



Appeal Decisions

Site visit made on 25 April 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal A Ref: APP/B5480/W/23/3329930

146 Front Lane, Upminster, Havering RM14 1LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Layla Hinchon against the decision of the Council of the London Borough of Havering.
 - The application Ref is P0842.23.
 - The development is described as 'proposed change of use of an existing attached single storey side garage into a makeup/treatment studio, including the installation of a new door and window to the front elevation.'
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Appeal B Ref: APP/B5480/W/23/3330883

146 Front Lane, Upminster, Havering, RM14 1LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Layla Hinchon against the decision of the Council of the London Borough of Havering.
 - The application Ref is P1209.23.
 - The development is described as 'proposed change of use of an existing attached single storey side garage into a makeup/treatment studio, including the installation of a new window to the front elevation.'
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Decisions

1. Appeal A is allowed and planning permission is granted for change of use of an existing attached single storey side garage into a makeup/treatment studio, including the installation of a new door and window to the front elevation at 146 Front Lane, Upminster, Havering RM14 1LL in accordance with the terms of the application, Ref P0842.23, and the plans submitted with it, subject to the conditions in the attached schedule.
2. Appeal B is allowed and planning permission is granted for change of use of an existing attached single storey side garage into a makeup/treatment studio, including the installation of a new window to the front elevation at 146 Front Lane, Upminster, Havering RM14 1LL in accordance with the terms of the application, Ref P1209.23, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

3. There are two appeals, both relating to change of use of a domestic garage into a makeup/treatment studio. The proposals differ in terms of the proposed treatment of the front elevation, with Appeal A including a proposed front door and window, whereas Appeal B would include a window only.

4. The first two reasons for refusal alleged similar harm in both cases, albeit with different wording. A third reason for refusal, relating to the effect on the character and appearance of the area, applied to Appeal A only. I have considered each proposal on its individual merits, but to avoid duplication I have dealt with the two schemes together where the issues are the same. Appeal B included additional information regarding the scale and nature of the business use, and I have treated that explanatory information as being relevant to both Appeals.
5. Use of the studio has commenced, so I am considering this aspect of the appeals retrospectively. A small room behind the studio, labelled as a gym room on the plans, is furnished in the same style and appears to be associated with the business, which also involves delivering online training. However, I saw no indication that customers are treated in this area, and planning permission has not been sought for its use as part of the treatment studio. I have considered the development on the basis of the plans and other details in the applications.

Main Issues

6. The main issues are:
 - the effect of the development on highway safety, with regard to the adequacy of off-street parking,
 - the effect on living conditions for occupiers of neighbouring dwellings, with regard to noise and disturbance,
 - the effect on the character and appearance of the area.

Reasons

Car Parking and Highway Safety

7. The appeal site is a semi-detached house with a paved front driveway. A single attached garage to the side has been converted into a treatment studio for permanent make-up, which is described as a form of tattooing. This is operated by the homeowner, who explains that she is the only member of staff, that one customer is treated at a time, on an appointment basis, and that there are gaps between customers to enable cleaning. Typical hours of work are described as between 9:30am and 2:30-3pm on limited weekdays. The facilities in the studio are suitable for treatment of one person at a time, with a single treatment couch, computer desk, fitted storage units and a worktop occupying most of the available studio space.
8. There is space for two cars to be parked in front of the house, with turning space. Although at least one additional car could be parked on the driveway, the turning space would be obstructed. However, there are several on-street parking bays on Front Lane, directly opposite the appeal site, and unrestricted parking is also available in nearby side-streets.
9. There are bus stops nearby and some local customers may arrive on foot. However, the area has a low Public Transport Accessibility Level, and the likelihood is that many would arrive by car. Although the Appellant explains that only one household car is normally parked on the driveway during the day,

that cannot be guaranteed. Therefore, the business is likely to rely to some extent on the availability of on-street parking.

10. At the time of my site visit, several of the parking bays opposite were in use, but there were a few available spaces. There was also unrestricted parking available in nearby side-streets within easy walking distance. I accept that this is only a snapshot in time, and both the Highways Authority and an interested party have expressed concern about pressure on on-street parking. However, no objective evidence has been presented that the area is under an unacceptable level of parking stress or that the limited additional parking likely to be generated by this small business would be harmfully detrimental to the availability of parking for local residents.
11. The parking bays are formally marked out to permit parking with two wheels on the pavement. This allows two-way traffic to flow, while maintaining pedestrian access along the pavement. The road is relatively busy and is a bus route. I saw that traffic is occasionally held up to allow buses or larger vehicles to pass. But traffic was generally moving freely, and use of the parking bays did not obstruct visibility or cause any other apparent highway safety issue.
12. The capacity of the studio is limited. The scope for future expansion is similarly limited, provided customers are seen only within the studio, which can be controlled by means of planning conditions. At the level of use proposed, it can realistically be expected that customers would be able to park safely, either on the drive if space is available, or in a suitable location nearby. The hours of use as described avoid the busiest peak times at the beginning and end of the working and school day, when both the level of traffic and the demand for parking are likely to be higher.
13. I have noted the appeal decision at Frederick Road, Rainham¹, which similarly involved use of a domestic building to deliver beauty treatments. However, in that case, the Inspector alluded to evidence that the area was under a high level of parking stress and that on-street parking was limited by the narrowness of the road and drop kerb accesses to front gardens. He concluded that there was a risk to highway safety as a result of the on-street parking layout. In contrast, there is limited evidence that the area around the appeal site is subject to unacceptable parking stress and the continuous row of designated parking bays is not interrupted by dropped kerbs. Therefore, the circumstances differ from the Rainham case, and I have considered the development on its individual merits.
14. For the reasons given above, having had regard to the adequacy of off-street parking, I conclude that the development would not be harmful to highway safety. There would be no material conflict with Policy 24 of the Havering Local Plan adopted 2021 (HLP), which relates to parking provision and design, but does not directly specify parking requirements for small-scale commercial developments. Nor would there be any conflict with the strategic approach to car parking set out in Policy T6 of the London Plan. There would be some conflict with the supporting text to Policy 24 of the HLP, which includes that development should not add to demand for on-street parking. However, that is outweighed by the limited scale of the business and the availability of suitable parking capacity in this case.

¹ Appeal ref APP/B5480/W/20/3247908, 21a Frederick Road, Rainham, Essex RM13 8NJ

Living Conditions

15. There are neighbouring driveways on both sides and the parking and turning space on the appeal site is screened from windows of the attached dwelling by boundary vegetation. The arrival and departure of customers by car, during a limited period of the working day, would not be unreasonably intrusive for either neighbouring occupier. Given the proposed hours of operation, there would be no vehicle movements at unsocial hours. Existing boundary treatments provide adequate privacy and if customers park off site, their arrival on foot would not be at all intrusive.
16. The business activity does not involve using noisy equipment and is contained within a limited indoor area where there is little likelihood that it would disturb neighbouring occupiers. Unlike in the Rainham case, there would be no comings and goings within the rear garden, where increased activity would be more disruptive. I have also concluded that there is limited likelihood of future expansion, given the scale of the studio area and the facilities required.
17. Based on the Appellant's description of the services offered, and equipment used, there is no substantive evidence that the use would generate intrusive odours. The Appellant confirms that commercial waste arrangements are in place, with monthly collections. I saw that a typical wheeled bin was available for that purpose and there is no reason to suppose that its collection would be intrusive to neighbouring occupiers.
18. For the above reasons, I conclude that the development would not be harmful to living conditions for occupiers of neighbouring dwellings, with regard to noise and disturbance. There would be no conflict with relevant requirements in Policy 7 of the HLP, which amongst other things requires that development avoids causing unacceptable levels of noise and disturbance.

Character and Appearance

19. The proposed elevational treatment in Appeal A would introduce a door and window at the front. The existing front door is set into a corner, so the two doors would be in different elevations. The second door would not look particularly incongruous, and a similar arrangement could be envisaged if separate access for domestic purposes was required, for example through to the rear garden or into a utility area. The proposed detailing and materials would harmonise with the style of the dwelling.
20. The Council has not alleged that the insertion of a single front window, as proposed in Appeal B, would be harmful to the character and appearance of the area. Based on the evidence before me, I have no reason to disagree.
21. The studio is closely integrated into the layout of the dwelling and there is no indication of any likelihood that the commercial use would be severed. The overall appearance of the building would remain that of a typical semi-detached house, with a modest converted outbuilding to one side.
22. There are already non-residential uses including a church and parade of shops near the appeal site. Therefore, the introduction of a low-key commercial use is not inherently harmful to the character and appearance of the residential area. No external signage is in place or proposed. Should any be introduced in

future, that would be subject to a separate regulatory regime², with the Council having the opportunity to control any unsuitable signage exceeding the limitations for which deemed consent is granted.

23. For the reasons given above, I conclude that neither development would have a harmful effect on the character and appearance of the area. There is no conflict with relevant requirements in Policy 26 of the HLP which, amongst other things, requires that development respects the character of the site and local area and respects, reinforces and complements the local street scene. Nor would the development conflict with the design-led approach advocated in the London Plan or relevant paragraphs in the National Planning Policy Framework (the Framework) which include that development should be sympathetic to local character, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change.

Conditions

24. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance (PPG). As a result, I have amended some of them for consistency and clarity and have omitted others. Where I have imposed substantively different conditions, the parties have had the opportunity to comment. With the exception of those specifying the approved plans, identical conditions are required in both cases.
25. Since the use has commenced, there is no requirement for a condition regarding the timescale for implementation of the development. However, I have imposed a condition specifying the approved plans, to provide certainty. I have also imposed a condition requiring the use of matching external materials, to maintain the character and appearance of the area.
26. I have imposed conditions limiting the area where customers may be treated, and the particular form of beauty treatment offered. I am mindful that the PPG advises that conditions restricting future changes of use may not pass the test of reasonableness or necessity. However, in this case I have had close regard to the limited size of the studio, its layout which includes a single treatment couch, and therefore the number of customers likely to be present at any particular time. Alternative forms of beauty treatment, or other small-scale uses within the same use class, could attract a materially greater number of customers and staff. Since this would place greater pressure on the available parking, as well as increasing the risk of conflict between customers entering and leaving by car, a restriction to the specific use proposed is justified in this particular case.
27. I have imposed a condition restricting the hours of operation to between 9:30am and 3pm on weekdays, to avoid likely periods of peak demand for the on-street parking. This is consistent with the proposed timing of appointments as described in the Appellant's supporting statement, although a potential 5pm finish time was mentioned elsewhere. The Appellant has confirmed that there is no objection to the proposed wording and there is no evidence that these hours of operation would unreasonably hamper operation of the business use.
28. A restriction on staff or customer numbers, as suggested by the Council, would not be readily enforceable. In any case, the above limitations would be

² Town and Country Planning (Control of Advertisements) Regulations 2007 (Advertisement Regulations)

sufficient to regulate the scale of the business, so the condition would not be necessary. Likewise, there is no exceptional reason to make planning permission personal to the Appellant, since the above conditions would effectively regulate the development. I am also mindful that planning permission usually runs with the land and the PPG advises that it is rarely appropriate to provide otherwise.

29. No conditions are required regarding waste arrangements, since I have concluded that suitable arrangements are already available. A blanket restriction on commercial signage would not be appropriate, since signage is subject to separate regulation. In the case of Appeal B, there is no need to restrict permitted development rights for further doors or windows in the front elevation, since I have concluded that both alternative elevational approaches would be acceptable.

Conclusion

30. For the reasons given above the appeals should be allowed.

Jane Smith

INSPECTOR

Schedules of Conditions

Appeal A

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 23145_001.A: Location Plans, Existing and Proposed Ground Floor Plans
 - 23145_002.A: Existing/Proposed Sections and Elevations
- 2) All new external finishes shall be carried out in materials to match those of the existing building.
- 3) The make-up/treatment studio hereby permitted shall be used for permanent make-up treatment and/or tattooing and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 4) The provision of permanent make-up treatment or tattooing services to visiting customers shall be carried out only within the area notated as "Make up/Treatment Studio" as indicated on the proposed ground floor plan.
- 5) The make-up/treatment studio hereby approved shall only be open for visiting customers between the following hours: 0930-1500 Mondays-Fridays, and not at any time on Saturdays, Sundays or on Bank or Public holidays.

Appeal B

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 23145_001.B: Location Plans, Existing and Proposed Ground Floor Plans
 - 23145_002.B: Existing/Proposed Sections and Elevations
- 2) All new external finishes shall be carried out in materials to match those of the existing building.
- 3) The make-up/treatment studio hereby permitted shall be used for permanent make-up treatment and/or tattooing and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 4) The provision of permanent make-up treatment or tattooing services to visiting customers shall be carried out only within the area notated as "Make up/Treatment Studio" as indicated on the proposed ground floor plan.
- 5) The make-up/treatment studio hereby approved shall only be open for visiting customers between the following hours: 0930-1500 Mondays-Fridays, and not at any time on Saturdays, Sundays or on Bank or Public holidays.

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