



## Appeal Decision

Site visit made on 27 March 2019

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24<sup>th</sup> April 2019

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### Appeal Ref: **APP/D3830/W/18/3213314**

### **24 Park Road, Burgess Hill, West Sussex, RH15 8ET**

- 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 Tinysaurus Nurseries against the decision of Mid Sussex District Council.
  - The application Ref DM/18/1965, dated 27 April 2018, was refused by notice dated 17 September 2018.
  - The development proposed is a change of use from a single dwelling to a (D1) daycare nursery (accommodating up to 65 children) and a single bedroom flat; demolition of conservatory, erection of a single storey side extension and a two storey rear extension; and proposed hard/soft landscaping works and introduction of a new access from Park Road along with the provision of 8 parking spaces.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. I use the Council's description of development which is more precise than the application form; I note the Appellant also uses this on the appeal form.

### Main Issues

3. The main issues are the effect of the proposal on:
  - the living conditions of neighbours; and
  - the character of the locality.

### Reasons

4. The appeal site is a particularly large detached two storey dwelling with a generous garden in a residential area just north of Burgess Hill Town Centre. The rear garden, like most locally, is secluded and has boundary tree growth and varied screen fencing. The imposing front of the house is behind a high hedge and a single access leads to a concrete area for car parking with a landscape surround. The locality is characterised by large detached or semi-detached houses of varied generally pleasing design with spacious gardens and the scene is of established nature and attractive appearance. The site is within walking distance of Burgess Hill Railway station, the Town Centre and bus routes. The proposal is as described above.
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5. The site lies within the St Johns Conservation Area. There is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The Council's District Plan (DP) Policy DP35 reflects this. DP Policy DP26 is also relevant to the case. Amongst other matters it seeks to secure development which reflects local character and protects the amenities of nearby residents.

*Living conditions*

6. The Council is concerned that there would be significant harm to local residential amenity by reason of use of the proposed outdoor play area and from the vehicular movements and associated activity in the car parking and turning area. The Appellant's case is supported through detailed layouts, tree and landscape information, a Management Plan for Outdoor Activities, a Noise Assessment, a Transport Statement, a Parking Survey, explanation of operational intent and references to experience and decisions elsewhere along with other supplementary material. The Appellant also explains, for example, the Monday to Friday working, limited hours of operation, numerical restrictions on users of external play space, the detailed thought on rear layout and buffering, supervision levels, overall staffing, intent on neighbour liaison, likely staff travel patterns, and drop / off pick up likely figures and timing, underlining the degree of non-car modes to be used. I have carefully considered all this information.
7. The case is made that noise emanating from up to 25 children in the Toddlers Garden, Baby Garden or elsewhere at the rear will not cause amenity loss for local people in their gardens given a number of the above factors and because an acoustic fence would be erected. Notwithstanding the technical information that is submitted, which is of necessity partly based on assumptions, I am concerned that significant capricious noise patterns albeit of an intermittent nature will be likely to pervade the presently fairly tranquil gardens around. This is an area of exceptional residential quality and people whether retired, working from home, looking after their own children, or enjoying some summer or other holiday time at their house would understandably expect peace and quiet throughout weekdays' day-times during the year.
8. I am also of the opinion that the question of parking, manoeuvring, exiting and entering, drop off and pick up cannot be said to be of no great significance. In effect a substantial commercial style activity is being set within a relatively quiet, well established, and very good quality residential area. I agree that there would not be likely to be specific highway danger. I recognise that there is a background of commuter parking and normal street activity. However even given this and all the mitigation and operational methodology set out by the Appellant, I am simply unable to see how a daycare nursery for up to 65 children with all that entails in staffing, servicing and parent activity and with a small circulation space and restricted frontage parking immediately abutting a private front garden and in close proximity to other homes could operate without vehicular noise, disturbance and inconvenience to local people through its on-site and close-by activity.
9. I appreciate that the Council's Chief Environmental Protection Officer did not raise formal objection to the scheme on noise grounds but concerns were expressed. There is more than this element of doubt in my mind. This scheme

is simply in the wrong locality to be of this scale; it would be an unreasonable imposition upon living conditions enjoyed by local residents.

10. My conclusion is that the proposal would be harmful to the residential amenities of neighbours and hence would conflict DP Policy DP26 as cited in paragraph 5 above.

*Character of locality*

11. I agree with the main parties, for the reasons given in the Planning Committee Report; the planned extensions would not in themselves be harmful to the character or appearance of the host property or the locality.
12. I have described above the nature of the character of this well established part of the Conservation Area with its notable large town houses. The all-encompassing character is of quiet residential use. A large daycare nursery with all that would involve would not sit comfortably within these environs. The building, even just with small signs, would quite obviously not be a dwelling as a principal use. The nature of the rear garden would change from the usual low key domestic arrangement to a formalised planned area with nursery related uses and features. It would be completely surrounded by the uniformity of an acoustic fence. The characteristic front hedging would be removed for visibility and replaced only at low level and only in short sections given the proposed in/out arrangement, which is itself unusual on this stretch. The coming and going would not be akin to any other property in this locality. The scheme as a whole would intrude upon and be alien to the pleasing ambiance of this area and would undoubtedly impinge upon character of the Conservation Area.
13. Given the foregoing I conclude that the building proposed would be contrary to the aims of Section 72(1) and would conflict with the 'character protecting' elements of the development plan policies which I refer to in paragraph 5 above.

*Other matters*

14. I appreciate that the scheme was recommended for approval by Officers of the Council and that statutory consultees did not object. However the planning system is such that elected Members may form their own view after weighing all planning related matters in the balance. To my mind there were also a number of points of considerable validity made by local people.
15. I do recognise that there would be economic gains and social benefits arising from this development not least in employment terms and in the provision of facilities for families in the Burgess Hill area and education for children. The locality is an accessible one. I do not doubt the track-record of the Appellant company and the quality of all the submission plans and documents is impressive. I have considered the other cases drawn to my attention but find there to be differences in terms of scale, location or policy issues and in any event I must determine this proposal on its own merits. I have had regard to suggested planning conditions put forward to see if this might enable allowing the appeal but these would not make an unacceptable scheme acceptable.
16. I have carefully considered all the points raised by the Appellant but these matters, either individually or collectively, do not outweigh the concerns which I have in relation to the main issues identified above.

17. I confirm that policies in the National Planning Policy Framework (the Framework) have been considered. Key objectives of the Framework are to protect and enhance the qualities of the built environment as well as to safeguard heritage assets; development plan policies which I cite mirror these. The Framework underlines that great weight should be given to a heritage asset's conservation. The appeal proposal would lead to less than substantial harm to the significance of the designated heritage asset however what public benefits there would be would not outweigh this harm. Furthermore, there are no other benefits, including to the Appellant, which to my mind would be of a scale to outweigh the harm to the Conservation Area which I have identified.

*Overall conclusion*

18. For the reasons given above I conclude that the appeal proposal would have unacceptable adverse effects on living conditions for neighbours and the character of the locality. Accordingly, the appeal is dismissed.

*D Cramond*

INSPECTOR