



Appeal Decision

Site visit made on 16 April 2025

by L Gardner MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Appeal Ref: APP/B5480/W/24/3354387

40 Bush Elms Road, Hornchurch RM11 1LS

- 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 L Beasley of Cheeky Chops Childminding against the decision of the Council of the London Borough of Havering.
 - The application ref is P0385.24.
 - The development proposed is change of use of outbuilding to rear from use class C3 to use class C3 and E (f) – Retrospective.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Reference to “retrospective” in the description of the application is not a form of development. Nevertheless, the application form confirms that the development has been completed and I have determined the appeal on that basis.

Main Issue

3. The main issue is the effect of the proposal on highway safety, with particular regard to the provision of parking.

Reasons

4. The appeal site forms a semi-detached dwelling with hard standing located to the front of the property, allowing for off street parking for two vehicles. The site is within a street of similar forms of residential development with dwellings typically set back from the highway with similar areas of hardstanding to their frontages. I observed during my site visit that most of these areas of hardstanding appear to be used for off street parking, although only some are served by dropped kerbs.
5. The proposal seeks to regularise the mixed use of the site as a residential dwelling and a nursery for up to 20 children, which operates from an existing outbuilding within the rear garden. Policy 16 of the Havering Local Plan (HLP) (2021) relates to social infrastructure, stating that proposals will be supported provided, amongst other matters, that they ensure highway safety, especially in regard to pedestrians and cyclists.
6. Policy T6 of the London Plan (LP) (2021) states that, in places that are not well-connected by public transport, development should be designed to provide the minimum necessary parking. Neither the HLP nor the LP provide specific car parking standards expected for nurseries. An assessment is therefore required

based on site specific factors. It is noted that the appellant states that the area is served by a good public transport system, but this contradicts the public transport accessibility level rating of the location, which is considered to be poor (level 2), meaning that the majority of journeys cannot be made by public transport.

7. Based on my own site observations, the site is located some distance from the nearest bus stop, underground, overground or national rail stations. As a matter of convenience therefore, it is likely that future users of the nursery who do not live in the immediately surrounding area would favour the use of private car. The appeal was not accompanied by evidence such as a parking stress survey to demonstrate any cumulative effect of the proposal with existing on-street parking. Although a snapshot in time during a weekday, at the time of my site visit there was limited capacity for on-street parking due to the constraints of existing driveways and dropped kerbs.
8. The appellant's statement contends that the present users of the nursery include sibling groups and that ten users arrive on foot, three by car and two by public transport. This somewhat corresponds with the letters of support received through the appeal process which include representations stating that users park on nearby streets and walk to the site. It is also stated that the appellant offers a pick up and drop off service via a seven seater vehicle which is parked off site.
9. Whilst I have no reason to dispute that this represents the existing situation, even in this context, concerns have been raised regarding the level of disruption experienced by neighbouring occupiers at times of pick up and drop off. There are no means of control before me which would adequately secure how future users would access the site and prevent the use of private cars for pick ups and drop offs. It would not be reasonable to impose a condition on the use of a drop off and pick up service offered by the applicant, as it would involve business operations beyond the appeal site. In a worst-case scenario the absence of a legally binding means of control could mean that all users are reliant on access by private vehicle with only two parking spaces to facilitate this.
10. I appreciate that general activity to the site is staggered to a certain degree, and that the process of dropping off and picking up children is relatively limited in time. However, there are undoubtedly likely to be busier periods of activity in the mornings and evenings, typically at times before and after the traditional working day. At these times, the two car parking spaces are inadequate to cater for the intensified use of the site. The use of neighbouring driveways as suggested by the appellant is outside of the control of the application and could not be enforced by condition. I have therefore given limited weight to this as a means of mitigation.
11. Policy 24 of the HLP is supportive of proposals which consider parking provision as an integral part of the design process. It is acknowledged that there are no parking restrictions along the majority of the road, so users could in theory park along the highway at drop off and pick up times. This would intensify the existing on street parking in the area.
12. There are limited areas of the highway which are not adjacent to areas of hardstanding in front of dwellings. As above, these areas of hardstanding appear to be used for parking even where they are not served by dropped kerbs. There could be instances where the lack of dropped kerb creates confusion as to where on street parking would be appropriate. This could frustrate the users of the

driveways, and they may choose to manoeuvre around parked cars which overlap the open frontages. The additional, uncontrolled on street parking in such close proximity to the driveways would also reduce visibility for both the users of these driveways and for vehicles emerging onto Bush Elms Road. This is likely to lead to an increased risk of vehicular conflict to the detriment of highway safety.

13. The development represents an intensification of the site in comparison to its previous use as a single residential dwelling. Based on the above, I conclude that the development is harmful to highway safety, with particular regard to the provision of parking. The development is therefore contrary to Policies 16 and 24 of the HLP and Policy T6 of the LP.

Other Matters

14. To support their case, the appellant has provided a copy of a linked appeal decision (reference APP/T5150/C/14/2217537 & 2217538) which relates to a similar form of development in the London Borough of Brent. Whilst I do not have the full details of the case, it is clear even from the appeal decision that the context of that site is materially different to the appeal site. One of the key differences is that the linked appeal related to a site where there were existing parking restrictions, which may discourage the use of private cars. The Inspector in their decision also refers to the proximity to a school and associated ongoing traffic problems which appear to have formed a material consideration in their decision. The appeal site before me is within a primarily residential area with no parking restrictions that would discourage the use of a private car. I am therefore unable to draw direct comparisons between the two developments and have necessarily considered the proposal before me on its own merits.
15. The development has received notable support from interested parties including from existing users of the nursery, who have praised its general operation and its flexibility at times of personal emergency. It is stated that the facility has become an integral part of the neighbourhood and is much needed in the context of a lack of available places at similar facilities locally. Some parties have referred to the facility as crucial in their ability to maintain employment. Others have referred to there being no unacceptable noise impacts which should prevent the ongoing operation of the business. I agree that these represent social and economic benefits associated with the development. I also agree that noise and disturbance associated with the operation of the facility (outside of the drop off and pick up procedures) could be adequately controlled by suitably worded conditions were the appeal to be allowed.
16. Reference is made within the representations to this facility being treated differently to others which operate under similar circumstances. I have very limited details before me to understand these statements and therefore have given them little weight in my decision.
17. One of the submitted representations details that the development provides an inclusive setting for users with protected characteristics. Therefore, as part of determining this appeal I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.

18. I have carefully considered the reasons given in the neighbouring party representation. However, I have been provided with limited evidence as to how other facilities have not demonstrated inclusivity, or that they would not be available with parking to suit users with disabilities. In this case, the harm I have identified to highway safety outweighs its benefits and as such dismissal of the appeal is a proportionate response and has due regard to the Equality Act 2010.
19. I have given the social and economic benefits moderate weight in my decision. However, in the context of the scale of the development, these benefits are modest in extent. In the circumstances of this case, I have concluded that the effect of the development on highway safety conflicts with the development plan. The benefits identified do not outweigh this harm.

Conclusion

20. The development conflicts with the development plan when read as a whole and material considerations do not indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

L Gardner

INSPECTOR