



Appeal Decision

Site Visit made on 12 October 2021

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 19 October 2021

Appeal Ref: APP/K2230/W/21/3267351

49 Pelham Road, Gravesend, DA11 0JA

- 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 Ruth Baker, Manor Daycare Limited against the decision of Gravesend Borough Council.
 - The application Ref 20200459, dated 16 May 2020, was refused by notice dated 21 July 2020.
 - The development proposed is change of use to a children's nursery and pre-school together with a replacement front boundary wall including gates and railings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development stated on the decision notice and the appeal form as this more succinctly describes the proposal. The Council has indicated in the Delegated Report on the planning application that the nursery should be able to accommodate 60-65 children depending on age, as different ages have different space requirements, and that the demand appears to be for 3-4 year olds. When full there would be some 22-25 staff. I have seen nothing to indicate otherwise and I have considered the appeal on this basis.
3. A revised National Planning Policy Framework (the 2021 Framework) was published in July 2021. The Parties have had the opportunity to comment on the implications of this.

Main Issues

4. The main issues are: whether safe, suitable and convenient access would be provided for all; and the effect of the proposal on the residential character of the area taking particular account of activity and noise.

Reasons

Safe and convenient access

5. The appeal property is a detached building set back from the highway. Part of the former front boundary wall/railings has been removed and there are two gaps which are used for vehicular access from Pelham Road into the front garden. A number of vehicles were parked informally. Although the predominant character of the area is residential, Mayfield Grammar School is a little further along on the opposite side of Pelham Road. Further along on the

same side of Pelham Road are Bronte Nursery; Bronte School and another part of Mayfield Grammar School.

6. Pelham Road is a busy through route. There are bus stops within easy reach of the site. As requested by third parties I visited the area during times when pupils would be arriving/departing. Despite the various Traffic Regulation Orders restricting parking nearby, including no parking outside the appeal property and opposite, I witnessed many vehicles parked in contravention of the restrictions and/or on the footpath, including in front of the appeal site. This was evidently to collect Mayfield School pupils.
7. I acknowledge this was a limited instance in time and for a relatively short period. Nevertheless, the effect was significant congestion and increased risk to the safety of other users of the highway, including cyclists and pedestrians on the footway. I have no reason to suppose the situation would be significantly different when pupils were being brought to the school and it is probable that it happens on most, if not all, school term days.
8. A Travel Plan has been provided by the appellant. This indicates that only 16% of pupils walked and none arrived by bus or cycle and 80% of staff travelled by car. I observed a similar pattern of travel mode, albeit for a short period, during a morning. Reasons given for mode of travel choice are primarily convenience; time saving; cost; to satisfy work/other needs/commitments; availability; and personal safety.
9. The Travel Plan is not directly applicable in all respects to the proposal before me as it relates to Bronte Nursery, a different site further along Pelham Road, and was prepared some years ago. Nevertheless, the above explanations seem very plausible and, in the absence of any evidence to the contrary, it seems probable a similar split would apply to the proposed nursery. Moreover, given the reasons for mode choice cited by staff it seems unlikely that the proposed salary sacrifice scheme to encourage cycle use or provision of cycle spaces would make a significant difference.
10. Although arrivals/departures would be spread throughout the hours of 07:00 and 19:00 to some extent, the submitted Travel Plan indicates a significant concentration of arrival and departure times at similar times that children would be arriving and leaving Mayfield School. Unlike the Bronte School, which has a much wider road frontage, the proposed nursery would not have a separate in out access arrangement or convenient dropping off area within the site. Nor is there any evidence of off-site parking arrangements such as those arranged by Bronte Nursery. Consequently it is probable that those arriving may have to wait on the highway for others to exit adding to congestion and increasing safety risks even if there were no other vehicles obstructing the highway at the time. This would be exacerbated by the lack of crossing facilities unlike at Bronte Nursery where there is a much more convenient pedestrian crossing.
11. I conclude that it has not been demonstrated that safe, suitable and convenient access would be provided for all. The proposal would therefore conflict with Policy CS11 of the Gravesham Local Plan Core Strategy 2014 (the CS), Saved Policies T1, T5 and P3 of the Gravesham Local Plan First Review 1994 (the LP), Supplementary Planning Guidance No 4, Kent Vehicle Parking Standards 2006, and those principles of the 2021 Framework that seek safe and suitable access for all and to avoid an unacceptable impact on highway safety.

Character and amenity

12. Nurseries can co-exist with residential uses. However, in this case, unlike at Bronte Nursery, No 49 has many windows close to the side boundary with No 47 Pelham Road, which also has many windows facing across a driveway towards the appeal site. No floor plans showing how the rooms/terrace would be used have been provided and I cannot confidently conclude that unacceptable noise and disturbance would not be generated from the proposed use, including at times when windows might reasonably be open.
13. The appeal site is in the Pelham Road/The Avenue Conservation Area (the CA). Its special character arises from its origins as a distinctive nineteenth century suburb with predominantly large houses laid out in generous plots. The variety of architecture, which references the late nineteenth century Arts and Crafts Movement and the Gothic Revival Style, contributes considerably to the special interest of the CA. No 49 Pelham Road, a red brick building with bands of yellow brick a turret, a projecting front gable, tall chimneys and dormers, is a prominent landmark building. The proposals as submitted would not alter the external appearance of the building itself.
14. Many of the buildings in the CA, including No 49, are set behind front gardens which are enclosed now by a variety of boundary treatments. Historically these would have been brick; some of them low with railings over. The proposal includes a new front boundary comprising low walls with pillars and railings and a double gate. These would enhance the character and appearance of the CA.
15. I conclude the proposed boundary treatment would be beneficial to the residential character of the CA. However, in the absence of evidence to the contrary I cannot confidently conclude that unacceptable noise and disturbance would not be generated from the proposed use. Accordingly there would be conflict with Policy CS19 of the CS and those principles of the 2021 Framework that seek a high standard of amenity for existing and future users.

Other Matters

16. The appellant asserts that No 49 previously housed a children's nursery, known as Daneholme Nursery, and that this is detailed on old documents held by Gravesham Planning Department. However, I give this no weight as a material consideration in the context of this appeal as no evidence to demonstrate this has been provided and my decision must take into account the planning policies and guidance in place now.
17. There is evidence to indicate a shortfall in childcare places particularly ages 3-4 years. The appellant as a qualified teacher owns and runs a successful Day Nursery graded Ofsted "Good" elsewhere catering for the local community and also allocating spaces to vulnerable and disadvantaged children. I see no reason to doubt the quality of childcare that would be provided. The proposal would also bring employment to the area with the stated intention of a minimum of 22 staff.

Planning Balance and Conclusion

18. Paragraph 9 of the Framework is clear that the objectives of sustainable development should be delivered through the preparation and implementation of plans and the application of the policies in the Framework: they are not criteria against which every decision can and should be judged.

19. I have found that it has not been demonstrated that safe, suitable and convenient access would be provided for all and there would be harmful effects in terms of noise and disturbance for occupiers of neighbouring property. I have found conflict with Policies CS11 and CS19 of the CS and Saved Policies T1, T5 and P3 of the LP in these respects. I give these matters, including the conflict with local planning policies, significant weight.
20. The proposal would provide quality day nursery places to meet an identified shortfall and would add employment which would benefit the local economy. The proposed boundary treatment would also enhance the CA. These are matters that weigh in favour of the proposal. However, I give them only moderate weight as they may be achievable in other less harmful ways.
21. In failing to comply with Policies CS11, CS19, T1, T5 and P3, the proposal cannot comply with the development plan taken as a whole. I have found insufficient material considerations to indicate the appeal should be determined other than in accordance with the development plan. The appeal is dismissed.

S Harley

INSPECTOR