staggered across the day.

11. Unofficial white lines have been painted on the footway at the entrance to the site, implying that vehicles have priority over pedestrians at this point. The appellant does not occupy the building at the present time and there is no evidence to indicate that he is responsible for these lines. Moreover this is a matter for the Highway Authority and is outside of my jurisdiction.
12. The National Planning Policy Framework has a presumption in favour of sustainable development. The proposal would be economically sustainable in that it would provide four additional jobs, and would also provide a facility for working parents. The provision of out-of-school and pre-school care would be socially sustainable through its support for strong, vibrant and healthy communities. The proposal would also contribute to the environmental component of sustainability, in that children attending the breakfast club and the after school club would walk to and from local primary schools. I conclude that the proposal would be sustainable development and would accord with the development plan as a whole.

Conditions

13. I have considered the suggested conditions in the light of the advice at paragraphs 203 and 206 of the NPPF and the PPG. I agree that the hours of operation should be limited in order to safeguard the living conditions of surrounding residents. The Council suggest the proposed use should not commence until 08:00 hours, however, the purpose of the proposal is to provide childcare for working parents. Commencing at 08:00 hours would mean that it would be unsuitable for some working parents. The site is located within a mixed use area, and is adjoined by commercial uses on two sides. Therefore commencing at 07:15 hours would not disturb surrounding residents. For the reasons given above, the hours during which the outdoor area is used should be limited. I agree that the roof lights facing towards the northern boundary should be kept shut in order to safeguard the living conditions of the occupants of 23 Northend. The parking spaces at the front of the building should be retained for the duration of the use in order to limit the demand for on-street parking.

Conclusion

14. For the reasons given above I conclude that the appeal should be allowed.

Lesley Coffey

INSPECTOR