



Appeal Decision

Site visit made on 29 September 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal Ref: APP/K3605/W/19/3423876

13 Belvedere Gardens, West Molesey KT8 2TB

- 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 Miss Tracey Wyeth against the decision of Elmbridge Borough Council.
 - The application Ref 2019/1821, dated 27 June 2019, was refused by notice dated 9 October 2019.
 - The development proposed is the change of use from residential (C3) to nursery/day-care (D1) with associated internal alterations.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (a) the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings, with reference to noise and disturbance, and (b) whether the loss of a residential unit would be justified, having regard to the need for nursery/day-care facilities in the area.

Reasons

Living conditions

3. The appeal site comprises a two storey semi detached dwelling on Belvedere Gardens which spreads across much of the width of the plot. It has a frontage for vehicle parking and a modest sized rear garden. Within the vicinity, dwellings and gardens are in close proximity to one another. The appeal dwelling shares a common building wall and garden boundary with its neighbouring semi detached dwelling. The residential area is quiet in absence of any nearby noise sources, such as major urban roads.
4. The existing dwelling would be subdivided into a children's nursery/day-care facility which would operate between 7.30am to 6.30pm Monday to Friday, with no weekend or public holiday working. There would be a maximum of seven staff on the site at any one time and a maximum of thirty children though numbers of both could go down during the course of the day. A travel scheme would be implemented for staff encouraging the use of public transport and a car share scheme whilst a parking management plan would ensure staggered times for the drop off and collection of children. In particular, there would be only three drop offs or collections in a fifteen minute time frame and each parent will be given a time slot within that fifteen minute time frame. Parent

contracts will stipulate these times and there would be no staff parking on highways.

5. Nevertheless, there would still be significant comings and goings to the property compared to its use as a dwelling. There would be fifteen vehicles making thirty-three traffic movements, including the arrival of the staff spread over a two hour period in the morning. There would be approximately 16 vehicular movements (8 vehicles) per hour assuming 50 per cent of children came by vehicles. For the afternoon collection, there would also be numerous vehicular movements, albeit they would be spread out over a longer time period. The overall activity, involving both parents and children arriving, including by walking or cycling, would be considerable in and around the appeal property compared to its previous use as a residential dwelling. Despite supervision by trained staff, it would be inevitable that there would be noise and disturbance through talking and in some instances, children being upset.
6. During play time, no shouting or screaming from children would be allowed and it is anticipated most children would be chatting/laughing. Outside in the garden, children would not be restricted in number. The facility would comply with required ratios of staff to children. Nevertheless, there would be still talking from staff and children, which would be audible especially in the garden. It has also not been demonstrated how the facility would deal with unforeseen circumstances which can lead to child upset and adverse noise and disturbance. The impact of such noise and disturbance would be especially noticeable in the garden, which would be likely to be used given the nature of the use. Some residential dwellings can also have noisy occupants. However, it is rare that associated noise and disturbance would occur constantly throughout the day and week.
7. For all these reasons, there would be a marked and harmful change in living conditions for residents as result of increased noise and disturbance. Accordingly, the proposal would conflict with Policies DM2 and DM11 of the Elmbridge Local Plan Development Management Plan (DMP) 2015, which collectively and amongst other matters, require high quality design and for no significant adverse effect on residential amenity.

Justification

8. DMP Policy DM9 encourages the development of social and community facilities if it meets an identified local need. DMP Policy DM10 states that development that results in the net loss of housing will be resisted unless it can be demonstrated that it would result in benefits that would outweigh the harm. Under this policy, consideration will be given to the type and quality of accommodation that will be lost; the contribution it makes to the range of housing in the Borough including low cost housing that supports local businesses, and the importance of the new use to the community.
9. Similarly, Policy CS2 of the Elmbridge Core Strategy Development Plan Document (CS) 2011 states that net loss in housing will be resisted unless it can be demonstrated the benefits of the development outweigh the harm.
10. Therefore, planning policies require justification where a dwelling would be lost. The proposal would provide a social and community facility which would provide employment. There will be further residential development in the Borough which will result in extra demand for childcare facilities and there is

local support for this facility. The County Council has a scheme providing free childcare for most parents up to thirty hours a week. Such factors are highlighted by the appellant as proving an increasing demand in an area where there is shortage. It has also been indicated that there is a substantial waiting list for children placements well beyond the 30 limit applied for.

11. However, the evidence on need is generalised and not specific to the local area. It is unclear whether the oversubscribed waiting list represents demand over a period of time or just a specific point in time. There has been no breakdown of the waiting list to ascertain how realistic it is as an indicator of demand, for instance, whether the children placements sought are those not yet found a place or replacement for children already in a facility elsewhere. Furthermore, the Ofsted website lists a mix of thirteen childcare facilities within 500m of the appeal property, which includes three nurseries. No indication has been given of their capacity and availability for further children. Overall, there is a lack of objective analysis to demonstrate need and the value of the benefits of the proposed use.
12. The nursery/day-care facility would provide a professional and flexible service which would enable parents to work full time. In contrast, such a service may not be available through childminding listed on the Ofsted website which the appellant indicates are others looking after one or two children in their own homes who are not trained. However, I am not persuaded that such a service would be unique and not provided by other nurseries in the absence of any substantiated evidence on this.
13. For all these reasons, it has not been demonstrated that a loss of one dwelling has been justified. Accordingly, the proposal would conflict with Policy DM10 of the DMP and Policy CS2 of the CS.

Conclusion

14. The proposal would result in a harm to the living conditions of the residents and the unjustified loss of a dwelling. The harm to the living conditions of residents would be significant for the reasons indicated. The proposal would conflict with CS and DMP policies and the development plan taken as a whole.
15. There are no material considerations of sufficient weight or importance to determine that the decision should be taken other than in accordance with the development plan and therefore planning permission should be refused. For the reasons given, and having regard to all other matters raised, including support, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR