



Appeal Decision

Site visit made on 9 April 2025

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd April 2025

Appeal Ref: APP/C2741/W/24/3357811

34 Elmpark Way, Stockton Lane, Heworth, York, N. Yorkshire, United Kingdom YO31 1DT

- 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 Ms Notty Lulu of Hair by Notty against the decision of City of York Council.
 - The application Ref is 24/01762/FUL.
 - The development proposed is to turn the existing garage into a hair salon. In term of dimensions, the building will not be changed. Externally, there will be bifolding doors fitted to face onto our garden and the roof will be renewed with 4 velux windows which will not affect privacy to any neighbours. Internally, it will be fit with electrics, water and drainage, and will be insulated and boarded.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council's decision was issued, the City of York Council Local Plan (February 2025) (LP) has been adopted. The parties were given the opportunity to comment on this.
3. The appellant submitted a drawing as part of their statement indicating alterations that could be made to the front garden of the property to allow further vehicles to park within it. I have considered whether it would be appropriate to accept this as an amended plan, having regard to the guidance in the 'Procedural Guide: Planning Appeals – England, and the tests given in the 'Holborn Studios' judgement¹.
4. The Procedural Guide makes clear that the appeal process should not be used to evolve the scheme and that in most cases the appeal should be determined on the basis of the plans upon which the Council made their decision. In this case, altering the front garden of the property would be a materially different proposal to that which was before the Council. The amended proposal may not have been seen by interested parties, potentially prejudicing those parties. Consequently, I have determined the appeal on the basis of the plans as originally submitted.
5. At my site visit, I observed external alterations to the garage had been carried out. Nonetheless, I have considered the proposal on the basis of the submitted plans.

Main Issues

6. The main issues are the effect of the proposal on:

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

- the living conditions of surrounding occupiers; and
- highway safety.

Reasons

Living Conditions

7. The appeal site is a semi-detached property. It is the end property on Elmpark Way, and it is proposed to use what was the detached garage serving the property as a hair salon. It would operate between 9am and 5pm Monday to Saturday and there would be one employee. This would be on an appointment only basis, with a 15-minute gap scheduled between clients.
8. There are expansive sports pitches adjacent to the site. Although there are associated buildings which may be used for associated social functions, the area has a clearly residential character. While the proposed use in and of itself would not give rise to excessive noise and disturbance, there would be activity associated with customers arriving and departing. Although the appellant suggests customers may walk or use public transport, there is no substantive evidence before me that this would be the case. It is likely that there would be additional vehicle movements, manoeuvring and opening and closing of car doors beyond that which would be expected of a residential property.
9. While activity in the area is likely to be considerably higher at times when the sports facilities are in use, there is no substantive evidence before me that that this would be during the times that the proposed salon would be in use during the week. The increase in noise and disturbance would therefore be detrimental to the living conditions of adjacent residents.
10. The proposal would therefore have an unacceptable effect on the living conditions of neighbouring properties contrary to LP Policies EC3 and ENV2 which only support new business premises within residential areas where they will not significantly or unacceptably harm the amenity of the surrounding area.

Highway Safety

11. Elmpark Way is a narrow road with no parking restrictions. The site is at the end of the street, with the road beyond that forming part of the private sports facilities. It therefore would be necessary for vehicles to be able to safely turn in the street. There is no turning head, and due to the narrow width of the road, such a manoeuvre would involve multiple gear changes. This would not be appropriate in highway safety terms.
12. The Council has identified that it would be necessary for the proposal to provide four off-street parking spaces. I have no reason to disagree with that assessment. Although the site is shown as having space for three vehicles to be parked, these would be in tandem along the drive. There would therefore be the potential for conflict in parking between customers and also occupiers of the dwelling. It could therefore give rise to additional vehicle manoeuvres which would have the potential to create conflict at times when there would be people travelling to the adjacent sports facilities. This also could increase the extent of noise and disturbance I have identified above.

13. Given the proximity of the site to the access for the sports facilities, an increase in on-street parking in this location would have the potential to have an adverse effect on the operation of the highway as traffic would not be able to pass freely. This could also hinder the ability of road users to safely turn their vehicles.
14. There is no mechanism before me to prevent there being more than one customer at the proposed salon at a time. Nor would a condition provide an appropriate mechanism as it is unlikely to be effective as it would not be possible to prevent customers from arriving and waiting in their car on the street. Nor would there be a way of preventing overlap if clients arrived late, or treatments took longer than planned. It could not be secured that the residential occupiers of the property would only have one vehicle. There is no substantive evidence before me as to bus routes that would demonstrate this would be a feasible option for customers.
15. The proposal would therefore have an adverse effect on highway safety. It would therefore be contrary to LP Policy T1 which requires development to demonstrate that there would be safe and appropriate access and safe layouts.

Other Matters

16. There is support for economic growth in national policy and LP Policy EC3 acknowledges that there is a demand for business uses within residential areas. However, the economic benefits of the proposal would be limited, and would not outweigh the harms I have identified.
17. A temporary permission was granted for a commercial use at an adjacent property. I do not have full details of that case before me. However, that was for a temporary period only. Furthermore, that decision was taken prior to the adoption of the LP and so in a different policy context. It would not alter the conclusions I have reached in this case.
18. The external alterations to the garage would have a neutral effect on the surrounding area. While the garage would no longer provide a parking space, there would be sufficient parking for the normal domestic use of the property.
19. It is noted that there are no objections from surrounding occupiers. However, the use would have the potential to operate after those occupiers are no longer resident. While it would be possible to control the hours of operation and the number of employees by condition, this would not address the harms I have identified.

Conclusion

20. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to indicate the decision should be taken otherwise. For the reasons given, I conclude that the appeal should be dismissed.

Jennifer Wallace

INSPECTOR