The Planning Inspectorate

Appeal Decision

Site visit made on 9 January 2018

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2018

Appeal Ref: APP/W1905/W/17/3180503
92 Amwell Street, Hoddesdon EN11 8TZ

- 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 Tidley Totts Nursery against the decision of Broxbourne Borough Council.
- The application Ref 07/17/0260/F, dated 22 February 2017, was refused by notice dated 8 May 2017.
- The development proposed is to change from C3 to D1 use.

Decision

1. The appeal is allowed. Planning permission is granted for the proposed change from C3 to D1 use at 92 Amwell Street, Hoddesdon EN11 8TZ, in accordance with the terms of the application, Ref: 07/17/0260/F, dated 22 February 2017, 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 development shall not commence until details of a Travel Plan Statement have been submitted to and approved in writing by the Local Planning Authority; the use of the premises shall thereafter operate in accordance with the approved details.

   3) No more than 6 children shall use the outdoor play area at any one time.

   4) Details of waste storage provision shall be submitted to and approved in writing by the Local Planning Authority; the designated area for waste storage provision shall be retained for this purpose thereafter.

Main Issues

2. The main issues are

   (a) the effect of the loss of residential use on the availability of housing in the locality,

   (b) the effect of the development on highway and pedestrian safety, and

   (c) the effect of the development on the living conditions of the occupiers of nearby properties particularly in relation to disturbance and privacy.

Reasons

Housing

3. The appeal relates to a small end of terrace two storey house. The front of the property faces a short and truncated section of Amwell Street which runs parallel to and set back from a busy dual carriageway. The rear garden is approximately 16m deep and 4m wide, the back of which connects with a wide passageway linking the site to Belcher Road.

4. The proposed change of use is to a pre-school day nursery within use class D1 (non-residential institutions) that would involve the loss of the whole property from residential use. The Council states that the property is of a size and standard to form a good starter home, the demand for which is high. Policy H7 of the Broxbourne Local Plan saved policies (2005) (BLP) states that one of the circumstances in which permission will be granted for development resulting in the loss of residential accommodation is where "*the proposal is required to facilitate a development which otherwise accords in all material respects with other policies in this plan*".

5. The Council's appeal statement also refers to policy EMP8 of the BLP which states that "*proposals which result in the loss of a residential unit, reduce its effectiveness or lead to the establishment of a commercial activity independent of the residential unit will be resisted*". The policy is not specified on the decision notice refusing planning permission and relates to the part use of residential properties for home working. The proposal does not involve home working and relates to the whole of the dwelling. As such, policy H7 seems more applicable and I have given only limited weight to policy EMP8. The decision notice does reference the National Planning Policy Framework (The Framework) but does not specify particular paragraph numbers. The Framework post-dates the BLP and in section 6 specifies national planning policy on delivering a wide choice of high quality homes. There is a general need for additional housing and against this background, a change of use from residential use should not be countenanced lightly.

6. However, at section 8 the Framework also emphasises the need to promote healthy communities and the provision of the proposed day nursery would be a social benefit towards this objective. One of the core planning principles specified at paragraph 17 of the Framework is that planning should "*not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives*". The appellant points to the local plan's recognition of an increasing demand for pre-school and childcare facilities within the borough. Set against these findings, and having regard to the information available to me, the loss of this satisfactory housing unit would be acceptable in this instance and in accordance with policy H7, subject to examination of the impact of the proposal in relation to the other main issues.

Pedestrian and highway safety

7. The appellant envisages that the premises would accommodate 10-12 toddlers or pre-school age children and 6 babies cared for by 5 staff. The Council's parking standards are set out in policy T11 of the BLP and indicate that a maximum of three parking spaces are required for the proposed numbers at the nursery. None are proposed and, given the configuration of the site, off

street provision would be impracticable. Provision of parking within the access strip would significantly reduce the width of this passageway for customers, some of whom would be likely to be using prams or pushchairs. The Council considers that the regular activity of staff and visitors to the site involving parking and manoeuvring of vehicles on the streets nearby would be likely to adversely affect the safety of the local highway network for both pedestrians and drivers.

8. At the time of my visit there was ample on street parking in the spur road to Amwell Street directly in front of the site. Whilst this may not pertain at all times of the day, the spur road set back from the main dual carriageway does offer opportunity for on street parking to several businesses fronting it on both sides of the junction with Belcher Road. The spur road in front of the site would provide safe on street parking for visitors to the site who would be able to walk to the access in Belcher Road without having to cross a road. There are more limited opportunities to park a vehicle in Belcher Road and the access to the site faces a garage on the opposite side of the road.

9. The appellant points out, from the company's experience in operating day nurseries elsewhere, that a high proportion of customers access their sites on foot, and anticipates that a similar pattern of activity would be likely at this site. Furthermore, that for any customers arriving by car, there is likely to be some staggering of the setting down and picking up times. Having regard to the availability of parking nearby and the likely patterns of activity for visitors to the site, I consider that the change of use would be unlikely to have a material detrimental effect on pedestrian and highway safety.

10. The proposal would thereby be compatible with policy T3 of the BLP which requires changes of use to be considered against the impact of transport movements likely to be generated and their effects on the local highway and on the safety of road users. Policy T11 of the BLP states that one of the circumstances in which a reduced level of parking provision is likely to be acceptable is where the reduced level is supported by a green travel plan. A planning condition requiring submission and approval of such a travel plan would assist in mitigating any residual concerns about the impacts of on street parking. Moreover, the appellant has indicated willingness to submit such a document. On this basis my findings are that that the proposal would be compatible with policy T11 in relation to parking provision.

11. There is an emerging Broxbourne Local Plan (eBLP) that underwent consultation in 2016. Given the uncertainties on how policies in the eBLP may change before adoption, I afford only limited weight to these policies. Nonetheless, they offer additional guidance with which to assess the proposal. Policy TM3 looks to the provision of adequate dropping off points for servicing premises. Policies TM1 and TM2 look for ways to reduce the use of cars and encourage the submission of travel plans to mitigate transport impacts; the submission of such a travel plan would also accord with policies TM1 and TM2.

Living conditions

12. The surrounding area is not wholly residential in character. Adjoining the site to the south is a former public house with permission to be used as a day centre for young adults. There is a child minder business to the north of the site at 98 Amwell Street. On the corner with Belcher Road there is a car sales garage and some of the small houses have been converted to offices. The spur road to

Amwell Street at the front of the site is characterised by a low level of activity relating to these non-residential activities and by the noise of traffic on the dual carriageway.

13. There is a quieter environment at the rear of the site but the surroundings here are not wholly residential in nature. The site's pedestrian access from Belcher Road abuts two sides of the car park at the rear of the former public house. To the eastern side of the access are the back gardens to houses in North Road, but given the separation distance to the dwellings here and intervening boundary fences, the use of the access by customers to the site would not result in any loss of privacy and there is unlikely to be any significant impact in relation to noise from arrivals and departures. There are terraced houses to the north of the site and the use of the back garden to the appeal site as a children's play area could result in some noise and disturbance for residents nearby. However, the appellant proposes to limit the number of children in the garden at any one time to six. It would be possible to control this by a planning condition to mitigate any impact on the amenities of local residents.

14. Having regard to the site circumstances, my findings are that the proposal would not have a significant adverse impact on the living conditions of the occupiers of nearby dwellings. The proposal would not be in conflict with policy H6 of the BLP that seeks to protect the amenity of residential areas.

Other Matters

15. Some local residents have raised issues other than those referred to above. There is a new conservatory erected at the join of the rear garden and the access from Belcher Road, and signage for the proposed nursery has been displayed at the front of the site. The lawful nature of the conservatory and signage are not matters to be considered in this appeal. There are concerns about rights of way to Belcher Road across land at and adjoining the site that the appellant claims to have attended to; these are not matters for me but for the parties concerned.

Conclusion

16. For the reasons given, and having regard to all matters raised, my findings are that the proposal would not have a significant adverse effect on pedestrian or highway safety or on the living conditions of residents near to the site and that the loss of residential accommodation would be acceptable in this instance. The appeal is therefore allowed.

17. I have had regard to the Council's suggested conditions and have made amendments in accordance with the guidance set out in Planning Practice Guidance. In addition to the statutory condition limiting the time for commencement of the development, conditions are necessary to secure the submission and approval of a travel plan to encourage safe and sustainable means of access to the site, to limit the number of children using the back garden for outdoor play to mitigate any impacts of disturbance for local residents and to secure an appropriate location for waste containers in the interests of visual amenity.

Rory MacLeod

INSPECTOR