



Appeal Decision

Site visit made on 5 June 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Appeal Ref: APP/U5360/W/23/3327059

101 Stamford Hill, Hackney, London N16 5TR

- 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 Mr Joel Gross, Beis Ruchel Trust Limited against the decision of London Borough of Hackney.
 - The application Ref is 2022/1985.
 - The development proposed is the change of use of the building to use as a school (Class F1) and the extension of the property at basement (including lightwells), ground, and roof levels.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal submission, and in an attempt to address some of the Council's concerns, the appellant has put forward a revised transport statement. I am mindful that the appeal process should not be used to evolve a scheme to overcome the Council's reasons for refusal. Therefore, I am normally required to deal with an appeal on the basis of the same information that informed the Council's decision. However, the appellant's proposed revisions do not substantially alter the proposed scheme. The Council and interested parties have had the opportunity to comment on the proposals as part of the appeal process and I have taken this into account as part of my consideration of the appeal.
3. The development is for a school to serve the Satmar community. As it is required for girls, accordingly, there is potential for my decision to have an effect on a person or persons with a protected characteristic, as defined by the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010 (the Act). I am also mindful of the Human Rights Act (HRA) 1998 and Article 3(1) of the United Nations Convention on the Rights of the Child (UNCRC) and the implications of my decision on the best interests of the child or children. Accordingly, this is a main issue in my decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the host building and the area;
 - the effect of the proposed development on highway safety; and

- whether any harm would be outweighed by other considerations, with particular regard to the best interests of the child or children, the HRA and PSED.

Reasons

Character and appearance

5. The proposal seeks permission for the change of use and extension of an existing building to a school. It would be used in association with the Beis Ruchel D'Satmar London school which is located at 117 Stamford Hill roughly 100m to the north of the appeal site. This school accommodates around 1000 pupils from school reception class to school year 11.
6. No 101 is a substantial extended semi-detached property. It has two storeys and dormer windows within its imposing and steeply pitched roof. It adjoins No 103 Stamford Hill. Both properties largely retain their original character and have similar features on their front elevation. Despite architectural variety in the area, the appeal site and its adjoining neighbour are reflective of the many substantial buildings of similar age and similarly generous set back from Stamford Hill. These all positively contribute to the character of the area. That being said, there is a wide variety of uses including homes, town centre uses, education and community facilities and services, and other more recent and contrasting development is evident. For example, the adjacent building to the south is of a significantly contrasting appearance and is taller.
7. The proposals would add another floor across the entire roof. This would largely replicate the features on the front of the building, such as the first floor bay, gable and dormer windows. The resulting appearance would be a three storey building, with dormer windows in a similarly pitched roof. However, the roof extension would not appear subservient in any way, instead reordering the host building across its entire axis. A large rear extension would be provided at the rear, which overall would be subservient to the host building and suitably fenestrated.
8. However, as part of a distinct and impressive pair of buildings, the gentle symmetry and existing features would be eroded and the additional height and massing would harmfully unbalance the pair of buildings. However, I am not convinced that the proposal and the rear extension would appear significantly jarring in that context, particularly given set back from Stamford Hill and adjacent higher contemporary development to the south of the site, whereby an adjoining varied roofline height is also evident. The proposed roof at the rear would be highly visible from Linthorpe Road. However it already has a very different character to its adjoining neighbour. As such the development from surrounding roads would not appear unduly incongruous.
9. I conclude that there would be some harm to the host building and the character and appearance of the area. The scheme is therefore in conflict with Policies LP1 the Hackney Local Plan 2033 adopted July 2020 and Policy D4 of the London Plan adopted March 2021. Together these policies seek good design through ensuring development responds to local character and context. Although this weighs against the development, the level of harm would not be substantial and I return to this matter within the planning balance.

Highway safety

10. The planning statement submitted with the application identified that the appeal building would be used to accommodate pupils aged 6 to 8 within the infants section. It states there would be 344 pupils. The updated transport statement (TTP Consulting July 2023) advises that the school would accommodate pupils aged 3 to 6, a slightly lower maximum figure of circa 336 pupils. Staffing levels would remain the same in either case, with children supported by staff transferred from the existing school site. The school administrative, cleaning, chef and other personnel would serve both the existing school and the proposed development.
11. The Crash Map collision map identifies a significant number of incidents on Stamford Hill. Even though pedestrian Personal Injury Accidents (PIA) were mainly confined around the junction with the A107 there were a significant number of PIA involving vehicles in the vicinity of the appeal site. The evidence before me suggests that these accidents occur despite the lower speed limit, speed limit enforcement cameras, red line restrictions and Controlled Parking Zone (CPZ). As such the increased vehicle movements to the site in the context of this accident record are a concern to the Council.
12. Whilst the updated transport statement submitted with the appeal sought to address concerns raised at the application stage the Council have not provided any further comment at the appeal stage. However, the transport statement does not comprise a full on-site transport survey of the existing school at No. 117, which was requested and follows guidance provided by Transport for London (TfL).
13. The Hands-Up survey is more specific in that it identifies how the children at the existing school aged 3 to 6 arrive and leave. However, what is not clear is whether the survey followed a standard procedure, how many surveys were taken or whether the information was quantified by parents. Overall I am not certain whether the information submitted provides a comprehensive assessment to enable the impacts on the local highway network to be fully assessed.
14. In any event, even if the updated results are accurate, the results of the Hands-Up survey shows potential increases in the number of estimated motor vehicle trips associated with the application site in comparison to the initial figures within the appellant's response to the Council in their transport comments of 18 November. The Council raised concerns over those lower figures given the collision data of the surrounding roads, and I see no reason why this should not be the case with higher motor vehicle trips.
15. Although pupils and existing vehicles would undoubtedly be in the area, I have limited information where existing parking specifically occurs and no parking survey to identify whether the nearby surrounding roads are congested. Given that the appellant's survey shows that younger pupils are more reliant on journeys to school via motor vehicle trips than older pupils, parents may make a judgement that parking closer to the appeal site is preferable to where they currently drop children off or park. This could displace or exacerbate parking issues which could be harmful to highway safety. I am not of the view that there are sufficient measures in place to ensure parents would necessarily park a few minutes' walk away to avoid any congestion.

16. Furthermore, it is not clear exactly how mini-bus arrival and departures would be clearly managed. The proposed site plans show a relatively constrained space with planting, disabled bay and cycle and refuse storage. It would not be acceptable for mini-busses to wait on the public highway or footway given the red line restrictions in place as this would increase the potential for conflict with all road users. I see no reason to disagree with the comments from Transport for London who require additional risk mitigating factors being in place, other than marshals.
17. I am therefore of the view that there would be an intensification in pedestrian and vehicular movements at and near to the appeal site. From my observations, the road environment was busy, dynamic and Stamford Hill clearly carries a notable weight of traffic. As such I share the significant concern of the Council given the safety record of the existing road environment.
18. It is therefore reasonable for the Council to require measures to identify how motor vehicular trips to the school can be reduced or management strategies designed to make travel, at the new development happen in a certain way once it is occupied. Whilst there may not be a severe impact on the road network from the traffic generated, understanding the site-based circumstances are vital and in order to ensure that the proposal does not have an adverse effect on highway safety for all road users, the free flow of traffic in the area as well as contributing to sustainable modes of travel.
19. The appeal site is located in an area which has a Public Transport Accessibility Level (PTAL) Rating of 6a, with 6b being the best. There are also suitable footways in the area with the majority of pupils within walking and cycling distance of the appeal site. It is also proposed that the development would be car free. These factors would clearly help to achieve measures to reduce vehicle movements to the site.
20. However, whether or not the proposed development should provide the policy compliant amount of cycle-parking, the Council has concerns over the level of detail contained within the travel plan submitted with the application. The evidence before me suggests that although the appeal site is within an accessible location, it did not provide robust measures to encourage sustainable and active travel. Furthermore, whilst I accept that cycling is unlikely to be a realistic option, I cannot be certain how the aims of encouraging more parents of 3 to 6 year olds to utilise the mini-bus or walk to school as set out in the updated transport statement could be achieved or whether it would be available. Nor is it a specific measure within the submitted travel plan and therefore a condition to secure the implementation of that document would not successfully achieve those aims.
21. There is no legal agreement which sets out how staff could be prevented from obtaining parking permits. There is no mechanism to secure a financial contribution to encourage compliance or monitoring of any travel plan targets and contributions relating to construction management plan. A planning condition could not be used to require these or the completion of a legal agreement or financial contributions. No significant detail has been provided in relation to routes to and from school and road crossings as requested by TfL. Whilst I appreciate that the appellant has tried to engage unsuccessfully with

the Council to resolve these matters, the proposal ultimately fails to adequately address highway safety.

22. For these reasons, I conclude that insufficient information has been provided that demonstrates the proposed development would not have a harmful effect on highway safety. Consequently, and in this regard, the proposal would be contrary to the Framework paragraphs 115 and 116. Together these advise that development should only be refused on highway grounds where there would be an unacceptable impact on highway safety and that conflict between pedestrian cyclists and vehicles should be minimised.

Other considerations

23. For the reasons set out above, the development proposed is contrary to the development plan and the Framework. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
24. In line with Article 3(1) of the UNCRN, I am mindful that the best interests of the child or children are a primary consideration in all actions by public decision-makers where children are concerned. I have had regard to the PSED recognise that the proposal would eliminate discrimination, advance opportunity and foster good relations for children and their parents who share a protected characteristic due to their sex, religion or belief and age. I have had appropriate regard to the right to education and those of the children contained in the Article 2(1) and 8(1) of the HRA.
25. The best interests of the children are a primary consideration. In this case their best interests are to continue to be schooled in a religion based educational establishment of their parents' choice in improved facilities. Rather than off-site accommodation, the provision of dining room, art rooms, cooking training rooms, sewing rooms, computer rooms, and additional office space would benefit the wellbeing and education of children and the running of the school. It would provide increased well-being and certainty for parents and children waiting for a school place. The location of the school would be beneficial for the shared running and management overall.
26. The Council has not evidenced why the number of children attending should be restricted by a condition to 250, but the evidence of need for school places in the area is a matter of considerable importance. Paragraph 99 of the Framework indicates that sufficient choice of school places should be available to meet the needs of communities and that great weight should be given to the need to create, expand or alter schools.
27. Although the existing school is overcrowded, I have no information to what degree this is the case. There is nothing before me to suggest that the dismissal of the appeal would result in closure of the existing school or that pupils would be removed from their existing education settings even if they are off-site. There is no evidence that those waiting for a place are being denied an education. I also cannot see that the appellant explored any other local alternative accommodation before choosing the appeal site. I have not been given a reason or sufficient information to conclude that the existing school would not continue to operate, or whether the existing school or the off-site accommodation could not be extended to fulfil certain requirements.

28. I cannot conclude that the appeal proposal is the only way to meet the particular needs of the appellant and those it would serve. I am also unable to conclude that the proposal would not have a harmful effect on highway safety which also has a direct effect on those entering and leaving the site, including the children as well as the public, who may also be children in this busy area. The above factors ultimately have to temper the weight I can attach to these benefits .

Planning Balance and Conclusion

29. The proposal is contrary to the development plan. My finding that the development would cause limited harm to the character and appearance of the area in the circumstances and context of providing school places is only afforded very little weight. However, the grant of permission for the development could give rise to an unacceptable highway safety implications. I attach very substantial weight to this finding against the appeal.
30. Although other aspects of the proposal such a tree impacts, waste, flood risk and drainage, fire safety, bio-diversity, neighbouring residential living conditions are acceptable or could be made so with conditions. These weigh neither for nor against the development.
31. The best interests of the child or children weigh in favour of allowing the appeal. I have had due regard to the benefits in terms of eliminating discrimination against persons with the protected characteristics of sex, age and religion or belief, advancing equality of opportunity for those persons and fostering good relations between them and the best interests of the child or children.
32. However, I am not persuaded from the information before me, that the best interests of the child or children, or those who have protected characteristics could not be achieved by less harmful means or measures. Moderate weight is attached to the benefits in respect of this issue. In the absence of sufficient information I conclude that the risks that could be caused to highway safety and the effect on the host building and character and appearance of the area would not be outweighed by other considerations.
33. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that it is proportionate and necessary to dismiss the appeal.

K Williams

INSPECTOR