The Planning Inspectorate

Appeal Decision

Site visit made on 11 July 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 17 August 2017

Appeal Ref: APP/M5450/W/17/3174057
93 Eastcote Lane, South Harrow, London HA2 8RN

- 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 Sanjay Rajendera against the decision of the Council of the London Borough of Harrow.
- The application Ref P/5498/16, dated 21 November 2016, was refused by notice dated 7 February 2017.
- The development proposed is change of use of dwellinghouse (use class C3) to day care nursery (use class D1); single and first floor side extension; alterations to roof to raise ridge height; installation of 2m high acoustic fencing to rear.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposal varies between the application form and the subsequent documents. I have used the version given on the decision notice as it describes the development more succinctly.

Main Issues

3. The main issues are: the effect of the proposal on vehicular and pedestrian safety; the effect of the proposal on the living conditions of neighbours, with particular regard to noise and disturbance; whether the proposal would result in the reduction of the housing stock in the borough, and; the effect of the proposal on the character and appearance of the surrounding area.

Reasons

Vehicular and pedestrian safety

4. No 93 is located on the approach to a roundabout. Whilst my site visit in the early afternoon did not coincide with peak rush hour times, I noted that the roundabout was busy with a steady flow of traffic, including buses. At present, two cars could be parked within the front garden of the existing house. It is proposed to provide three parking spaces for staff members, although I note the appellant's willingness to reduce the number of proposed car parking spaces to two.

5. The new facility would give rise to the need to drop off and collect up to 30 children each weekday. According to the appellant's Relocation Statement, session times would be at 7.30am for the breakfast club, 8.30am for the

morning session, and 1pm for the afternoon session, with the nursery closing at 6pm.

6. The appellant has also provided a Transport Statement (TS) to address a number of matters raised by the Council. Despite the good availability of public transport options, it is highly likely that some parents would seek to drop off and pick up their children by car. The TS estimates that 3-15 extra trips would be generated by the proposal. The parking survey shows that spaces would be available within a reasonable walking distance of the appeal site, which would appear to be satisfactory.

7. However, the TS further states that a mini-bus service would be provided to transport children from a convenient location to the nursery. The TS shows that cars using the proposed parking spaces would be able to perform a 3-point turn within the site in order to leave the property in a forward gear. However, crucially, there is little evidence to demonstrate that there would be room for a mini-bus, a significantly larger vehicle, to enter the forecourt if the staff spaces were occupied, or to perform a 3-point turn in order to leave in a forward gear.

8. In addition, I note that there would be no dedicated footpath within the forecourt to keep pedestrians separate from the path of moving vehicles. Particularly given the young age of the children who would be attending the facility, I consider that this arrangement would be unacceptably detrimental to their safety, and indeed to that of any pedestrians using the forecourt area.

9. Whilst it is proposed to cater for up to 30 children at the nursery, the appellant states that there would be no deliveries to the site, and that preparation materials would be brought by staff on a day-to-day basis. In my view, this would be particularly onerous for staff, and such a solution would simply not be sustainable in the longer term. It is therefore likely that deliveries would be required for food and other household items.

10. I accept that reversing onto the street from the appeal property is legal, but in the context of the proposed intensification of the use of the site, it would increase the likelihood of road accidents. I also accept that staff who live locally may not drive to the facility, but this would be a matter of choice. The TS indicates that staff and parents would be incentivized to travel by non-car modes or to car-share, but this could not be enforced. In the light of these considerations, I share the Council's concern with regard to the lack of a robust travel plan, or delivery and service plan.

11. Drawing these factors together, I therefore conclude that the proposal would unacceptably harm vehicular and pedestrian safety. It would therefore conflict with Policy DM42 of the Harrow Council Development Management Policies (DMP) insofar as it requires that the design and layout of parking areas should be safe, secure and fit for purpose, and that access to and from the public highway should maintain and, where necessary, improve safety. It would also be at odds with DMP Policy DM46, which amongst other things requires that new community facilities should have no adverse impact on highway safety.

Living conditions

12. Residential dwellings are located on either side of the appeal property. As noted above, up to 30 children would be dropped off and picked up at various fixed times during the day. The appellant states that there would be a general

lack of activity outside the premises, but these comings and goings would give rise to materially increased noise and activity at the front of the building at various times throughout the day.

13. In addition, children would be using the proposed soft play area in the garden at the rear of the property. The Relocation Case states that outdoor play times would be limited to two sessions of 20 minutes each, and that up to 10 supervised children would be playing outside at one time. However, if 30 children were in attendance, then an additional session would be required. The appellant states that these sessions would be at times that would be convenient for the neighbourhood, but it is unclear how this would be achieved.

14. It is proposed to surround the play area with acoustic fencing of approximately 2m in height. However, the Council's Environmental Health Officer has highlighted the absence of a noise report, and the lack of information as to the noise that would be generated by the proposal. In view of the sensitivity of residential areas to noise, I share these concerns. I note that the rear garden is limited in size, at that No 93 is set further back that its immediate neighbours, but these factors in themselves would not allay these concerns. I accept that the building itself would be subject to requirements in terms of sound insulation, but this would not address the levels of noise and disturbance generated outside the building.

15. I therefore conclude that the appeal scheme has unacceptably failed to demonstrate that it would protect the living conditions of neighbours with regard to noise and disturbance. It would thus conflict with DMP Policy DM 1, insofar as it resists proposals that would be detrimental to the amenity of neighbouring occupiers.

16. I note the appellant's suggestion that a conservatory could be built to accommodate play in natural light. However, such a proposal is not before me, and so I can afford it little weight in my consideration.

Housing stock

17. The development would result in the loss of one dwelling. The need for housing is reflected at a strategic level within Policy 3.14 of the London Plan (LP), which requires that the loss of housing should be resisted unless the housing is replaced at existing or higher densities with at least equivalent floorspace. No plan to provide an additional dwelling was submitted with the appeal. Although other strategic policies, and the relevant policies contained within the National Planning Policy Framework (NPPF), are favourable towards the establishment and retention of community uses, these do not negate the loss of a dwelling.

18. I note the appellant's information regarding likely demand for the proposed use, the suitability of the location and the creation of employment opportunities within the proposed use. Although the establishment of such a use would have social and economic benefits to the community, and such uses are supported within the NPPF, these reasons are not sufficient to alleviate my concerns regarding the loss of a dwelling within an area of housing demand.

19. I accept that the building could be returned to residential use in the future. However, I have no substantive evidence that there is a significant probability

that this would occur, should this appeal be dismissed. This limits the weight that I can attach to it as a fallback position.

20. I accept that the Council has achieved its 5-year housing supply provision, and that the loss of one dwelling would be modest. However, in view of the harm I have identified above, such a departure from the policy would not be justified. I therefore conclude that the proposed development would result in the unacceptable reduction of housing stock within the borough, and thus would not comply with LP Policy 3.14, which resists the loss of housing.

Character and appearance

21. The Council's concern focuses on the appearance of the frontage, and the effect of the proposed additional hardstanding for car parking, which would reduce the scope for soft landscaping. On my visit, I observed that a number of dwellings in the vicinity of the appeal site have forecourts that are entirely paved over, with no planting. The area is therefore characterised by a mixture of treatments, and extensive hardstandings are prevalent in the immediate area. Set against that, in the event that the appeal scheme were to be found otherwise acceptable, planting could be secured by the imposition of a suitable condition.

22. I therefore conclude that the effect of the development on the character and appearance of the surrounding area would not, in itself, be so harmful as to warrant the withholding of planning permission. I therefore find no conflict with CS Policy CS 1, which amongst other things seeks to resist proposals that would harm the character of suburban areas, DMP Policy DM 1, insofar as it resists development that would harm local character, or DMP Policy DM 23, insofar as it seeks that proposals for the provision of substantial hard surfacing of forecourts and front gardens should respect the character of the area.

Other Matters

23. I accept that many community facilities are located within converted houses in residential areas, and that the capacity of the proposed nursery would be considerably lower than that of some other facilities. The appellant has also cited a number of examples of clinics and surgeries within residential areas. However, the full circumstances in which these developments were found to be acceptable are not before me, and so I cannot be certain that they are directly comparable to the appeal scheme. In any event, each case is to be considered on its own merits against the relevant criteria.

24. I note that the development would incorporate sustainable features, for example, energy and water efficiency, but this would not be sufficient to overcome the concerns regarding the overall acceptability of the scheme. The appellant has drawn to my attention the difficulties of finding suitable sites for day care, for example, with regard to the problems associated with renting spaces from other users. However, whilst I acknowledge this circumstance, it would not justify the harm I have identified above.

25. Finally, I note that no comments have received from neighbours in response to consultation on the proposed development. However, this has not led me to a different conclusion on the main issues.

Conclusion

26. I have found in the appellant's favour in terms of character and appearance. However, I have concluded that the proposal would be harmfully detrimental to pedestrian and vehicular safety, living conditions, and housing stock. I therefore conclude that the appeal should be dismissed.

Elaine Gray

INSPECTOR