



Appeal Decision

Site visit made on 19 June 2024

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2024

Appeal Ref: APP/C5690/W/24/3337205

The Lee Centre, 1 Aislibie Road, Lewisham, SE12 8QH

- 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 Oakhurst Guardian Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/23/132564.
 - The development proposed is change of use of the building from community use (Use Class F2) to nursery use (Use Class E(f)) and associated internal alterations to the building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal, the appellant has submitted amended plans¹, which show a different layout for the proposed bin, bicycle, and buggy storage. The alterations are minor in scope and the Council and interested parties have had an opportunity to comment on the amended plans as part of the appeal proceedings. Given this, no party would be procedurally prejudiced by my consideration of them as part of the appeal.

Background and Main Issues

3. As part of the appeal, the appellant has also submitted a revised Transport Statement², which provides additional information on parking, trip generation, bin storage and cycle parking to address the Council's second reason for refusal. The Council has not raised any concerns regarding the findings in the revised Transport Statement. It considers it to detail the previously missing information and found it to be non-objectionable under a subsequently received application. From the evidence before me and my observations on site, I have no reason to disagree.
4. The main issue in this appeal is therefore the effect of the proposal on the provision of social infrastructure and community facilities within the surrounding area.

¹ Drawing numbers: 1533/101 Rev A; 1533/102 Rev A; 1533/103 Rev A; 1533/01-23/104 Rev A.

² Transport Statement for The Lee Centre, 1 Aislibie Road, London Borough of Lewisham, prepared by TTP Consulting Ltd, dated January 2024.

Reasons

5. The appeal property is currently occupied by live-in guardians and has been for around 3 years. Prior to this, I understand that it was used by a variety of charities and other organisations to provide a range of facilities and social activities to the local community. Whether or not some of these former facilities and activities would have constituted a Class E use under the Town and Country Planning (Use Classes) Order 1987 (as amended) (Use Classes Order), I must consider the appeal proposal before me, which is a change of use from a community use (Use Class F2) to a nursery use (Use Class E(f)). I have determined the appeal on this basis.
6. During the appeal process, the Neighbourhood Plan for Lee 2021-2031 (2024) (NP) has been made. Policy BHA1 of the NP only supports development which would result in the change of use/loss of a community building or asset, where certain conditions are met.
7. The appeal proposal would change the use of a building identified as a key community building for the purposes of Policy BHA1 of the NP. It is not entirely clear whether the appeal property would still be considered a community building or asset once its use is changed to a nursery. Nonetheless, even if it was, I am mindful that in addition to protecting existing community buildings, Policy BHA1 also seeks to ensure a range of community facilities that meet the needs of all members of the community. Therefore, although it may be that the appeal proposal would not result in the loss of a community building, the proposed change of use would result in the loss of a space that could be used by local community groups to provide a range of facilities and social activities, in a similar way to a community centre. I appreciate that these facilities and activities may be fee charging, similar to a nursery. However, the existing space could offer a larger variety of facilities and activities to more of the community. The loss of this space would therefore affect the range of community facilities in the local area.
8. I have before me, representations on behalf of many local community groups, stating there to be a lack of space for this type of community use within the local area. This is partly due to the imminent loss of the Lee Green Community Centre, which will close soon to allow for the redevelopment of the Leegate Shopping Centre. A replacement community centre will not be provided during the redevelopment, which is due to last approximately 6 years. Thus, at present there is not adequate provision of space for this type of community use nor is there any facility within the Forum area which has the capacity to meet the needs of the community in this regard.
9. Whether or not attempts have been made by community groups to contact the owner of the appeal property, there is nothing before me to suggest that the appeal property no longer serves the needs of the community. There is no substantive evidence that any effort has been made to increase the utilisation of the appeal property as a space to be used by community groups over the last 18 months. Neither is there any substantive evidence before me that the proposed nursery use would be the only viable and deliverable proposition for the appeal property.
10. I note that, in the event the appeal was allowed, the appellant would be willing to allow the local community use of the front right-hand side of the appeal property after 7pm on weeknights and between 10am and 4pm at the

weekend. The appellant suggests this is secured via a Community Use Agreement required by a condition on grant of permission. However, the building would not be made available for the entirety of the hours identified by the appellant, and from the information before me it is not clear how often the building would be available. It is the intention of the owner to make several slots for use, but there is no clarification over what period these slots would be made available. Given this, it is difficult to assess to what degree this proposed provision would mitigate the loss of the existing community space, or to what extent it could meet the needs of existing community groups, particularly those that meet on a regular basis. I am therefore not satisfied that the shared use on offer would address the harm arising from the loss of the existing community space.

11. It has also been put to me by the appellant that the building is in a poor state of repair and could not be used by community groups without the investment that the nursery would allow. However, no evidence has been submitted to support this and I note that some of the local community groups interested in using the space have experience of renovating and funding older buildings such as the appeal property.
12. Accordingly, in the absence of any substantive evidence to the contrary, the appeal proposal would not meet the conditions set out in Policy BHA1 of the NP and would therefore conflict with the provisions of this policy.
13. Policy S1 of the London Plan (2021) and Core Strategy Policy 19 of the Lewisham Local Development Framework Core Strategy Development Plan Document (2011) (Core Strategy) seek to protect existing social infrastructure and community and recreational facilities respectively. The uses considered to constitute social infrastructure and community and recreational facilities for the purposes of these policies include education facilities.
14. While nursery environments may be different to other types of education facilities such as schools and universities, they involve a similar process of teaching and learning, albeit through other methods, such as games and play. The standards for the learning, development, and care of children from birth to 5 years are set out in the early-years foundation stage (EYFS), which is a requirement for all Ofsted registered early year providers. I am therefore satisfied that the proposed nursery would provide an education facility for the purposes of these policies.
15. In terms of protecting community and recreational facilities, Core Strategy Policy 19 of the Core Strategy states that the Council will apply the London Plan policies relating to healthcare, education and community and recreational facilities to ensure there is no net loss of facilities. In this case, the appeal proposal would not result in an overall loss of social infrastructure rather it would change the use of the appeal property from one use that is considered to constitute social infrastructure to another. It is therefore not entirely clear whether the associated provisions of Policy S1 of the London Plan (2021) required to allow for a loss, would be applicable. Nevertheless, given the NP was the last development plan document to be adopted, these policies are not determinative.
16. The Council's Decision Notice also refers to DM Policy 41 of the Lewisham Local Development Framework Development Management Local Plan (2014) (Local Plan), which encourages the use of innovative solutions to provide community

meeting space. However, this policy does not appear to be directly relevant to the appeal proposal.

17. It has been drawn to my attention by the appellant and those who live nearby, that there is a need for nurseries in the local area. The supporting text to DM Policy 42 of the Local Plan identifies the Lee Green Ward, where the appeal property is located, as having a deficiency in childcare places and supports an increase of provision in this location.
18. It also advises that vacant Use Class D buildings would be most appropriate for new nursery provision, which I understand is echoed by Draft Policy CI4 of the emerging Local Plan. However, there is no evidence before me that substantiates the need for the appeal property to currently be vacant. Also, as explained above, no effort has been made to increase the utilisation of the appeal property as a building for use by the community.
19. The appellant would also be willing to accept a condition restricting the use of the appeal property to a nursery in order to alleviate the concerns of the Council and interested parties regarding its future use. Nonetheless, this would neither mitigate nor justify the loss of the existing community space.
20. Overall, it would appear, in this case, that the development plan pulls in different directions. On one hand the appeal proposal would result in the loss of a space, which could be used by community groups to provide a range of facilities and social activities to the local community in an area where there is a lack of space available for such use. On the other, the appeal proposal would also provide a much-needed nursery in an appropriate and accessible location where there is a deficiency in childcare places.
21. Nevertheless, the development plan seeks to ensure that a range of community facilities and services are provided, protected, and enhanced. Also, paragraph 97 of the National Planning Policy Framework seeks to ensure that planning decisions guard against the unnecessary loss of valued facilities and services.
22. The local community are already experiencing a lack of space for use by community groups and soon there will be a further significant reduction in the provision of this type of space. The appeal proposal would therefore have an appreciable detrimental effect on the range of community facilities available in the local area. While there is also a large demand for nursery places in the surrounding area, as nurseries are defined as a Class E use under the Use Class Order, finding an alternative building for this use is likely to be easier than finding an alternative building for an unfettered community use. I am therefore of the view that the benefit of providing a nursery in the appeal property would not outweigh the harm arising from the loss of the existing space available for use by community groups and, thus would not justify allowing the appeal.

Conclusion

23. Accordingly, with regards to the above, I find the proposal would conflict with the development plan read as a whole. It has not been demonstrated that there are any material considerations to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

Hannah Guest INSPECTOR