



Appeal Decision

Site visit made on 5 September 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Appeal Ref: APP/W1525/W/24/3336513

19 Broomhall Road, Broomfield, Chelmsford, Essex CM1 7HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Sam Baker of Belle Lashes against the decision of Chelmsford City Council.
 - The application Ref 23/01352/FUL was approved on 11 October 2023 and planning permission was granted subject to conditions.
 - The development permitted is retrospective application for the use of garden outbuilding as a beauty salon.
 - The condition in dispute is No 2 which states that:
The use hereby permitted shall only take place for a maximum of 30 hours between Monday and Saturday and only between the following hours:
10.00 - 17.00 on Monday, Tuesday, Wednesday and Friday
10.00 - 19.00 on Thursday
The use hereby permitted may also take place on a Saturday between the following hours:
09.00 - 13.00 on Saturday
The use hereby permitted shall not be operated outside these hours or at any time on Sundays or Bank Holidays.
 - The reason given for the condition is:
In the interests of protecting the living environment of occupiers of neighbouring dwellings in accordance with Policy DM29 of the Chelmsford Local Plan.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was granted in October 2023 for development subject to conditions, including No 2, as set out in the banner heading above. As per the appellant's statement of case, this appeal seeks to vary the operational hours secured by condition No 2, as follows:

Monday 10-3

Tuesday 10-5

Wednesday 10-3

Thursday 10-7

Friday 10-3

Saturday 10-5

3. The current operational hours permitted under condition No 2 total 41 hours per week. However, the condition stipulates that the consented use may only take place for a maximum of 30 hours per week.
4. The appellant's submission does not include a complete proposed revision of the condition's text, only noting the revised hours being requested. There is no indication that any other changes to the condition wording are being sought. I have therefore determined the appeal on this basis, maintaining the restriction of a maximum of 30 hours per week, with no operational activity on Sundays or Bank Holidays.

Main Issue

5. The main issue is whether the proposed variation to condition No 2 would safeguard the living conditions of nearby occupiers, with regard to noise and disturbance.

Reasons

6. The appeal concerns an outbuilding located at the rear of a residential garden with consent for use as a beauty salon. The residential property forming part of the appeal site is a semi-detached bungalow, the garden of which runs alongside that of its adjoining property of No 17 Broomhall Road.
7. The existing condition allows some flexibility to the operational hours on a weekly basis, provided they do not exceed a 30-hour limit. While the 30-hour cap would remain, the revised condition proposes to shorten the consented hours on Monday, Wednesday and Friday, while adding an additional 4 hours on Saturday afternoons. These additional Saturday hours are central to the appeal.
8. The outbuilding is located a reasonable distance from both the host dwelling and the adjoining property at No 17. During my visit, I noted the use of high-powered lighting in the outbuilding for business purposes. Given the physical separation to nearby dwellings and the proposed additional daytime operational hours, I am not convinced this would significantly impact the living conditions of nearby occupiers. Similarly, once clients are inside the outbuilding, I do not believe the noise and disturbance associated with the building's operation would reach harmful levels.
9. However, the residential character of the area means that any non-residential use has the potential to disproportionately affect the living conditions of nearby occupiers, particularly through activity associated with vehicle movements and general comings and goings.
10. The appellant has stated that clients park on the driveway, which I observed was possible during my visit. However, as the area has no parking restrictions, visitors could also park on the highway. While the appellant suggests that clients are respectful when arriving and leaving, the business inevitably generates activity, which could adversely affect the living conditions of nearby occupiers. This includes the potential for noise and disturbance from clients informally using other areas of the property, such as the patio directly behind the house, which could cause unwelcome noise and disturbance for the occupiers of the adjoining No 17.

11. Although the revised hours would reduce some weekday afternoon operations, the current arrangement ensures that on weekends – a time generally associated with relaxation – nearby occupiers are not subjected to business-related activity after 1pm on Saturdays. Extending business hours further into Saturday afternoons would significantly reduce this period of respite, and I am not persuaded that the reduction of hours on weekdays would adequately mitigate the adverse effects.
12. I recognise the appellant's concern that the current limited Saturday hours are impacting business and that the additional hours would support both a local business and its clients in the community. I also understand that the revised hours would help the appellant manage other responsibilities more effectively.
13. However, given the residential nature of the site and surroundings, the wellbeing of nearby residents must take priority. While the appellant has cited other similar businesses operating on a Saturday, I am provided with limited substantive evidence to support this. As such, I am not convinced that the potential benefits presented by the appellant would outweigh the identified harm.
14. While the appellant has expressed a willingness to engage in further discussions, this appeal is conducted under the 'written representations' procedure, as requested by the appellant. The Procedural Guide to Planning Appeals mandates a strict timetable and process for the submission of written evidence, on which I must base my decision, and this procedure does not allow for further discussion or negotiation.
15. I therefore conclude that the proposed variation of condition No 2 would fail to safeguard nearby occupiers from noise and disturbance associated with the business use, resulting in harm to their living conditions. The proposal would therefore conflict with Policy DM29 of the Chelmsford Local Plan, Adopted 27 May 2020, which requires development to safeguard the living environment of occupiers of nearby residential property.

Conclusion

16. For the reasons given above, I conclude that the appeal should be dismissed.

P Storey

INSPECTOR