



Appeal Decision

Site visit made on 7 February 2024

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12.03.2024

Appeal Ref: APP/J1915/W/23/3327791

170 Stortford Hall Park, Bishop's Stortford, CM23 5AR

- 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 Miss Wendy Collings against the decision of East Herts District Council.
 - The application Ref 3/22/1107/FUL, dated 25 May 2022, was refused by notice dated 16 February 2023.
 - The development is to increase the amount of classes allowed and the maximum amount of people per class – maximum 6 clients at any one time, up to 5 days a week.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It has been confirmed that the increase in the number of classes and number of clients attending those classes sought by this appeal has already taken place and been in operation for some time. I have therefore determined the appeal on this basis.
3. Since the appeal was lodged an updated version of the National Planning Policy Framework, December 2023, (the Framework) has been issued. However, the relevant parts the Framework have not materially changed therefore it was not necessary for the parties to be consulted directly. In any event, I note that the date of final comments was after the date of its publication.

Main Issue

4. The main issue is the effect on the living conditions of neighbouring properties due to noise and disturbance arising from increased frequency of vehicular movements and comings and goings of clients.

Reasons

5. The appeal site is located in a residential area in the outskirts of the town and comprises is a semi-detached residential property. The area to the front of the dwelling has been paved over and provides parking for 6-7 cars. It is located at the end of a cul-de-sac adjacent to the turning area at the end. The surrounding properties are similar semi-detached properties with a long terrace facing towards the turning area at the end of the cul-de-sac. This built form provides a relatively continuous built frontage around the cul-de-sac with dwellings having off-street parking to the front or side of the dwellings.

6. The existing use, a pilates studio, operates out of a log cabin at the end of the garden of the property. It was originally granted permission to operate as such in 2016 and is subject to conditions that restrict the use to a maximum of 4 classes a week (one a day) for up to four people in each class. The appeal seeks to increase the use to two classes a day, for up to 5 days a week to a maximum of 10 classes with the maximum number of clients per class increased to 6. The Appellant confirms that this increased use is already taking place and two classes a day are held between 09.00 and 15.30 hrs with a 45 minute gap between them to avoid any overlap between clients and traffic. It is also confirmed that occasional private classes also take place.
7. I have been referred to an earlier appeal decision in 2015 which related to the use of the log cabin as a pilates studio for a maximum of 11 times per week with a maximum of six clients at any one time¹. It was dismissed on the basis that it would result in a level of associated movements and noise at odds with the quiet character of the area and which would adversely affect the living conditions of neighbouring occupiers, contrary to Policies ENV1 and ENV24 of the East Herts Local Plan Second Review 2007.
8. Since that time, a new local plan, the East Herts District Plan 2018 (EHDP) has been adopted though the relevant policies, DES4 and EQ2, take a similar approach to the above policies in seeking to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land and ensure that environments are not harmed by, amongst other things, noise and disturbance and that development operates in a way that minimises the direct and cumulative impact of noise on the surrounding environment. I have also been referred to the Bishop's Stortford Town Council Neighbourhood Plan (1st Revision) 2021-2033. However, the Council has not cited conflict with any relevant policies in their decision and I would agree that none are relevant to the main issue identified above.
9. The changes now sought result in a more than doubling of the number of classes in any week and an increase in the maximum number of clients from 16 to 60. This represents a very significant increase in the number of people visiting the site. In particular, whilst the numbers attending individual classes is not significantly increased, the total number of classes would be more than double the current permitted number of classes. There are also further private individual classes.
10. The resulting increase in the frequency of classes means that there is a corresponding increase in the times at which any related disturbance takes place. Whilst noting that the classes would take place between 09.00-15.30 hours, thus avoiding the times when the comings and goings of the residents themselves are most likely to be concentrated, it does mean that there is the potential for additional disturbance at times when residents might expect to enjoy a reasonable level of peace and quiet, commensurate with the relatively tranquil area in which the appeal site is located.
11. Comments from neighbours are mixed, with support and objections. The supporting comments, including from residents of properties at the end of the cul-de-sac facing towards the appeal site, note that the increased level of use has not resulted in any disturbance or adverse effects and the classes take place when most people are at work. However, the occupier of the attached

¹ APP/J1915/W/15/3039146

semi-detached property has objected noting that they work from home on a regular basis for the majority of the week. The living room windows of this neighbour are directly adjacent to the driveway on the appeal site which extends across the whole of the site frontage with no dividing or screening feature or 'buffer' between the two properties. This relationship can be distinguished from the other neighbours which all have a level of separation from the appeal site. Notwithstanding the lack of objection from the Council's Environmental Health section, the increased level of use has undoubtedly had an impact.

12. The Inspector dealing with the previous appeal noted in that case that the number of comings and goings generated by the use would be significant in the context of the low level of existing activity in the area, particularly given the movement of people and vehicles being concentrated in the short intervals between certain daily sessions. It was concluded that the level and pattern of activity would be at odds with the tranquil character of the area. The situation before me is somewhat different in that the gap between classes would be increased and classes would not take place during the evening. However, the overall level of activity would be similar and remains at odds with the tranquil character of the area. This would be the case despite the current permitted use which in comparison occurs only once a day.
13. In respect of parking, I note that a proportion of current clients walk or cycle to the premises. Whilst this is not something that could be controlled by condition, it does seem to indicate that it is unlikely that there will always be the same number of cars visiting the site as clients. In any event, I note that the maximum number of vehicles that can be accommodated on the site is six, in addition to the Appellant's own car, such that the on-site parking would be adequate.
14. Taking into account all the above factors, I find that the increased level of use has a harmful effect on the living conditions of the residents of neighbouring properties such as to render it unacceptable. It thus conflicts with EHDP Policies DES4 and EQ2.
15. I have taken into account the policies of the Framework which in particular seek to support sustainable development by enabling working from home and encourage uses which provide a local service that contributes to the local economy and wellbeing of the local community. Whilst these are positive benefits of the development, they do not outweigh the harm identified above.

Conclusion

16. I conclude that the appeal should be dismissed.

P B Jarvis

INSPECTOR