



Appeal Decision

Site visit made on 25 August 2021

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 27 September 2021

Appeal Ref: APP/R5510/W/21/3268789

129 Harlington Road, Uxbridge, UB8 3JA

- 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 Sue Cattermole (The Innovate Day Centre CIC) against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 5470/APP/2019/3673, dated 11 November 2019, was refused by notice dated 21 August 2020.
 - The development proposed is described as "the retention of the existing C3 planning use here (re the existing detached home); temporary permission sought (18 months) as a meeting venue for 'old people's day-club' Class D1".
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Decision

1. The appeal is dismissed.

Procedural matters

2. Use of the property as an 'old people's day club' has been occurring since February 2019. I am therefore considering the appeal on the basis that this is a retrospective proposal.
3. The National Planning Policy Framework (the 'Framework') was revised on 20 July 2021 and the new London Plan (2021) published during the appeal period. Both parties have had the opportunity to comment on the implications of this for their case.
4. Notwithstanding the description of development in the banner heading above, the proposal is for temporary permission (18 months) for mixed Use Class C3 (dwellinghouse) and Use Class D1 (old people's day club). I have determined the appeal on this basis.
5. The Town and Country Planning (Use Classes) Amendment (England) Regulations 2020 introduced new use classes, including replacement of Class D1 with Class E (Commercial Premises, Businesses and Services) and F1 (Non-residential and learning institutions). The transitional and saving provisions came to an end on 31 July 2021. These changes do not materially change the assessment or outcome of the appeal.

Main issues

6. The main issues are:
 - the effect of the development on the living conditions of neighbours, with particular regard to noise and disturbance,

- the effect of the development on highway safety, and
- whether or not the change of use is consistent with local policies relating to housing supply.

Reasons

Living conditions

7. The appeal site is located in a tightly grained residential area. Plots are narrow and the houses, most of which are detached, typically fill the width of the plot. Rear boundary treatments are dominated by garden fences, rather than by hedging and trees. There is therefore limited separation between the appeal site and the main external living space of the neighbouring properties.
8. The neighbours record being disturbed in their back gardens by noise from entertainers using microphones at the site, particularly during the summer months when the windows are open and the outside space used more. There are also reports of raised voices, singing, training instruction and kitchen noise. This has reportedly diminished the neighbours' enjoyment of their gardens.
9. Opening hours are between the hours of 10 am and 4 pm, but I find reports that noise is generated beyond these times plausible, given the preparation and clearance that must be required, and the indication that clients are dropped off before 10 am and picked up after 4 pm.
10. Based on the above, I am in little doubt that the change of use has the potential to raise noise levels and cause disturbance to the neighbours during the day. A condition could be imposed to control hours of operation and to prevent amplified noise.
11. However, in reality it would be difficult to enforce the level of noise generated by the kitchen, singing and raised voices. I conclude that there is a high likelihood of such noise and disturbance from a grouping of 15 to 18 people, in addition to support staff, all undertaking activities in a small space.
12. I acknowledge that domestic use can generate loud noise. However, the disturbance caused by a large number of people undertaking organised activities throughout the workday is likely to be of different character, larger in scale and longer in duration than that generated by a family playing music or football.
13. No noise assessment has been provided on which to base a detailed and objective analysis of the acceptability of the increase in noise. In the absence of this, considering the proximity between the properties and the quiet, residential character at the rear of the houses, I conclude that observable adverse effects at neighbouring properties could be caused.
14. Policy EM8 of the Hillingdon Local Plan: Part 1, Strategic Policies (November 2012) (LP Part 1) states that noise generating development will only be allowed if impacts can be adequately controlled and mitigated. There are no solid proposals to mitigate or minimise potentially unacceptable effects.
15. Reference has been made to British Standard BS8233:2014, which has been imposed by condition on a similar development in Ickenham. This standard provides guidance for the control of noise in and around buildings and is applicable to the design of new or refurbished buildings undergoing a change of

use. There is nothing in the evidence provided to suggest that the property could be amended to meet these standards. I therefore attribute this suggestion negligible weight.

16. I acknowledge that noise is only generated during working hours and for a temporary period of 18 months. However, on balance I conclude that the noise generated is likely to be intrusive for neighbouring residents and that it has the potential to cause observable adverse effects that would not be mitigated or minimised. I therefore find that the proposal could cause harm to the living conditions of neighbours and that the development is not consistent with the requirements of Policy EM8 of the LP Part 1 and Policy DMHB 11 of the Hillingdon Local Plan: Part 2, Development Management Policies (January 2020) (LP Part 2), which state that development should not adversely impact the amenity of adjacent properties.

Highway safety

17. Cars are parked on the forecourt during the working day by the director, an 'other' staff member and 'other staff'. In the absence of further information, I interpret this to be at least 3 cars for staff. There are then approximately 5 cars, some of which are employed by the venue, to pick up and drop off the clients. The appellant estimates that this is an 'average' of 17 – 22 vehicular movements per day.
18. It is also highly likely that regular deliveries to support the business must be made and, in the absence of evidence to the contrary, I include these vehicles in my assessment of the number of vehicles visiting the site. I am also mindful that the property remains a house, and that the occupant could reasonably be expected to return in the day occasionally. There are also likely to be professionals visiting, such as the occupant, who provides physiotherapy consultations.
19. I estimate that the forecourt could accommodate 3 cars. The appellant suggests that 5 could be parked with careful management but, from what I observed, any more than 3 cars would require a vehicle to reverse onto the main road or from the main road onto the site, which is a dangerous manoeuvre given the speed and heavy use of the highway. No swept path analysis has been provided on which to base a more detailed assessment of this issue.
20. It is stated that scheduling means that there are no more than 2 cars present on the site at any one time. Given the need for all-day staff parking for at least 3 cars, the number of 'drop-offs' and other visitors, this does not appear feasible. The fact that the occupant has to park on a nearby side road when providing consultations demonstrates that the forecourt can become full during the day. I conclude that it is highly unlikely that parking capacity on the site is sufficient.
21. Parking on the road outside is controlled during mornings and evenings, with double yellow lines on the opposite side. There was no capacity on the nearby side streets during my site visit in the afternoon, and in the absence of a parking survey, the evidence is such that there is high car parking demand in the area. Bearing in mind that the clientele is elderly and infirm, and that delivery of goods must be made to the site, I conclude that there is a high probability of parking across the pavement, posing a risk to pedestrians, or

temporarily on the main road, which given the size of the highway would cause an obstruction to the free flow of traffic. I consider this particularly problematic at this location, given the heavy and fast use of the road. This would cause a significant adverse risk to highway safety.

22. Comparison is made with nearby domestic properties and the suggestion made that they could generate a similar number of journeys. Although I consider this unlikely for most of the houses, given that they are typically small, detached bungalows, this does not alter the fact that the site does not have the capacity for the number of vehicles that would need to be parked.
23. My attention has been drawn to highways aspects of a recent decision for a similar change of use at Long Lane in Ickenham¹. In this case, there was a nearby bus service, which appears to have tipped the balance for a 'borderline' decision. In addition, the original house was larger, so the increase in traffic potentially smaller. I therefore do not find the sites directly comparable.
24. Policies DMT1 and DMT2 of the Local Plan Part 2 require that development provides safe and efficient vehicular access to the highway network, with no significant adverse transport impacts on the local environment or deterioration of the safety of all road users and residents. For the reasons above, I do not find that the requirements of these policies are met.

Housing supply

25. The appeal site's contribution to the housing supply is not materially lost through this proposal because it continues to provide a home for the existing occupant. Permission for the change of use is sought only for 18 months, which means that any small reduction in the site's attractiveness to the housing market is temporary. In addition, no alterations are proposed to the building to facilitate the temporary change of use that would reduce its capacity as a dwelling.
26. The development is therefore not in conflict with the requirements of Policy DMH 1 of the LP Part 2, which prevents net loss of housing.

Planning balance and Conclusion

27. The 'Community Interest Company' running the venue is a non-profit making, charitable company that cares for elderly people, many of whom have early onset dementia and are referred to the service by the Council. I have no doubt that it provides a valuable service for the community. My attention has been drawn to paragraphs 92 and 93 of the Framework, which provide support for promotion of social interaction and community facilities.
28. However, no local strategic or non-strategic policies regarding healthcare have been raised. In the absence of these, I am unable to determine how immediate the local need for such a facility is and whether alternative provision may be available in more suitable locations. This limits the weight that I can give to the wider benefit of the provision of a community facility at this location.
29. Although I am satisfied that the proposal does not result in the loss of housing, it would cause harm to the living conditions of neighbours through increased noise and disturbance. It is also likely to pose an unacceptable risk to highway

¹ 22470/APP/2019/304

safety, and this is a matter of considerable weight. I conclude that the limited weight attributed to the benefits of the scheme do not outweigh the aforementioned harm.

30. The proposal would conflict with the local development plan when read as a whole, and there are no other considerations that would lead me to determine other than in accordance with this. The appeal is therefore dismissed.

B Davies

INSPECTOR