

Appeal Decision

Site visit made on 11 April 2017

by David Cliff BA Hons MSc MRTPI

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

Decision date: 12th May 2017

Appeal Ref: APP/G5180/W/16/3161470

88 Southborough Road, Bickley, Bromley BR1 2EN

- 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 Mrs Natasha Eftekhan against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/15/05635/FULL3, dated 24 December 2015, was refused by notice dated 16 June 2016.
 - The development proposed is 'convert existing 5 bedroom detached house to day nursery'.
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Decision

1. The appeal is allowed and planning permission is granted to convert existing 5 bedroom detached house to day nursery at 88 Southborough Road, Bickley, Bromley, BR1 2EN in accordance with the terms of the application Ref. DC/15/05635/FULL3, dated 24 December 2015, and subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are (i) the effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance and (ii) the effect of any increased demand for on-street car parking upon highway safety and local highway conditions.

Reasons

Living Conditions

3. The appeal site is located within a primarily residential area comprising mostly detached dwelling houses. There are also some purpose built nursing homes and a hotel in the locality. The dwelling at 4 Mayfield Road shares one side boundary of its rear garden with the rear boundary of the appeal site. The dwellings at 86 Southborough Road and 2 Mayfield Road also share boundaries with the appeal site.
 4. I consider that the proposal would inevitably result in an increase in noise and disturbance experienced by the occupiers of neighbouring properties in comparison to the use of the appeal site as a single residential property. This would be particularly so for users of the rear gardens and amenity areas of the neighbouring properties immediately adjacent to the site.
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5. This is likely to be most pronounced through the use of the rear outdoor area by children and is recognised in the appellant's acoustic report. I note the Council's concern that the acoustic report does not cover 'peak' noise events such as children shouting or the banging of objects. It seems likely that there would be potential that such noise could result in some disturbance for neighbouring occupiers.
6. Nevertheless, the proposal would operate from 8am to 6pm on Monday to Fridays. No significant noise would therefore be audible from the site in early mornings, evenings or at weekends. Furthermore, the proposed mitigation measures of installing an acoustic fence and limiting the number of children that could use the outdoor area to a maximum of 10 at any one time would limit any disturbance for neighbouring occupiers. With such mitigation measures in place, which are able to be controlled by condition, I do not consider that the use of the outdoor area would result in any significant adverse effects on the quality of life for neighbours.
7. Whilst the neighbouring property at 2 Mayfield Road contains two first floor windows facing the appeal site, I understand that these serve bathrooms and therefore are not main habitable room windows. This reduces the weight I give to any impacts upon them. The Council also draws attention to a Certificate of Lawfulness granted for a rear dormer window with 'Juliet' balcony at this property. I note that no work has commenced on such a development and it is by no means certain that it would be implemented. In any case, it would serve a bedroom and en-suite bathroom. Such rooms are most likely to be more frequently used at times when the nursery would be closed. I therefore only give this modest weight and find that it does not alter my overall findings on this issue.
8. Some noise would also be generated by vehicles entering and leaving the site, including from the dropping off and picking up of children. Whilst some noise from engines would be likely to be audible at immediately adjacent dwellings, this is unlikely to be of significance taking account of the background noise levels evidenced in the appellant's acoustic report. I also recognise that less predictable noise is likely to be generated from the closing of car doors and noise from children. However, taking additional account of the restrictions on the times of operation of the premises and the positions of neighbouring properties in relation to the driveway area, I do not consider that unacceptable impacts would result upon the living conditions of any neighbouring residents. Some additional noise may also arise from cars parking on adjacent roads, but I do not consider the frequency or intensity of this to be such to result in any significant noise impacts.
9. I am therefore satisfied that the proposed development would not result in any significantly adverse noise or disturbance for the occupiers of any neighbouring properties in the vicinity of the site. I consider that levels of noise would be satisfactorily mitigated and minimised. The proposal therefore would accord with the relevant noise and amenity aims of policy BE1 of the London Borough of Bromley Unitary Development Plan (July 2006), policy 7.15 of the London Plan (2016) and the National Planning Policy Framework ('the Framework').

Parking and Highway Issues

10. The appeal proposal includes four on-site parking spaces and an on-site drop-off/pick up area to the front of the property. Whilst some parents/guardians

may walk to the site or use public transport, I expect that a substantial proportion of visits to the nursery would be likely to be made by car.

11. The drop-off area would allow children and babies to be dropped off and picked up without needing to park on nearby roads. However, I recognise that some people would choose to park on nearby roads instead, including when the drop-off facility is already fully in use. It could also be the case that some people may choose to leave their cars on nearby roads and commute to work after a drop-off.
12. Nevertheless, whilst the Council says that the resulting on-street parking would be prejudicial to the free flow of traffic and conditions of general safety along the highway, there is little substantive evidence before me to demonstrate any harm. The parking survey provided with the application appears to me to adequately demonstrate that there is sufficient on-street parking available to meet any demand arising from the proposal. Even should some vehicles in connection with the proposed use choose to park on Southborough Road itself, the road appears to me to be of sufficient width to allow for this without resulting in any significant risk to either highway safety or the general flow of traffic.
13. Furthermore, I note that the Council's Assistant Director of Transport and Highways is satisfied that there are no transport or parking issues. Whilst third party representations make reference to previous accidents on this stretch of Southborough Road, I have not been provided with any evidence in this regard. The visibility in both directions from the proposed access from the site is good and I do not consider that the level of traffic generated by the proposal would be so substantial to result in any significant highway safety risk.
14. A Green Travel plan, which can be secured by condition, would also seek to reduce travel by car and encourage users of the development to travel to and from the site by other methods of transport. This would further limit any effect upon local highway conditions.
15. I therefore do not consider that the parking implications of the proposal would result in any significant harm in terms of highway safety or local highway conditions. It would accord with the relevant highway aims of policy T18 of the London Borough of Bromley Unitary Development Plan (July 2006) and the Framework.

Other Matters

16. Although not part of the Council's reason for refusal, representations have been made regarding the need for the proposed use. Evidence has been submitted in the Council's statement seeking to demonstrate that the ward of Bickley has a large number of childcare places to meet demand (though there is a need for places in some other wards). Nevertheless, the Council's Education, Care and Health Services Department has confirmed its support of the proposal, stating that full-time childcare places continue to be in demand and the development of a day nursery in this area would provide valuable places. The Council's policies appear to be generally supportive of such facilities provided no adverse impacts result. In this case, as I consider that the proposal would not result in any significant impacts in respect of the main issues, I do not consider there to be a need to consider this matter in any further detail as it does not alter my overall conclusions on the merits of the appeal.

17. The loss of the residential use of the existing dwellinghouse would have a minimal effect on the supply of residential properties in the area. The proposed use is generally supported by Council's policies and the Council has not raised any objections in this regard. From the evidence before me no significant harm would result from the loss of existing residential use in this instance.

Conditions

18. I have imposed a condition specifying the approved plans as this provides certainty. Whilst this condition has not been suggested by the Council, I do not consider it to be contentious given that the drawings were agreed by the main parties at my site visit.
19. A condition restricting the use of the premises, including times of use and the number of children and staff allowed on the premises and in the garden area, is necessary in order to safeguard the living conditions of neighbouring residents. Details of acoustic fencing are needed in order to limit the levels of noise audible at neighbouring properties. I have required such details to be submitted for approval prior to commencement because of the lack of precision in the detailed requirements of the Council's suggested condition.
20. A condition requiring the provision and retention of parking and turning/dropping-off space is necessary in order to provide an appropriate level of on-site parking and in the interests of highway safety. The provision of refuse/recycling facilities is needed in order to meet the needs of the development and to safeguard the visual amenity of the area. Conditions requiring cycle storage and a Travel Plan are required in order to encourage alternative methods of transport to the private car. I have altered the Council's suggested condition on cycle storage to require details to be approved as the details are limited on the relevant drawing.
21. Some conditions require details to be approved before the use commences. This is necessary in the case of conditions 4, 7 and 8 because the provision of the relevant details is required in order to prevent adverse impacts arising from the permitted use.
22. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the guidance but these changes do not alter the essence of such conditions.

Conclusion

23. From the evidence before me, I find that the proposal would accord with the development plan read as a whole and there are no material considerations which justify making a decision other than in accordance with the development plan.
24. Having regard to all other matters raised, I conclude that the appeal should be allowed.

David Cliff

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 19-21-BROM S1-01, 19-21-BROM S1 06 and 19-21-BROM S1 06 (Driveway Plan).
- 3)
 - a) The children attending the day nursery/play group shall only be between the ages of 6 months and 5 years, and not more than 34 children and 10 staff shall be accommodated at the premises at any one time.
 - b) The use of the premises hereby permitted shall only take place on Monday to Fridays (inclusive) and between the hours of 08.00 and 18.00.
 - c) No more than 10 children shall be allowed into the rear curtilage outdoor space (garden area) at any one time.
- 4) Prior to the commencement of the use hereby permitted, acoustic boundary enclosures shall be erected in accordance with details which shall have previously been submitted to and approved in writing by the Local Planning Authority. The approved fencing shall be retained thereafter for the lifetime of the permitted use.
- 5) The use hereby permitted shall not commence until space has been laid out within the site in accordance with drawing no. 19-21-BROM S1 06 (driveway plan) for cars to be parked, for vehicles to turn and for the dropping-off or picking-up of children, and that space shall thereafter be kept available at all times for those purposes.
- 6) The arrangements for storage of refuse shown on the approved drawings (which shall include provision for the storage and collection of recyclable materials) shall be completed before the commencement of the use hereby permitted, and retained thereafter for the lifetime of the permitted use.
- 7) Before the commencement of the development hereby permitted, bicycle parking (including covered storage facilities where appropriate) shall be provided at the site in accordance with details which shall have previously been submitted to and approved in writing by the Local Planning Authority. The approved bicycle parking/storage facilities shall be retained thereafter for the lifetime of the permitted use.
- 8) Prior to the commencement of the use hereby permitted, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan should include measures to promote and encourage the use of alternative modes of transport to the car. It shall also include a timetable for the implementation of the proposed measures and details of the mechanisms for implementation and for annual monitoring and updating. The Travel Plan shall be implemented in accordance with the agreed timescale and details.