
Appeal Decision

Site visit made on 26 May 2020

by M Madge DipTP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2020

Appeal Ref: APP/Z5060/W/19/3242498
151 Lillechurch Road, Dagenham RM8 2EW

- 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 Ms V Kisvinaite against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/01090/FUL, dated 24 June 2019, was refused by notice dated 15 September 2019.
 - The development proposed is siting of studio building for make-up business use at rear of house.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The proposed building would be used for the operation of a make-up business. The appellant confirms in their statement of case (SOC) that the business would only employ the appellant and they envisage having one customer per week. The SOC also states that the building would be used for purposes incidental to the use of the host dwelling when not being used for business purposes. Nonetheless, the proposal has been submitted as a full planning application and the description of development only identifies the business use. I must determine the appeal based on what has been applied for and the evidence before me.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be an inappropriate form of backland development, having particular regard to neighbours' living conditions; and
 - The effect of the development on the local highway network.

Reasons

Backland Development

4. The site is in a residential area, characterised by parallel rows of terraced dwellings, which front on to the highway and which have private gardens to the rear. The proposal would introduce a commercial use into the private rear garden area of the host dwelling, which represents backland development. Although the external impact of the building may be acceptable, I have

concerns about the impact of the business activity on the living conditions of the neighbouring occupiers, particularly 153 Lillechurch Road.

5. While the appellant suggests that their business use would be similar to the undertaking of a hobby, this is not what has been applied for. The proposed business use would only be related to the host dwelling in so far as the appellant lives in the host dwelling and would operate the business. The Council's Residential Extensions and Alterations Supplementary Planning Guidance Document adopted February 2012 (the SPD) states that a garden building's use "must be ancillary or related to the use of [the] property as a dwelling". The proposed development would not be directly related to the residential occupation of the dwelling and as such it would not be incidental.
6. Due to the backland position of the development, access would be via a footway shared with the neighbouring property. The appellant has advised that clients would park their vehicles on the existing driveway, which is also close to neighbouring properties. Even if access and egress from the development were supervised, noise and general disturbance associated with the comings and goings of clients, would occur. While the level of noise and general disturbance would be limited, material harm to the living conditions of neighbouring occupiers would be caused and the backland location of the development would be inappropriate.
7. A condition restricting hours of operation has been suggested as a means of addressing the harm arising from the inappropriate backland location of the development. The appellant's SOC refers to operation hours as being 10:00 to 16:00 and 09:00 to 17:00. Furthermore, the appellant's Business Plan states that "operation hours will differ morning, day or early evening, to meet client's requests". Even if a condition restricting the hours of operation were to be imposed, given this conflicting evidence, it is not possible to conclude with any certainty that the development would not cause unacceptable levels of noise and disturbance to neighbouring occupiers.
8. Restricting the number of clients in the manner suggested would limit the use to a maximum of 3 hours per week. This would be unduly restrictive on a commercial business use. Such a condition would fail the test of reasonableness and could not be imposed.
9. Policies BP8 and BP11 of the Borough Wide Development Policies Development Plan Document adopted March 2011 (the DPD) require amongst other things, that development does not expose existing occupiers to unacceptable levels of noise and general disturbance. Guidance within the SPD seeks to reinforce this policy aim by advising against the commercial use of garden buildings. For the reasons I have identified, the proposed development would conflict with policies BP8 and BP11 of the DPD.

Local Highway Network

10. Most of the vehicular parking in the surrounding locality takes place within the highway. Some dwellings in the locality do, however, benefit from on-site parking facilities, including the host dwelling. The site has on-site parking provision for 2 cars. The appellant states that one of these spaces would be available for clients to use.

11. While a car parking space may be kept available for clients, there would be no way to enforce the use of this parking space. Given the lack of independent access and parking facilities, vehicles associated with the development would potentially displace parking facilities for residents, increasing demand for on-street parking. The site also scores poorly in respect of the Public Transport Accessibility Level (PTAL). On this basis, I find that the development would adversely affect the local highway network and would conflict with policies BR9 and BR10 of the DPD, which seek to secure adequate access and parking facilities and locate commercial development in areas with a high PTAL score.

Conclusion

12. For the reasons given above the appeal should be dismissed.

M Madge

INSPECTOR