
Appeal Decision

Site visit made on 8 July 2021

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2021

Appeal Ref: APP/W5780/W/20/3264620

112 Highbury Gardens, Seven Kings, Ilford IG3 8AA.

- 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 Mr Gohar Mateen against the decision of the London Borough of Redbridge Council.
 - The application 2012/20, dated 7 July 2020, was refused by notice dated 29 October 2020.
 - The development proposed is change of use class of sales/purchase office and rear workshop from C3 to car sales and repair garage sui generis.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In the period since the appeal was submitted the Government has published the revised *National Planning Policy Framework* (the Framework) July 2021 which is being brought into immediate effect for the purposes of decision-making. I have considered the appeal in the light of the revised Framework but am satisfied that none of the amendments to the Framework raise issues relevant to the appeal and importantly none has brought me to any different conclusion on the appeal.

Main Issues

3. The main issues are whether the proposed development would have a detrimental impact on:
 - the living conditions of present and future residents of No 112 in respect of loss of private amenity space, privacy and noise and disturbance; and
 - the character of the site and surroundings on Highbury Gardens as a residential area.

Reasons

4. The appeal site is located at the south end of Highbury Gardens on the junction with the busy Green Lane from which access would be taken for the rear yard where the car sales and repair garage would be operating. The business uses are already in operation and reportedly have been operating since the appellant took over the property in 2016. At the time of my visit there were 9 cars on site presented for sale and 2 cars in the repair bays. The main repair bay has a security shutter, hydraulic ramp and is fully equipped for car repairs. The adjacent bay is roofed but open to the front and reportedly used for body and cosmetic repairs. A narrow single storey side

extension to the house is in use as the car sales office and has a small kitchen and toilet. The residential use within No 112 Highbury Gardens itself continues, with the property currently rented to an occupier not related to the business.

Living Conditions

5. The residential property at No 112 is an end of terrace, 3 bedroom house which previously had the benefit of a side garden the full length of the house and significant area of hardstanding and garage to the rear. A single storey extension to the rear has one side window facing onto the car sales area and the rear windows face onto a small courtyard measuring approximately 12m² which is screened from the yard by close boarded fencing to head height.
6. The proposal and indeed the current usage, would use the whole of what was the side garden for car sales. As a result, the house would be left with virtually no usable private amenity space other than the very restricted rear courtyard and a small frontage space which cannot be classed as private amenity space. Policy LP29 of the *Redbridge Local Plan* (RLP) requires that new 3 bedroom properties should be provided with a minimum of 60m² of private amenity space. Whilst I accept that established housing stock is not the same as new housing provision, nevertheless the courtyard would provide only a very small area by comparison to the policy requirement. It would provide some space for drying clothes but there would be minimal space for sitting out or children's play and indeed, in the context of an immediately adjoining car repair garage, the courtyard would not lend itself to a restful area for sitting out or an attractive play environment. I acknowledge that the appeal site is close to South Park, an area of public open space nearby, but travel to this park would involve occupants of No 112 crossing a busy road to get to it. In any event the park would not replace the need for amenity space attached to the dwelling as the experience of the recent Covid 19 lockdown has demonstrated. It has been put to me that the rear extension would act as a garden room and amenity space however at the time of my visit this was simply being used as living space and could not be described as amenity space.
7. The car sales business would also have a potential impact on privacy for the dwelling as customers looking at cars for sale would be very close to the side window in the rear extension. The result of this, were the use to be permitted, would be that the side window would have to be permanently screened to maintain privacy. Whilst I have been invited to conclude that a condition could ensure appropriate screening of these windows I am not satisfied that such a condition would be reasonable, given the effect it would have on living conditions for occupants.
8. The repair element of the business, which is principally involved in preparing cars for sale, involves potentially the full range of repairs plus bodywork and cosmetic repairs to the cars and involves the use of machinery throughout the day from c 09.00 to 18.00 and from Monday to Saturday. For immediately neighbouring residents in Nos 110 and 112 Highbury Gardens I accept that the background noise levels of Green Lane, particularly from traffic, are high but mechanical noise in addition to this background level would be likely to be intrusive and constitute a disturbance. Despite being requested to produce a noise and vibration assessment the appellant has not provided this, instead stating that this could be required through a condition on any planning permission. I have considered this as a possibility but the

acceptability of the use in terms of noise in this location has reportedly already been raised in two separate enforcement actions. The appellant has indicated a willingness to see operating hours controlled and sound insulation provided. However, with repair workshops which are open fronted whilst in use and repair activity taking place within the courtyard it is questionable how effective any sound insulation would be in mitigating noise pollution.

9. The Framework at paragraph 185 (previously paragraph 180) states that planning decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life. The Framework refers to the *Noise Policy Statement for England* to assist in the interpretation of noise impacts. The Statement identifies 3 types of noise and it would be 'neighbourhood noise' that would be likely to be the issue in this case – i.e. noise arising from trade and business premises amongst other things. I acknowledge in this case it would be daytime noise but nevertheless noise exposure can cause annoyance which can have an impact on quality of life whenever it occurs. I accept that the business has an economic benefit and provides employment for 2 full time and 1 part time employee which are important considerations. However, it is the close juxtaposition of a noisy activity with a pre-existing residential use that would create the problem in this case and the appeal site at No 112 cannot satisfactorily accommodate both uses.
10. For the above reasons and in the absence of any noise assessment, the impact of particularly the vehicle repair use and the loss of amenity space on the living conditions for occupants of No 112 is likely to be significant. As such the proposed uses would be in conflict with RLP Policy LP24 which seeks to avoid unacceptable levels of noise pollution or vibration and with Policy LP26 which requires development to avoid adverse impacts on the amenity of neighbouring occupiers.

Character of the Area

11. There is no doubt that the character of Highbury Gardens is residential in nature. The street is lined on both sides with two storey terraced housing. I accept that the character of Green Lane is much more mixed featuring commercial uses and, as is the case with Highbury Gardens, the ends of roads joining Green Lane also feature commercial uses. Thus, the Green Lane frontage to No 112 sits between a car sales business and a petrol filling station and opposite a parade of shops. The proposed use would not therefore be at odds with the context of the Green Lane frontage. However, it is the close relationship of the use to the residential frontage of Highbury Gardens where there would be an adverse impact on the character of the area.
12. The Framework at paragraph 130 (previously paragraph 127) requires that developments must be sympathetic to local character to create high quality buildings and spaces amongst other things and in these respects the proposal fails. RLP Policy LP26 reflects the Framework in requiring development to respect local character and to be well integrated with and have regard to and respect the surrounding area. For the above reasons the positioning of the car sales and repair use to the rear and side of No 112 Highbury Gardens would have an unacceptable impact on the established residential character of the Gardens notwithstanding the more mixed frontage of Green Lane.

Other Matters

13. I have had regard to the Public Sector Equality Duty contained in the Equality

Act 2010 and understand the appellant's wish to develop his business, an objective which is encouraged by the Framework in Section 6 and by RLP Policy LP14 seeking to stimulate business and the local economy. However, it is clear from these policy documents that conflict with local character and amenity of the local area are important considerations. For the reasons above, what is argued as effective use of land on the application site to provide business space would not therefore outweigh the harm to the living conditions of the occupants of No 112 and the predominantly residential character of Highbury Gardens.

Conclusion

14. In reaching my decision I have had regard to the matters before me but for the reasons above the appeal should be dismissed.

P. D. Biggers

INSPECTOR