



Appeal Decision

Site visit made on 5 December 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2023

Appeal Ref: APP/V1260/W/23/3322430

20 Dowlands Road, Bournemouth BH10 5LG

- 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 Kelly Shaw against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2022-28558-B, dated 31 May 2022, was refused by notice dated 29 March 2023.
 - The development proposed is retrospective application for change of use from a residential dwelling (C3) to a mixed use as residential dwelling and childcare facility (Sui generis) to include the erection of an outbuilding to the rear for use as a playroom.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form and description of development indicate that the development has been carried out. I shall therefore deal with the appeal on the basis of it being retrospective.
3. The appeal is accompanied by additional plans, an Environmental Noise Impact Assessment and statement from the appellant indicating that they have changed the hours of operation and reduced the number of children being minded to up to 9 daily. Given that the additional plans and statement from the appellant reflect the existing operation of the premises, and given my findings below, accepting this evidence would not be unfair. However, the noise impact assessment proposes additional physical mitigation that does not form part of the original application and has not been subject to public consultation. This evidence relates to a main issue with which the Council and third parties raise concerns. To accept this evidence at this stage would be unfair and deprive those who should have been consulted the opportunity of such consultation. Having regard to the principles of Holborn¹, I have not therefore taken the Environmental Noise Impact Assessment into account in determining this appeal.

Main Issues

4. The main issues are:
 - the effect of the development on the living conditions of nearby occupiers and the character of the area with regard to noise and disturbance, and

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

- the effect of the development on highway safety with particular regard to the provision of car parking and cycle storage.

Reasons

Living conditions and character

5. The appeal site comprises a detached bungalow with rear outbuilding on Downlands Road. The surrounding area is residential, with the site bounded by dwellings and gardens to either side and to the rear. It is proposed that both the main dwelling and outbuilding be used in relation to the childcare facility. The facility would operate varying hours each day of the week ranging between approximately 07:45 and 18:00 on Monday to Friday.
6. Although the evidence from the appellant is unclear with regard to the specific number and exact timing of children arriving and departing on any day, it does state that there would be up to 9 children on site at any time with the children arriving and leaving at staggered times throughout the day. Furthermore, the appellant does not dispute the Council's statement in relation to the development providing services for up to 30 children currently listed, some pre-school, and some of school age and that this equates to approximately 20 children a day coming and going.
7. I observed the site during my visit, at which time there were no arrivals or departures, with the visible doors and windows closed. No noise from any activity inside or outside the buildings on site were audible from the public domain during this time.
8. However, in addition to the potential for noise levels to increase when doors and windows of the outbuilding and dwelling are opened, there would be potential for noise when moving between the buildings and from the use of the garden. Due to its potential use by up to 9 children throughout the day, this would be likely to result in significant noise and activity through playing, talking and shouting. Given the very close relationship of the dwelling, outbuilding and garden with neighbouring properties and rear gardens, this would give rise to unacceptable noise levels that would unduly impact the peace and quiet that occupiers can reasonably expect in this residential area. This would be the case despite the use of the garden being restricted before 10am.
9. Further noise and disturbance would arise from the vehicular and pedestrian comings and goings related to the arrival and departure of children. With the potential for the movement of up to 20 children at the property, taken together with the day-to-day activities and movements of the appellant and the employees of the childcare facility, this would create movements over and above the level expected in a residential area. With limited information regarding the staggered times of arrival and departure throughout the day, this in turn would lead to unacceptable levels of noise and disturbance for the occupiers of neighbouring properties in terms of the revving of engines, slamming of car doors, manoeuvring of vehicles, general movement of people, and talking.
10. As outlined above, the development would result in unacceptable levels of additional vehicular movements and noise and disturbance. For these reasons, the proposal would be out of character in this residential setting. Accordingly, the proposal would also fail to respect or reflect the quiet residential nature of

the immediate area and would be out of character with the prevailing residential uses.

11. For the reasons given, the proposal would have a significant adverse effect on the living conditions of nearby occupiers and character of the area with regard to noise and disturbance. As such, it would fail to comply with Policy 5.32 of the Bournemouth District Wide Local Plan (February 2002), Policies CS38 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) (CS), the Day Nurseries and Play Groups Supplementary Planning Guidance (2001) and the provisions of the National Planning Policy Framework (the Framework). Amongst other things, these seek to grant permission for day nurseries in residential areas where the development will not because of noise adversely affect the character and amenities of the area, minimises pollution by way of noise and enhance the character and amenities of neighbouring residents.

Highway safety

12. Downlands Road is a residential street with no parking restrictions. I found Downlands Road not to be heavily parked during my visit with a number of properties benefitting from off-street parking. However, while only a snapshot in time, the section of the road closest to the appeal site was notably more heavily parked with some cars straddling the pavement.
13. At the time of my site visit, the front garden had been laid to hard surface to provide off-street parking with further parking available on the driveway. These spaces were not in use at the time of my visit, and I noted that the dropped kerb did not extend across the full length of the site with a low-level boundary wall remaining across part of the site frontage. The site is not well served by public transport such that there would be some reliance upon the use of the car to access the site.
14. I note that the Council's Parking Standards Supplementary Planning Document (2021) (SPD) requires the provision of 2 off-street car parking spaces for the dwelling and a further 2 off-street car parking spaces for the childcare facility to cater for staff (even though the current staff do not drive) and visitors. In light of the presence of the low-level frontage boundary wall and narrow nature of the driveway, I do not find that all of the parking spaces shown on the car parking plan² would be usable or attractive for users compared to parking on the road. Moreover, due to the narrow width of the driveway to the side of the property, any parking on the driveway would hinder safe pedestrian access to the property and access to the proposed rear cycle and bin storage areas.
15. I acknowledge that there would be some crossover in parking provision due to the appellant living and working at the premises, the presence of signage on site and that emails have been sent to parents requesting the use of the off-street parking spaces by visitors and not to block other driveways. However, the proposal would fall short of the SPD parking requirement and result in additional demand for on-street parking in the area.
16. Although the road could accommodate some on-street parking, dropping off and collection, given that numerous vehicles could be attending the site at the same time in connection with the proposal, this would unduly hinder vehicular and pedestrian flow, with multiple instances at the same time creating a

² Site Plan 1:500 for 20 Downland Road showing car parking plan.

significant obstruction in the street. This would increase collision risk and driver stress, particularly given the quiet nature of the road and the existing levels of parking close to the appeal property. Moreover, such parking could also restrict access to other residential properties in the street, further impacting on highway movements and reducing the free flow of drivers and pedestrians in the immediate area.

17. Whilst I acknowledge that this could possibly be addressed to some degree by the staggered drop off and collection times, I do not have sufficient evidence before me of the exact number of children and staggered times of dropping off and collection to be able to conclude that this would overcome the concerns raised above.
18. Overall, the increased movements and potential levels of on-street parking associated with the proposal would therefore unduly affect the safe and efficient operation of the immediate highway network at Downlands Road.
19. With regard to secure cycle parking, the garage serving the property would be suitable subject to the driveway remaining free from obstruction. Alternatively, adequate provision could be secured elsewhere within the site by way of a condition in accordance with CS Policy CS18 should I be minded to allow the appeal.
20. For the reasons given, the proposal would have a significant adverse effect on highway safety with particular regard to the provision of car parking. As such, the development would fail to comply with Policies CS16 and CS41 of the CS and the provisions of the Framework. Amongst other things, these require new development to provide parking provision in accordance with the Council's adopted parking standards, positively contribute to the safety of the public realm and that proposals should be refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Considerations

21. The proposal would provide a service to the local community by providing parents and guardians, including those that work full and part time, with childcare for their children. This, together with the provision of employment, would be benefits of the proposal. However, given the limited scale of the proposal, this would carry moderate weight, which would not outweigh the harm identified above.

Conclusion

22. For the reasons given, the proposal would not accord with the development plan. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rose

INSPECTOR