



Appeal Decision

Site visit made on 8 July 2025

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th July 2025

Appeal Ref: APP/P4605/W/24/3358106

195 Charles Road, Bordesley Green, Birmingham B10 9EQ

- 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 Cabane Egal against the decision of Birmingham City Council.
 - The application Ref is 2024/04885/PA.
 - The development proposed is the change of use from domestic dwelling C3 to class E(f) to be used as a nursery.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has referred to Policy PG3 of the Birmingham Development Plan 2017 (DP). Although this has not been submitted, the online version has been reviewed.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the city's housing stock;
 - whether the proposal would provide adequate outdoor space;
 - the effect of the proposal on the living conditions of neighbouring occupants with regard to noise and disturbance;
 - the effect of the proposal on highway safety; and
 - whether the appeal site is suitable for the proposed development with regard to relevant strategic policies.

Reasons

Housing stock

4. The appeal site is a 2-storey, 5-bedroom end of terrace dwelling with 1 off-road parking space in a garage, and private rear garden. It is located on the junction of Charles Road and Somerville Road in an accessible, established mainly residential urban area although there are a number of commercial and retail uses around the road junction and a primary school nearby.
5. The proposal would convert the appeal site into a day nursery for 20 children with 6 staff. Therefore, it would result in the loss of an existing home. DP Policy TP35,

amongst other things, seeks to prevent the loss of existing housing without good planning justification or an identified social need.

6. The appellant has stated that there is a critical shortage of early years childcare in the area and that the proposal will support local families and working parents. Although it is recognised that across the country early years childcare is generally underprovided, there is unfortunately no evidence before me to show that this is an identified social need for the area. As such the proposal fails to comply with DP Policy TP35 and the loss of an existing home is not justified.

Outdoor space

7. It is proposed that the appeal site's existing garden, of around 54sqm, would be used for the children attending the day nursery. Development Management in Birmingham Development Plan Document (DPD) Policy DM9, amongst other things, requires the provision of sufficient useable outdoor play space, although it is not specified what is considered sufficient.
8. The space provided is regular in shape and would ensure privacy for the users. Although the appellant confirms that the space provision would exceed minimum standards for nurseries of this scale, what these standards are, has not been identified. As such it cannot be satisfactorily evidenced that the existing garden would be sufficient for the proposed use. As such the proposal would fail to comply with this element of DPD Policy DM9.

Living conditions

9. As an end of terrace property, the appeal building shares a party wall with 197 Charles Road, also a residential home. Due to the urban nature of the surrounding area, and in conjunction with the nearby commercial uses and primary school, this creates a busy environment with ambient noise levels to suit.
10. The proposed change of use would alter the amount of noise and disturbance from the appeal site. Nevertheless, in terms of noise produced externally, it has been proposed to limit the use of the outdoor space, and drop-off and pick-up times. This could be controlled by condition. Therefore, taking account of the surrounding ambient noise, the proposal could comply with DP Policy PG3 insofar as it requires private external space to be functional and managed for the long term.
11. However, the proposal does not take account of the increase of noise within the appeal building. Specifically, those rooms which are directly adjacent to No 197. There is nothing before me to evidence who this would be controlled or mitigated against to protect the living conditions of the occupants of No 197. Therefore, as noise and disturbance have the potential of causing long term detrimental impacts on people living conditions, it is necessary to take a precautionary approach. Consequently, the proposal has failed to satisfactorily demonstrate that it would not have an unacceptable effect on the living conditions of the residents of No 197. In this regard the proposal would fail to comply with DPD Policy DM2 as far as it seeks to prevent unacceptable adverse impacts on neighbouring occupants.

Highway safety

12. As identified in the Birmingham Parking Supplementary Planning Document (SPD), the appeal site would be within the accessibility zone C. Therefore, to comply with the SPD the proposal would need to provide 1 parking space per 2 staff and an

equivalent of 20% of staff parking for visitors. Therefore, the proposal should provide 4 parking spaces.

13. The proposal does not provide any additional parking spaces beyond the existing single garage and so would not comply with the SPD requirements. However, there is unrestricted parking on much of the roads around the appeal site and the Council has confirmed that the site is close to multiple bus services and has easy accessibility by foot and cycle. The appellant has also proposed a staggered drop-off and pick-up system, details of which could be conditioned.
14. Therefore, in this specific situation, it is unlikely the lack of provision of an additional 3 parking spaces would have such an effect on parking in the local area to cause an unacceptable adverse impact on highway safety. As such the proposal could comply with DPD Policy DM14 insofar as it seeks to ensure new development does not harm highway safety.

Location

15. DPD Policy DM9 specifically deals with the location of day nurseries and early years provision. It sets out the preference for such provision to be within the city's network of centres. However, when this is not the case, such as the location of the appeal site, it also sets out a series of criteria which must be met.
16. The proposal is well served by means of walking, cycling and public transport, and is unlikely to have unacceptable adverse impacts in terms of parking and public or highway safety. Nevertheless, as set out above it has not been satisfactorily shown the proposal would not have adverse impacts on the living conditions of neighbours, could provide sufficient useable outdoor play space or that it complies with other relevant policies in the development plan including those relating to the loss of existing dwellings. Therefore, it cannot be concluded that the appeal site is suitable for the proposed development with regard to relevant strategic policies, specifically DPD Policy DM9.

Other Matters

17. It is recognised that the proposal would not significantly alter the external elevations of the appeal building and that a day nursery can provide a vibrant community facility. However, this does not overcome the harm identified in the main issues.

Conclusion

18. Whilst I have found for the appellant in relation to the fourth main issue. This would be a lack of harm and thus, by definition, in capable of weighing against the harm that I have found regarding the first, second, third and fifth main issues.
19. Consequently, the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the National Planning Policy Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR