
Appeal Decision

Site visit made on 1 November 2016

by Alex Hutson MATP CMLI MArborA

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

Decision date: 2nd December 2016

Appeal Ref: APP/M1595/W/16/3153745

14 Cardinal Road, Chafford Hundred, Grays RM16 6DW

- 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 Richard Bailey against the decision of Thurrock Borough Council.
 - The application Ref 16/00462/FUL, dated 3 April 2016, was refused by notice dated 31 May 2016.
 - The development proposed is to convert existing garage into premises for a small 'by appointment' business (dog grooming salon).
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Decision

1. The appeal is allowed and planning permission is granted to convert existing garage into premises for a small 'by appointment' business (dog grooming salon) at 14 Cardinal Road, Chafford Hundred, Grays RM16 6DW in accordance with the terms of the application, Ref 16/00462/FUL, dated 3 April 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Amended Site Plan; Amended Block Plan; Existing/Proposed Change of Frontage Plan; Existing Floorplan; and Proposed Floorplan.
 - 3) The use hereby permitted shall be carried out only by the owner or occupier of 14 Cardinal Road and no other staff shall be employed.

Preliminary matters

2. I have taken the description of the proposed development from the Council's decision notice as this provides a clearer and more concise description than that provided on the application form. This description is also reflected on the appeal form. I have considered the appeal on this basis.
 3. The garage has already been subject to works to replace the garage door with brickwork and a double glazed front door as well as a number of internal changes. This element of the proposal for which the appellant seeks planning consent is therefore retrospective and I have considered the appeal on this basis.
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4. The Council also indicates within their officer's report that the proposal seeks planning consent to retain a dog grooming use. However, the appellant sets out that the use of the garage for dog grooming has not yet commenced. On this matter, there is no substantive evidence before me which would lead me to conclude that such a use has yet commenced and I have considered the appeal on this basis.
5. A number of revised plans have been submitted as part of the appeal to correct the extent of the land within the ownership of the appellant. Whilst the appeal process is not intended to bypass the democratic planning process, the revised plans do not, in my judgement, fundamentally change the proposal. I am therefore satisfied that my acceptance of the revised plans would not compromise or prejudice the interests of any third parties. I have therefore considered the appeal on the basis of these revised plans.

Main issue

6. The main issue is the effect of the proposal on highway safety.

Reasons

7. The appeal property comprises a two-storey, four bedroom, semi-detached dwelling and single storey garage building and is located on the northern side of Cardinal Road. The wider area is predominantly residential in character. Two car parking spaces are provided, in tandem, to the front of the converted garage building for the use of the occupiers of the appeal property.
8. The Council raises the concern that the conversion of the garage, given that it can no longer be used for the parking of a private motor vehicle, fails to comply with their draft parking standards as set out in their Layout and Standards Supplementary Planning Document (SPD), which recommends three off-road spaces for a four bedroom dwelling in an area of low accessibility. In the Council's opinion, this, in combination with the business use of the garage building, which would require one additional off-street parking space to comply with the recommendations of the draft parking standards, would lead to an increase in on-street parking, to the detriment of highway safety. Moreover, the Council indicates that parking in the area is oversubscribed in the evenings and at weekends.
9. Nevertheless, the Council has not provided a copy of the SPD as evidence. Moreover, given that the parking standards within it are in draft, this suggests to me that the SPD has not yet been formally adopted. Given its likely unadopted status and that there is no substantive evidence before me to demonstrate whether or not it has been subject to any formal consultation, I afford the SPD and its associated draft parking standards limited weight in my consideration of this appeal.
10. The Council acknowledges that the business use would generate a low number of visitors. In addition, any visitors would be limited to daytime hours only given that the operating hours proposed are between 0900-1700 on Mondays to Fridays and 0900-1700 on Saturdays. Furthermore, any visitors would be staggered throughout the day and would spend only a short duration of time at the appeal property for the purpose of dropping off and picking up their dogs. Moreover, this would, with the exception of Saturdays, be outside the times of the day when parking in the area is purportedly oversubscribed. As such, I

consider that any increase in on-street parking generated by the business use would be extremely limited and would not materially impact on the safe use of the highway. Furthermore, it has not been demonstrated by the Council that even if there was a material deficiency in on-street parking spaces on Saturdays, the minimal increase in on-street parking for short periods, would be bound to have a harmful effect on highway safety.

11. The appellant contends that the internal alterations to the garage building constitute permitted development and as such, have been carried out lawfully. The issue of whether or not planning permission is required is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. However, I have no substantive reasons to doubt the appellant's contention on this matter. In addition, no substantive evidence has been provided to demonstrate that the appeal property does not benefit from such rights. Consequently, the loss of the use of the garage building for the parking of a private motor vehicle would be unavoidable under such rights in any case. Even if I am wrong on this matter, the Council has not demonstrated, with any clear evidence, how, in their opinion, the parking of one additional car on the street in the vicinity of the appeal property would inevitably have a harmful effect on highway safety.
12. Policy PMD8- Parking Standards, of the Thurrock Core Strategy and Policies for Management of Development (as amended) 2015 (Core Strategy), requires, amongst other things, development to comply with the parking standards set out in the SPD. As such, some conflict with this policy would likely arise. Nevertheless, for the reasons set out above, the SPD and its associated parking standards can only be afforded limited weight at this time.
13. Moreover, I consider the proposal would, in this particular instance, be acceptable in respect of parking provision and would not result in any material harm to highway safety. As such, it would comply with Policy PMD2- Design and Layout, of the Core Strategy. This policy requires, amongst other things, development to provide easy and safe access for all members of the community. The proposal would also comply with the broad aims and objectives of the National Planning Policy Framework which require development to provide safe and secure access for all and to only be prevented or refused on transport grounds where the impacts are severe.

Other matters

14. I acknowledge a number of third party concerns, including in respect of noise and disturbance, odour, privacy, litter, user access, party wall matters and property devaluation. However, party wall matters and property devaluation are not material planning considerations to which I can afford any significant weight. With regard to the other matters, these did not form part of the Council's reasons for refusal, and based on the evidence before me and my own observations, I have no substantive reasons to consider that these matters weigh against the proposal.
15. Representations were made to the effect that the rights of the adjoining occupiers at No 16, under Article 1 of the First Protocol and under Article 8, of the Human Rights Act 1998, would be violated if the proposal were to be consented. I do not consider this argument to be well founded, given that I have found that the proposal would not cause unacceptable harm to the living conditions of the occupiers of this adjoining property.

16. The Council make reference within their decision notice to the effect of the proposal on the visual amenities of the locality. However, this concern is not substantially expanded on within their officer's report. Indeed, the officer's report clearly sets out that with the exception of implications for parking provision, they have no other objections to the conversion of the garage. Given the external alterations to the garage building are minimal and there would not be any significant displacement of private motor vehicles onto the street, I am satisfied that there would be no harm to the character and appearance of the area.

Conditions

17. I have had regard to the planning conditions that have been suggested by the Council. In addition to the statutory time limit condition, a condition specifying the relevant drawings is necessary as this provides certainty. I also agree that a condition restricting the permitted use to the owner or occupier of the appeal property and restricting additional staff is necessary to prevent the intensification of the site in the interest of local amenities.
18. However, I am not persuaded that there are any exceptional circumstances to necessitate a condition that would restrict any future owners or occupiers of the appeal property from continuing the permitted use, given that I have found no harm would arise as a result of the proposal. Given that the brickwork used in the external surfaces of the garage building appears to match the existing brickwork within this building, I do not consider that a condition in respect of materials is necessary. Nor do I consider that a condition in respect of construction working hours is necessary due to the limited scope of works involved and that these works have already been largely undertaken. In addition, I have not been provided with any exceptional circumstances to demonstrate the removal of the permitted development rights as suggested by the Council.
19. I have also considered the planning conditions suggested by the appellant. However, the operating hours are clearly defined in the terms of the application and as such I do not consider that a condition is necessary in this regard. The description of the proposed development clearly states that appointments would be pre-booked and as such, a condition requiring this is not necessary. Such a condition would also be difficult for the Council to enforce. As I have found no harm to highway safety, a condition in respect of parking is also not necessary.

Conclusion

20. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed.

Alex Hutson

INSPECTOR