



Appeal Decision

Site visit made on 21 March 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 APRIL 2023

Appeal Ref: APP/B5480/W/22/3304978

Rear of 19 Suttons Lane, Hornchurch

- 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 Sunil Sehdev against the decision of the Council of the London Borough of Havering.
 - The application Ref P0595.22, dated 11 April 2022, was refused by notice dated 16 June 2022.
 - The development proposed is 'Erection of building'.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the erection of a single storey building (Use Class E(d),(e),(g)). The Council dealt with the proposal on this basis and so shall I.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the neighbouring occupiers with particular regard to privacy and noise and disturbance.

Reasons

4. The site comprises an overgrown yard within a mixed commercial and residential area. It lies in a relatively quiet location to the rear of a retail unit and a building attached to the shop which has been converted to two dwellings. The retail unit is part of a parade of shops fronting Suttons Lane. The appeal site, the dwellings adjacent to the site at Nos 19b and 19c Suttons Lane (Nos 19b and 19c) and the flats above the adjacent shop units at Nos 17a and 19a Suttons Lane (Nos 17a and 19a) are accessed via a narrow walkway from Suttons Lane. There are residential properties to the rear, located on Standen Avenue, and commercial buildings and yards on either side.
5. The proposal is for a small single storey building occupying most of the site and accessed from the walkway. The proposed use of the building is for indoor sport, recreation or fitness (use class E(d)), or medical or health services (use class E(e)), principally to visiting members of the public. Alternatively, it could be used as an office or a light industrial premises (use class E(g)). The

appellant has indicated that it could be appropriate for fitness classes or a small specialist medical practitioner, for example.

6. Although the building would be small scale, there is little evidence on the numbers of people who would use it and this could vary given the potential uses. The nature of the proposed uses means that employees, members of the public and those servicing and delivering to the premises would need to use the walkway to enter and leave the site. Those accessing the building would have to walk directly past the living room and bedroom windows of the dwellings at Nos 19b and 19c which abut the walkway. As there are clear glazed windows to those rooms, there would be close range views into them, resulting in an unacceptable effect on the privacy of the occupiers of those properties. Furthermore, the proposal would lead to people coming and going along the walkway at different times of the day within a relatively quiet area, causing noise and disturbance to residents in the living rooms and bedrooms of Nos 19b and 19c.
7. Whilst the flats at Nos 17a and 19a share the same access walkway, their windows are on upper floors. Further, the dwellings on Standen Avenue are separated from the appeal site by a garage. As a result of the distances between the windows of these properties and the site access/walkway, the proposed development would not cause the occupiers of these dwellings harm in terms of loss of privacy or unacceptable noise and disturbance.
8. The appellant points out that uses within class E(g) should, by definition, be able to be carried out in any residential area without detriment to the amenity of that area by reason of noise. However, the occupiers of dwellings can still be adversely affected by general noise and disturbance from activity associated with the operation of such uses and it is not the case that they will always be appropriate within residential areas. In any event, the proposal is also for uses within classes E(d) and E(e) which are not subject to the same qualification. Whilst the appellant has stated that the range of uses could be restricted by condition, there is no suggestion on the form that this could take.
9. I note that the Council's public protection team did not object to the proposal subject to noise conditions, and the Council and the appellant have referred to potential conditions for restricting the hours of operation and schemes for controlling noise. Whilst these could control the times at which people are using the premises and the noise emanating from the building itself, they could not control activity outside the building or avoid the noise and disturbance and loss of privacy that would be caused to the occupiers of Nos 19b and 19c by people walking past their habitable room windows.
10. Overall, I conclude that the development would harm the living conditions of the neighbouring occupiers at Nos 19b and 19c Suttons Lane with particular regard to privacy and noise and disturbance. This would be contrary to Policy D14 of The London Plan 2021 and Policies 7 and 34 of the Havering Local Plan 2021 (the Local Plan). Together, these require developments to protect human health and quality of life and to avoid unacceptable levels of noise and disturbance and loss of privacy to residents. It would also conflict with the National Planning Policy Framework (the Framework) which requires decisions to ensure safe and healthy living conditions and to avoid noise giving risk to significant adverse impacts on health and the quality of life.

Other Matters

11. Whilst the proposed development would make better use of the land and provide some economic benefits in accordance with local and national planning policies, these would not outweigh the harm that I have found above.

Conclusion

12. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

A Wright

INSPECTOR