



Appeal Decision

Site visit made on 14 August 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 29 August 2019

Appeal Ref: APP/B5480/W/19/3229346

140 / 138 Station Lane, Hornchurch, Essex RM12 6LU

- 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 Dr Saquib Gillett-Waller against the decision of the Council of the London Borough of Havering.
 - The application Ref P1611.18, dated 21 October 2018, was refused by notice dated 11 April 2019.
 - The development proposed is change of use of doctors with residential above at 140 and from residential at 138 to D1 for both and first floor rear extensions.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. An application for planning permission for the change of use of 140 Station Lane to a children's day nursery was previously refused by the Council¹ and subsequently dismissed on appeal². The current appeal proposal now includes the adjoining No. 138 within the scope of the proposed development. Along with the proposed change of use at both properties, the proposal now also seeks to extend both at first floor level with internal links between the two created at ground, first and second floor levels.
3. The main issues are the effects of the proposed development upon:
 - The living conditions of occupiers of 136 Station Lane and nearby occupiers with particular regard to noise and disturbance, and upon the occupiers of 136 Station Lane with particular regard to daylight;
 - The character and appearance of the host properties and the surrounding area, with particular regard to the proposed extension; and
 - Highway safety and parking.

Reasons

Living conditions

4. Although the ground floor of No. 140 has been used for non-residential purposes, most recently as a doctor's surgery, the upper floor of No. 140 and the whole of No. 138 are in residential use. So too, other properties in the residential street block formed by Suttons Gardens, Station Lane and Suttons

¹ LPA Ref No: P0530.17, refused by notice dated 24 May 2017

² APP/B5480/W/17/3190017

Avenue. Despite the presence of the commercial parade diagonally opposite the appeal site on the eastern side of Station Lane and the two commercial units on the opposite side of Suttons Gardens, the area in which the appeal property is located is predominantly residential in character.

5. Nos 138 and 140 form a substantial semi-detached building with accommodation over three floors. Despite its corner location at the junction of Suttons Gardens and Station Lane and reasonably generous rear garden adjacent to Suttons Gardens, the building itself provides an effective acoustic screen to the busy road and noise climate of Station Lane. The previous Inspector considered that traffic noise was not overly intrusive at the rear of No. 140, with which I concur, and that it would be unlikely to differ at the rear of N. 138, which I can confirm from my observations at the rear of that property. I have no further evidence before me that would lead me to an alternative conclusion.
6. The appellant points out that as No. 138 is now part of the appeal scheme, the previous concerns regarding the impact of the proposal would be overcome. That, however, is to miss the point. The effect of the inclusion of No. 138 within the scope of the proposal would merely be to shift the impacts of the proposal further along the row to the adjacent property at No. 136.
7. It is stated that the proposed nursery use would accommodate between 50 and 70 children. Accommodation within the appeal building would be provided in the form of four classrooms, two each at ground and first floor levels, with direct access to the rear yard at ground level and with windows looking out over the garden area at both levels. With such numbers of children likely to be present on site at any one time, noise arising from the use of the rear garden area, and the likely noise transmission from within the building envelope, would be very different in character to a doctor's surgery. Moreover, such levels of noise and activity would be jarringly incongruous in the context of the prevailing and predominantly residential setting in which the appeal site lies.
8. It may well be the case that limiting the number of children able to access the outdoor area at any one time would restrict the noise and disturbance that would otherwise likely arise. However, even then, such numbers would significantly exceed those reasonably expected from residential properties and would be likely to negatively impact upon the reasonably tranquil noise environment that I experienced during my visit to the site. And whilst numbers outside the building may be restricted, it has not been demonstrated how issues of break out noise from within the building from the remaining children would be controlled to avoid cumulative impact upon the noise environment enjoyed by occupiers of neighbouring properties.
9. Moreover, the movements of those dropping off and picking up children from the nursery would be more intensive than would have previously been the case with the prior use of No. 140. I have no reason to doubt the stated level of activity associated with the former use of No. 140 in terms of the comings and goings during morning surgery and evening appointments but I am not persuaded that the operational use of the proposed nursery would mirror that of a doctor's surgery. Furthermore, proposing to operate until 1900 hours would extend comings and goings of staff and parents into the early evening, a time of the day when adjacent occupiers might reasonably expect to be quieter. Pick-ups and drop-offs may be more staggered than that of a school,

but would be more concentrated than the spread of surgery appointments throughout the day.

10. I have noted that the proposed block plan³ indicates 'sound proofing fencing' along the boundary with No. 136. I noted too, during my visit to the site, that a large single storey extension was under construction at that property. Both features would be capable, to some degree, of mitigating noise impacts from use of the garden area and from break-out from the internal areas. However, I have no evidence before me as to their likely effectiveness or how they would mitigate break-out noise from upper floor classrooms. Nor would they provide much in the way of mitigation from the comings and goings at the front of the proposed nursery.
11. Thus, I concur with the conclusions of the Council, and the previous Inspector, that these characteristics indicate that the proposal would generate significantly more noise and activity, both internally and externally, than a doctor's surgery and residential use. It matters not that No. 138 is now part of the proposal. The harmful impacts that I have noted above would merely be experienced by No. 136 instead of No. 138. As such, the proposal would be contrary to DPD policies DC55 and DC61 which seek to ensure that proposals avoid unreasonable adverse impacts on residential occupiers by way of, amongst other matters, the impact of noise and hours of operation.
12. The adjacent single storey extension at No. 136 would partly mitigate the additional depth, height and bulk of the proposed first floor extension. However, the proposed extension would be sited due south of No. 136 and, whilst set in from the boundary with that property, it would nonetheless introduce a significant and imposing length of flank wall beyond the rear of No. 136. Nor would that ground floor extension alter the imposing presence of the proposed extension upon the nearest upper floor window at No. 136.
13. There would therefore be periods of the day, particularly afternoon, when the additional height, bulk and proximity to No. 136 would result in the loss of some direct sunlight and may affect daylight to the upper floor windows at the rear of No. 136. However, although the rear gardens are lengthy and the westerly aspect is broadly open across the equally lengthy rear gardens of properties on Suttons Gardens, these factors would not wholly offset the harm that I have identified.
14. The refusal reason refers to impact on living conditions of 'adjacent occupiers' in terms of loss of light. Those adjacent occupiers have not been specifically identified, but from my observation of the site and the surrounding area, I conclude that the proposal would cause harm to the living conditions of occupiers of No. 136 in this respect. The proposal is contrary to DPD policy DC61 in this respect.

Character and appearance

15. The rear of the appeal property is clearly visible above the garden boundary wall from Suttons Gardens. The existing two storey outrigger with pitched roof over elongates the building's flank elevation to Suttons Gardens and is clearly visible above the rear garden wall. So too, the two dormer window extensions on the rear facing roof planes of both No. 138 and No. 140, although the

³ Drwg No: SLH-04

- existing flat roofed ground floor extensions are more effectively screened from street level view by the garden wall.
16. The proposed first floor extension would extend across the remaining width of the rear elevation of Nos. 138 and 140 above the extent of the existing flat roofed ground floor element of the building. Although there would be a slight step back of the extension's face between the two constituent parts of the appeal building, it would to all intents-and-purposes be a large, expansive and dominating addition to the rear of the property. Together with the existing outrigger and dormer windows, the proposed extension would overwhelm the scale and proportions of the host property and be an incongruous feature widely visible from adjoining properties and Suttons Gardens.
 17. Because the appeal site is located on the corner of Station Lane and Suttons Gardens, its long rear garden and walls along longer views towards the building's rear elevation. So too, albeit with views of it partly limited by intervening vegetation, is it visible from Suttons Avenue. In both instances, the absence of large-scale rear extensions and outriggers is noticeable. Whilst the existing outrigger at No. 140 bookends the row at the junction of the two streets, the full-width first floor extension would be an incongruously dominant addition that would subsume the remainder of the host building's rear elevation. Furthermore, the extensive area of flat roof above the proposed extension would be at odds with the prevailing pitched-roof form of nearby surrounding buildings.
 18. I see no compelling reason to concur with the appellant's contention that the property has been poorly extended in the past. Rather, I consider the current proposal to extend Nos. 138 and 140 to be excessive in its scale and extent, and incongruous in its form and design. If indeed the proposal is seen to be an opportunity to upgrade and renovate the building, it is, for the reasons I have identified above, an opportunity missed. The proposal would fail to maintain, enhance or improve the character of the local area by failing to respond positively to the appearance, form and scale of the host building. The proposal is therefore contrary to policy DC61 of the Core Strategy and Development Control Policies Development Plan Document (DPD).

Highway Safety

19. Together, Nos. 138 and 140 have front forecourt areas which could accommodate parking for up to 5 vehicles. However, in order to achieve this level of provision, the plans show the spaces at No. 140 to be very close to the junction of Station Lane and Suttons Gardens. Movements into these spaces would be further complicated by a right-turn filter lane into Suttons Gardens and access to / egress from these would not be conducive to the free flow of traffic around a busy junction with conflicting vehicle movements.
20. However, whilst on-street parking on Station Lane outside the appeal site is restricted, there is metered on-street parking a short distance away on Station Lane and Suttons Gardens. Although it is possible that the proposal would increase pressure on the available on-street parking provision that provision is not so distant from the appeal property as to be unattractive to those dropping off or picking up children attending the nursery. I also saw that the site is a short walk away from nearby bus and underground connections.

21. Despite the potential difficulties in accessing the forecourt parking spaces, I am not persuaded that the proposal would lead to unacceptable demand for parking spaces on nearby streets, or would otherwise prejudice highway safety or the free-flow of traffic. There would be no conflict with DPD policies DC32, DC33, DC34 or DC35 or DC61.

Other Matters

22. It has been suggested by the appellant that there is a shortage of childcare provision with the borough. If that is so, the proposal would go a small way to contributing to greater provision of such facilities. However, the extent of the shortage has not been quantified and the extent of the social and economic benefits that the proposal would deliver has been neither quantified nor described. The weight that I can give these factors is therefore limited.
23. My attention has been drawn to a nearby day nursery in a broadly residential setting elsewhere on Suttons Avenue. Whilst I took the opportunity of viewing that property from the roadside when visiting the appeal property, I have no further details regarding its operation or its planning history. I cannot therefore be certain that it provides a direct comparison to the appeal proposal before me, which I have in any event determined on its merits and the basis of the available evidence. I give its presence very limited weight in my consideration of this matter.

Conclusion

24. Whilst I have not found any harm in terms of the effect of the proposal on parking provision or highway safety, the absence thereof does not outweigh the harm that I have found in terms of the proposal's impact on living conditions of occupiers of 136 Station Lane or other adjacent properties and character and appearance. Thus, for the reasons I have set out above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR