



Appeal Decision

Site visit made on 18 February 2025

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2025

Appeal Ref: APP/Z5060/W/24/3353473

519-527 Gale Street, Dagenham, RM9 4TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by MRI Estates Ltd of agent against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref is 24/01122/PRIMA.
 - The development proposed is conversion of 211 square metres of existing, vacant floorspace at first floor level, most recently/lawfully in use as a children's nursery (Use Class E(f)), to create 4 residential units.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Class MA of the GPDO permits a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses). The Council considers that the development complies with the requirements set out in Paragraph MA.1 of Class MA, and I see no reason to disagree.
3. Paragraph MA.2 sets out that development under Class MA is permitted subject to an application to the local planning authority for a determination as to whether prior approval is required in relation to the matters set out in paragraph MA.2(2). This includes matter MA.2(2)(a) relating to the transport impacts of the development, particularly to ensure safe site access; and MA.2(2)(h.i) where if the development involves the loss of services provided by a registered nursery then consideration of the impact on the local provision of the type of services lost.
4. The Council's Officer report refers to car parking generated by the proposal and the relationship with a Controlled Parking Zone (CPZ). The report concludes that this matter could be addressed through a S.106 agreement to ensure that the development is car permit free and did not therefore represent a reason for refusal. However, the appellant has confirmed that they do not intend to provide a legal agreement to that effect.
5. On that basis, the main issues in this appeal are the:
 - Transport impacts of the development, with due regard to car parking, cycle parking, and refuse and recycling storage; and
 - Loss of a registered nursery.

Reasons

Transport Impacts

6. The appeal site does not include any off-street parking provision and is located near a CPZ. At the time of my visit there were very few on-street parking spaces available in nearby residential areas, and I am mindful that I visited the site during the day whereas the peak demand for parking in these residential areas would be during the evening and at weekends. Given my observations, the need for a CPZ in response to parking stress in this area is well-founded.
7. Even allowing for the nature of occupation of the proposal and the availability of public transport, it is possible that residents of the proposal would own a private vehicle and seek to obtain a parking permit. Given that the appellant has confirmed that they do not intend to enter into a S.106 agreement to ensure that the development is car permit free, there is a significant possibility that future residents could add to the parking stress that I observed. In turn, this would lead to an adverse transport impact in the area due to an increase in parking stress.
8. The appellant refers to the granting of 5 residential units in 2020 where no agreement was sought, nor restriction placed on the permission, preventing future occupiers applying for on-street parking permits. However, it has not been demonstrated that the circumstances of that permission at that time are identical to the appeal before me. I also note the comments of the Highways consultee about the cumulative effect of previous decisions and the disruption to the highways network. Based on what I have seen and read, the 2020 permission does not lead me to a different conclusion in respect of parking stress in this area.
9. The Council also refers to a lack of cycle parking as well as refuse and recycling storage. These concerns include the impact of bin storage on surrounding highways with subsequent blockage for access and servicing.
10. The appellant has submitted an amended site plan which shows cycle parking and bin storage added to parking and storage facilities approved as part of a previous permission. This would be located in the yard to the rear of the building which provides a servicing and circulation area serving a number of properties, including commercial uses. However, the amended site plan adds to my concerns in respect of ensuring safe site access. This includes in respect of hindering servicing and manoeuvring space for vehicles within the service area, and in respect of the bin storage limiting pedestrian access to stairs to the rear of the site.
11. Given the circumstances of the appeal proposal, and in particular the effect on parking stress as well as the service yard, I conclude that the development would lead to unacceptable transport impacts, including in relation to safe site access. The proposal would therefore not accord with condition MA.2(2)(a) of Class MA of Schedule 2, Part 3 of the GPDO. The proposal would therefore conflict with the National Planning Policy Framework (the Framework) with regards to promoting sustainable transport.

Registered Nursery

12. Based on the submitted evidence, the site was occupied by a registered nursery which moved out of the premises before the end of July 2024. This pre-dated the submission of the application for prior approval at the start of August 2024. I note

the comments of the Strategic Lead for Early Years and Childcare provided by the Council, which sets out that the nursery would not have closed if the landlord had not given them notice. Reference is also made to the need for more childcare places across the Borough.

13. However, I must determine this appeal on the circumstances at the time of the application and leading up to my decision. It is a matter of fact that the site was not used as a registered nursery at the time of the application, and has not been used as a nursery since then. Furthermore, there are no planning restrictions on the appeal site limiting its use to a nursery, and it can therefore be used for any purpose within Class E of the Use Classes Order.
14. Based on the evidence before me, the development would not lead to the loss of a registered nursery as this had happened prior to the submission of the application and there is no limitation on the use of the appeal site within Class E. As such, there is no requirement to consider the impact on local provision.
15. I therefore conclude that the proposal would comply with Condition MA.2(2)(h.i) of Class MA of Schedule 2, Part 3 of the GPDO as it would not involve the loss of a registered nursery. The proposal would therefore not conflict with the Framework in respect of the loss of valued facilities and services.

Conclusion

16. Notwithstanding my conclusion in respect of a registered nursery, the proposal would conflict with Condition MA.2(2)(a) of Class MA of Schedule 2, Part 3 of the GPDO relating to the transport impacts of the development including ensuring safe site access.
17. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR