



Appeal Decision

Site visit made on 6 September 2022

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 SEPTEMBER 2022

Appeal Ref: APP/B5480/W/21/3287760

52 Bridge Avenue, Upminster RM14 2LR

- 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 Alexandru against the decision of the Council for the London Borough of Havering.
 - The application Ref P0495.21, dated 16 March 2021, was refused by notice dated 7 June 2021.
 - The development proposed is described as a “proposed outbuilding to be used as a nursery D1”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, the appellant at Part E of the appeal form, refer to an alternative description of the development, which is the same as the wording on the Councils decision notice. Nevertheless, neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original planning application.
3. The Town and Country Planning (Use Classes) Order 1987 (UCO) has been amended to provide the flexibility for businesses to adapt and to diversify to meet changing demands. The UCO provides a new use class, Class E (commercial, business and service), which includes uses for the now revoked Use Classes A1, A2, A3, some of D1 and D2 including use as a nursery. I have determined the appeal on this basis.
4. Since the Councils decision has been issued, the London Borough of Havering have adopted a new Local Plan. As such I have determined the appeal on the Policies as contained in the Havering Local Plan 2016-2031, adopted November 2021 (HLP) which replaces the Core Strategy and Development Control Policies Development Plan Document adopted in 2008 and the Policies contained in the Romford Area Action Plan Development Plan Document also adopted in 2008. The appellant is aware of the new plan and policies and have had the opportunity to respond, however they have no further comments.

Main Issues

5. The main issues are the effects of the proposed development on:

- character and appearance of the rear area;
- living conditions of local residents having particular regard to matters of noise and disturbance; and
- highway safety, with particular regard to on-street parking

Reasons

Character and appearance

6. The appeal site is located on the western side of Bridge Avenue in Upminster. Bridge Avenue is a suburban road consisting of a mixture of detached, semi-detached and terrace properties with a traditional style and appearance.
7. The appeal site is located to the rear of the host dwelling at the end of the garden, which slopes down and away from the rear elevation and is currently occupied by a wooden decked structure, and small fenced synthetic court area. The treatment at the rear of the properties in the surrounding vicinity consists of a mix of trees and vegetation providing a pleasant green and undeveloped feel to the area. Nevertheless, the site does adjoin a car park to the rear and an access road into Hornchurch Stadium along the flank boundary.
8. The scheme subject to this appeal is for the erection of a single storey building at the rear of the host property for use as a pre-school nursery (Class E) for 27 children. The overall height would be approximately 4m although this is significantly less than the host property and, due to the topography at the rear would appear as a single storey development and thus subservient to the host property. Nevertheless, the overall footprint of the development would be approximately 108sq.m, which is larger than the host property and other units within the vicinity. As such given the modest plot size of the appeal site, it would appear unduly cramped relative to its setting and would be unacceptably dominant. Consequently, the proposal would detrimentally compromise the attractive and established verdant appearance in this area.
9. Furthermore, the development would be highly visible from surrounding gardens and public vantage points, particularly given the proposed removal of the established tree line along the rear boundary, providing views from where the harm identified would be experienced. Moreover, given the constrained dimensions of the plot, any proposed new or replacement landscaping including trees and shrubs, are likely to be cut back by occupants to secure light, to guard against damage to the building from debris and branches as well as to ensure sufficient play space for the children. As such, I am not persuaded that the imposition of a condition requiring landscaping would mitigate the harm that I have found in the long term.
10. Consequently, given the size and setting of the proposed development it would materially harm the character and appearance of the area. Therefore, in this respect, it would be contrary to HLP Policies 16 and 26, which together seek to achieve high quality design, respecting the local character and responding to distinctive local building forms and patterns of development, amongst other things. The proposal would also be inconsistent with paragraph 126 of the

National Planning Policy Framework 2021 (the Framework) which seeks amongst other things, the creation of high quality beautiful buildings and places.

Living conditions

11. The appeal site is located within a residential area and proposes a childrens day nursery with core operating hours between 9.00am to 3.00pm Monday to Friday, although additional hours between 7.00am to 6.30pm may be required to meet parental demand. There would be a maximum of four staff members and 27 pre-school children under the age of 5 years old on site at any one time. The appellant contends any noise and disturbance associated with this use would be proportionate with other households in the area who may have children.
12. However, there would be a significant increase in the number of comings and goings to the site compared to its current residential use. Additionally, the overall activity, to, and around the proposal, involving both parents and children arriving and departing including by motor vehicle, would be considerable compared to its existing residential use. Despite supervision by staff, it would be almost certain that there would be a significant increase in noise and disturbance both through drop-offs and collections.
13. Furthermore, it is anticipated that during play time, most children will be engaged in potentially noisy activities which would be particularly audible in the gardens and surrounding properties. Moreover, it has not been demonstrated how the facility could mitigate the likely increase in noise when compared to the existing residential use. The impact of such noise and disturbance would be especially noticeable in the proposed amenity area, likely to be utilised during periods of outdoor play time, throughout the day and week.
14. Having reached the conclusions above, there would be a marked and harmful change in living conditions for local residents as a result of increased noise and disturbance. Accordingly, the proposal would conflict with HLP Policies 7, 16 and 17 which collectively require no significant adverse effect on residential amenity with regard to noise and disturbance, amongst other matters. It would similarly fail to meet the guidance in the Framework which, amongst other things, also seeks a good standard of amenity for all existing and future occupants of buildings.

Highway safety

15. The host property is located adjacent to Brookdale Avenue, and on-street parking at this part of Bridge Avenue is controlled through double yellow lines. Furthermore, the northern end of Bridge Avenue has limited on-street parking spaces, which are regulated via a controlled parking zone operating from Monday to Friday between the hours of 10.30am and 11.30am. At the time of my site visit I observed that many of the limited spaces were occupied. However, the southern end of Bridge Road was less densely parked due to a lack of parking restrictions and a high proportion of properties containing off-street parking.
16. Based on the evidence before me and my on-site observations I accept there are restricted levels of on-street parking in the immediate area. Whilst the proposal includes four off-street car parking spaces for staff, there is no

provision for parking for parents or carers during periods for drop-offs and collections and given the lack of on-street parking provision, this would create a further demand for limited spaces which are relied on by local residents.

17. The appellant has drawn my attention to the adjoining car park at the rear of the site which would be utilised for the use of parents during periods for drop-offs and collections. As such, it is suggested that the proposal would not generate any increased demand for on-street parking. However, the car park has not been indicated on the site plan and would appear to be outside the control of the applicant, as such it cannot be relied upon to provide the required off-street car parking provision.
18. There is no evidence before me that suggests that the use of the car park for the proposed nursery has been secured through a legal agreement, which would be necessary to make the development acceptable in respect to parking. Furthermore, I have not been presented with any details of a travel plan or alike, seeking to reduce reliance on the car and promoting more sustainable forms of transport to mitigate concerns in respect to residential amenity and highway safety.
19. Accordingly, the proposal fails to demonstrate that it would not result in a harmful effect on highway safety, caused by the increased demand for parking on nearby roads. It would, therefore be contrary to HLP Policies 16, 17 and 24 which seek, among other things, to ensure a safe environment including highway safety for pedestrians and cyclists and not result in a detrimental impact to the amenities of local residents. The proposal would again fail to meet the guidance in the Framework which, as previously mentioned, also seeks a good standard of amenity for existing occupants amongst other things.

Other Matters

20. The appellant draws my attention to the principle of the development and the need for childcare and educational facilities, along with the presumption in the Framework in favour of efficient land use. However, I note none of these matters are in dispute, and nevertheless they would not outweigh the harm that I have identified above.
21. There are no other material considerations of sufficient weight or importance to determine that the decision should be taken other than in accordance with the development plan.

Conclusion

22. For the reasons given above I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR