The Planning Inspectorate

# Appeal Decision

Site visit made on 11 July 2017

**by Alex Hutson MATP CMLI MArborA**

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

**Decision date: 8 August 2017**

**Appeal Ref: APP/Q3820/W/17/3172345**
**36 Goffs Park Road, Crawley, West Sussex RH11 8AY**

- 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 Sas Korour against the decision of Crawley Borough Council.
- The application Ref CR/2016/0525/FUL, dated 6 June 2016, was refused by notice dated 7 December 2016.
- The development proposed is change of use from residential dwelling to residential dwelling/children's day nursery for a maximum of 70 children/babies.

## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Mr Sas Korour against Crawley Borough Council. This application is the subject of a separate Decision.

## Main issues

3. Having regard to the evidence, I consider that the main issues in this case are: the effect of the proposal on the character and appearance of the streetscene and the Goffs Park Road Area of Special Local Character (ASLC); and the effect of the proposal on the residential character and amenity of the area, with particular regard to noise and disturbance.

## Reasons

*Character and appearance*

4. The appeal property lies within the Goffs Park Road ASLC. The Council's Urban Design Supplementary Planning Document 2016 (SPD) describes the ASLC as having wider than average streets which are framed by mature trees and hedges. The SPD also notes that it has a suburban character due to the generous setback of its detached properties from the street frontage. Furthermore, that landscaping along front boundaries often obscures properties from the street. I observed that whilst there are some commercial uses within it, the ASLC is predominantly residential in character.

5. The appeal property is a large, detached, two storey dwelling, set back a generous distance from the road frontage. It has a dense evergreen hedge along its front boundary. This assists with screening views of the appeal property and a number of vehicles parked within its front garden from along Goffs Park Road. It also contributes strongly to the verdant qualities of the streetscene and area. The appeal property and its front boundary treatment therefore conform to the

identified characteristics of the ASLC and, as such, contribute positively towards the character and appearance of the streetscene and the Goffs Park Road ASLC.

6. The proposal would maintain the first floor level of the appeal property for residential purposes. It would change the use of the ground floor level to provide a children's day nursery for a maximum of 70 children/babies. Some rooms at ground floor level would revert back to a residential use in the evenings and on weekends and bank holidays. The proposal would also introduce hard standing within the front garden of the appeal property to provide parking space for up to 17 vehicles.

7. I acknowledge that there would be no external changes to the elevations of the appeal property. I also recognise that a large number of vehicles are already parked in the front garden on a regular basis. Nevertheless, the submitted plans indicate that the front hedge would be removed in its entirety. This would substantially increase the visibility of any parked cars. Moreover, the introduction of extensive areas of hardstanding for the parking of vehicles would result in the loss of the majority of the front garden's lawn. Whilst other front gardens have areas of hardstanding, they also tend to retain generous areas of lawn or other soft landscaping. Thus, the proposal would considerably erode the verdant qualities of the streetscene and ASLC and would appear at odds with the prevailing pattern of development in the area. Consequently, it would result in significant harm to the character and appearance of the streetscene and ASLC.

8. The submitted plans show a planting area along the front boundary. However, any new planting would be likely to take a considerable period of time to reach the stature and density of the existing hedge before it became an effective screen. In addition, the planting area would be excessively narrow at one end. This would limit the scope for any meaningful new hedge planting and its development within this part of it. Moreover, it would not adequately compensate for the loss of the lawn within the front garden. Therefore, any new planting in this regard would not be sufficient to mitigate the harm that would arise to the character and appearance of the area.

9. The appellant suggests that the hedge could be removed and hard standing introduced under permitted development rights. However, 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. Moreover, even if this is the case, it does not change my view that these actions would result in harm, having regard to the existing verdant qualities and prevailing pattern of development in the area.

10. I therefore conclude that the proposal would conflict with Policies CH3: Normal Requirements of All Development and CH14: Areas of Special Local Character, of the Crawley Borough Local Plan 2015-2030 adopted 2015 (Local Plan). These policies require, amongst other things, development to protect important features which make a positive contribution to the area, to relate sympathetically to their surroundings, to be of high quality and to respect or preserve the character and appearance of ASLCs.

*Residential character and amenity*

11. I have considered the Council's concerns in respect of any additional vehicle movements generated by the proposal and any resultant effect on noise and disturbance levels in the area generally. However, drop-offs and pick-ups would

be likely to be staggered during the mornings and the evenings which would limit any noise and disturbance throughout the day in this regard. Whilst only a snapshot in time, I also observed during my site visit that Goffs Park Road had a steady flow of traffic along it, which is already likely to generate some noise and disturbance in the area. Any additional vehicle movements generated by the proposal would not, in my opinion, greatly add to this. This would be the case even if some on-street parking was to occur. I therefore consider that any additional traffic and on-street parking generated by the proposal would have a limited impact on the residential character and amenity of the area and ASLC.

12. However, due to the substantial number of children that the day nursery would accommodate, noise and disturbance levels generated would considerably increase within the rear garden as a result of the proposal. This would be most noticeable when the children, most of who would be likely to be of an age to enjoy outdoor play, would be using the rear garden for this purpose. I would concur with the Council that the occupiers of 14 and 16 Lanercost Road would be the most affected, given the close proximity of these properties and their associated rear gardens to the rear garden of the appeal property. They would be most affected during the summer months, given that during these months, they would be most likely to be using their gardens for sitting out and relaxing.

13. I acknowledge the appellant's argument that outdoor play would be carefully planned, supervised and limited to certain times of the day. However, I consider that a planning condition that sought to limit the use of the rear garden to certain times of the day, or to certain numbers of children at any one time, would be difficult to enforce. So too would a planning condition which sought to restrict the use of the rear garden for outdoor play in its entirety. Furthermore, whilst sound attenuation measures might assist with reducing internal noise levels, it would be difficult to achieve this within the rear garden.

14. The appellant suggests that local parks could be used instead of the rear garden. However, I have not been provided with any further details in respect of whether there are any local parks within a reasonable walking distance from the appeal property to allow easy access to them. Thus, I am not persuaded that the use of local parks would be a realistic alternative to the use of the rear garden for outdoor play.

15. The appellant highlights that there are many examples of day nurseries nationwide and has provided some examples of planning consents for some of these. Nonetheless, each case should be considered on its own merits, which as can be seen from my reasoning above, would be unacceptable in this instance. The appellant also makes reference to permitted development rights in respect of running a child minding business from home. However, the Council sets out that number of children a childminder can look after is substantially less than would be the case in this appeal. It is therefore not a helpfully comparable fallback position.

16. I therefore conclude that by virtue of the number of children that the proposal would accommodate and the resultant intensified use of the rear garden of the appeal property, the proposal would have a harmful effect on the residential character and amenity of the area and ASLC, with particular regard to noise and disturbance. This would be most noticeable for the occupiers of 12 and 14 Lanercost Road.

17. The proposal would therefore be contrary to Policies CH3 and CH14 of the Local Plan, which require, amongst other things, development to provide or retain a good standard of amenity for all existing occupants of land and buildings and to relate sympathetically to its surroundings.

*Other matters*

18. I acknowledge the appellant's argument that there is a shortage of day nursery places nationally. In addition, I recognise that childcare facilities can provide an important community benefit and that the proposal would create some new jobs. I have no reason to doubt that the appellant and his wife are long standing members of the community and would provide a high quality and professional service. I have also had regard to the appellant's desire to provide a lifestyle business which he claims would allow himself and his wife to stay in their home.

19. However, I have not been provided with any substantive evidence to demonstrate that there is currently an undersupply of childcare facilities in the local area or insufficient capacity to accommodate any increased local demand in the future. Whilst some new employment opportunities would be created, in the wider scheme of things, these would be modest in scale. In respect of the lifestyle choices of the appellant and his wife, such a personal benefit is not a material planning consideration to which I afford any significant weight. Thus, these matters, individually or cumulatively, would not be sufficient to outweigh the harm I have identified.

20. The Council suggests that if I were minded to allow the appeal, it should be the subject of a condition to secure a temporary permission or to secure a lower number of children, such as 30. However, this is not what the planning application sought and the appellant indicates an unwillingness to accept such conditions. The appellant has suggested that he would be willing to accept a planning approval based on 50 children. However, the Council has not had the opportunity to comment on this matter. Nor have any of the original consultees. It would therefore be unreasonable of me to adopt either of these approaches and I have not considered them further.

21. The appellant raises the concern that the Council did not mention any concerns in respect of loss of landscape features during the course of the application. Nevertheless, its Decision Notice clearly identifies this as forming part of its reasons for refusal, which is supported by planning policy. It is on this basis that I have to consider the appeal, which, as can be seen from my reasoning above, I would concur with the Council's position on this matter.

**Conclusion**

22. For the reasons set out above and having regard to all other matters, including highway safety, I conclude that the appeal should be dismissed.

*Alex Hutson*

INSPECTOR