



Appeal Decision

Site visit made on 18 April 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/X1735/W/22/3306099

20 Greville Green, Emsworth, Hampshire PO10 7TH

- 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 Mrs Amy Dorey against the decision of Havant Borough Council.
 - The application Ref APP/22/00359, dated 5 April 2022, was refused by notice dated 30 June 2022.
 - The development proposed is log cabin in rear garden and temporary child-minding use for one year.
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Decision

1. The appeal is allowed and planning permission is granted for log cabin in rear garden and temporary child-minding use for one year at 20 Greville Green, Emsworth, Hampshire PO10 7TH in accordance with the terms of the application, Ref APP/22/00359, dated 5 April 2022, subject to the conditions set out in the schedule at the end of this decision.

Applications for costs

2. An application for an award of costs was made by Mrs Amy Dorey against Havant Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development set out above has been taken from the planning application form, but I have omitted parts of the stated description which do not relate to an act of development.
4. The Council and appellant refer to different operating times for the proposed child-minding business. However, the difference equates to 30 minutes at the start of the day and, in any case, the description of development describes the appeal proposal. Furthermore, the appellant explains the proposed operating time within their appeal statement, which interested parties have had an opportunity to comment on. I consider no one would be prejudiced by me considering the operating times proposed within the appellant's statement. I have therefore taken this into account in reaching my decision.
5. I attempted to visit the site on 7 March 2023, but I was unable to gain access. Consequently, a site visit was re-arranged for 18 April 2023.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of nearby residents and the character of the local neighbourhood, having regard to noise and disturbance.

Reasons

7. The semi-detached appeal property is in an area characterised by residential development. The houses are arranged around a central open green, which provides a focal point within the street. As observed from the road, 21 Greville Green (No 21) lies to the right-hand side and is a semi-detached neighbour of the appeal site. 19 Greville Green (No 19) is an end of terrace dwelling to the left-hand side and single storey dwellings along Cumberland Avenue lie to the rear. Properties along this section of Greville Green typically allow for one or two vehicles to park off the road, although there is still a reliance to park on the road.
8. The Council raise no objection to the appearance and scale of the proposed building. Based on what I have seen and read I see no reason to disagree with this view.
9. The proposed child-minding use would operate Monday to Friday from 08:00 to 17:30 with a staggered drop off and pickup. There would be 2 members of staff with a maximum of 6 children. In this context and compared to if the property was solely used as a family dwelling, it is likely that a child-minding business for up to 6 children would generate extra comings and goings from drop offs and pickups, and additional noise from activity relating to the child-minding use whether it be on the property or in relation to drop offs and pickups.
10. Policy CS16 of the Havant Borough Core Strategy 2011 (HBCS) requires, amongst other things, that development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook and noise and overlooking. Paragraph 7.28 of the HBCS clarifies that for the purposes of Policy CS16 all new development is defined as one dwelling or more and 500 square metres or more of non-residential floorspace. Consequently, Policy CS16 of the HBCS would not be applicable to the appeal scheme.
11. Nevertheless, the objective of the National Planning Policy Framework 2021 (the Framework) in relation to achieving a high standard of amenity for existing and future users does apply.
12. The worst-case scenario is that every child is dropped off by vehicles, and there are six unrelated children. However, equally, this may not always be the case and it is likely to fluctuate depending on the children. With opening times of 08:00 to 17:30 Monday to Friday, the main effect of the vehicle movements is likely to be at the start and end of those days. In my experience drop offs and pickups do not happen all at the same time. They tend to be relatively quick, with persons/vehicles not staying long, and the appellant intends that these would be staggered.
13. There is potential for any excessive noise to be experienced by the adjoining residential neighbours and for this to affect the residential character of the neighbourhood. Noise could also escape when the windows and doors of the proposed log cabin are open on warm days. An intensive and uncontrolled use of the open garden for play in connection with the child-minding business would also be likely to be a source of annoyance to nearby residents, especially at the immediately adjoining properties, particularly at times of the year and/or day when they expect to enjoy the comfort of their surroundings. This is notwithstanding the support offered by the occupiers of No 21 through the planning application. There would be additional noise from comings and goings

of people (parents and children) on foot or by vehicle, including the potential for slamming of car doors, although much of this would be concentrated at times of drop off and pickups.

14. However, as a result of the operational hours during the day and the proposal's limited scale, an unacceptable harm to amenity of neighbours and the character of the neighbourhood is not likely. This is even though I recognise that the extra comings and goings and noise and disturbance from the proposed child-minding use would be greater than if the appeal property was solely used as a family dwelling.
15. The amenities of nearby residents and the character of the neighbourhood can be protected by imposing planning conditions, including limiting the number of children and hours of operation, with the result that the proposed child-minding use would comply with the objectives of the Framework in relation to achieving a high standard of amenity for existing and future users. In reaching this view, I am also cognisant that the appellant is proposing a temporary child-minding use, thus allowing the Council to reassess the effect of the proposal on the living conditions of nearby residents and the character of the local neighbourhood at a later date.
16. Furthermore, in reply to the Environmental Health Officer's comments on the previous planning application, the appellant has confirmed that no loud music would be played. It would appear there were no objections raised by the Environmental Health Officer in relation to the appeal scheme.
17. For the reasons given above, I conclude that the development would not cause harm to the living conditions of nearby residents or the character of the local neighbourhood, having regard to noise and disturbance. I find no conflict between the proposal and the Framework, including with regard to the creation of places that promote health and well-being, with a high standard of amenity for existing and future users. Whilst in its reasons for refusal the Council refers to Policies D1, D2 and D3 of the Emsworth Neighbourhood Plan 2019-2036, I note that these policies require, amongst other things, good design within development proposals. Accordingly, I find no conflict with these policies.

Conditions

18. A list of conditions has been sent to both parties, of which have been incorporated from those within the Council's appeal evidence. I acknowledge the appellant's and the Council's comments on the conditions. I have considered these against the tests in the Framework and the advice in Planning Practice Guidance. I have made such amendments as necessary to comply with those documents.
19. I am attaching the standard implementation condition, and in the interests of certainty a condition to define the plans with which the scheme should accord. A condition to specify materials is necessary to safeguard the character and appearance of the area.
20. This is one of those exceptional cases where the planning permission should be subject to a temporary time period because that is what the proposal seeks. Given this, there is no need to explore the need for the planning permission to be personal to the appellant. However, acknowledging that the building would have an acceptable effect on the character and appearance of the locality and

thus would not need to be removed, I have imposed a condition to ensure that it becomes ancillary to the dwelling in the interests of the living conditions of the neighbouring residential properties when the child-minding use ceases.

21. In light of the scale of the proposal, and having regard to the submitted details, a condition suggested by the appellant relating to noise levels would not be justified or necessary as I have concluded the proposal would be acceptable with regard to the living conditions of nearby residents and the character of the local neighbourhood, having regard to noise and disturbance. Conditions to control the scale and hours of the child-minding use are necessary in the interests of protecting living conditions of neighbouring occupiers.

Conclusion

22. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.

J White

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: the 1:1250 scale Location Plan, 1:500 scale Proposed Site Plan, Scale 1:100 Proposed Plan and Elevations Plan – Rev A.
- 3) The external materials used shall be as indicated on the submitted application form or shall match those used in the existing dwelling.
- 4) The child-minding use hereby permitted shall be discontinued on or before the date 1 year from the date on which the permitted use commences. The owner/operator shall notify the local planning authority in writing of the use commencing within 1 month of it taking place. When the child-minding use hereby permitted ceases to exist, the building hereby approved shall only be used in association with and ancillary to the existing dwellinghouse.
- 5) The child-minding use hereby permitted shall only take place between 08:00-17:30 Mondays to Fridays and not at any time on Saturdays, Sundays or on Bank or Public Holidays.
- 6) The child-minding business shall be restricted to a maximum number of six children and two staff members at all times.