



Appeal Decision

Site visit made on 14 November 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2025

Appeal Ref: APP/D3640/W/25/3367284

Laurels, Salisbury Terrace, Mytchett, Camberley, Surrey GU16 6DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr A Belnik against Surrey Heath Borough Council.
 - The application Ref is 25/0369/FFU.
 - The development proposed is change of use from residential annexe (Class C3) to children's day nursery (Class E(f)).
-

Decision

1. The appeal is dismissed and planning permission is refused.

Applications for costs

2. An application for costs was made by Mr A Belnik against the decision of Surrey Heath Borough Council. This is the subject of a separate decision.

Preliminary Matters

3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. At the time of submission, the Council considered the application to be invalid on the basis that the appellant owned Mytstrou, the adjacent property, but had not included it within a blue edge; and that insufficient information had been submitted in regard to Biodiversity Net Gain (BNG).
4. The Council has drawn my attention to the fact that although consented as a residential annexe, the Laurels has been subject to enforcement action to prevent its unauthorised use as a separate dwelling. Whilst the use has ceased, the Laurels remains without a linking door to Mytstrou, and its rear garden is separated from Mytstrou's by a fence.
5. Notwithstanding the above matters, the Council subsequently agreed that a valid planning application had been made. Therefore, the appeal has been validly made against a failure to determine the application, and I have dealt with it accordingly. I have done so on the basis that, although not within the description of development, the plans show parking on the opposite side of Salisbury Terrace.
6. The Council has indicated that had it been able to issue a decision, it would have refused permission on the grounds of harm to the residential amenities of neighbouring properties and a failure to comply with BNG requirements.

7. The Pre-Submission Surrey Heath Local Plan (2019-2038) (SHLP) has been submitted for examination. As the Inspector's Report has yet to be received, I have accorded it limited weight.

Main Issues

8. The main issues in this appeal are:

- the effect of the proposal on the living conditions of neighbouring residents with particular reference to noise and disturbance; and
- whether the proposal satisfies the requirement for BNG.

Reasons

Living conditions

9. It is proposed to convert the building to a children's day nursery. The area is residential in character.
10. The appeal was supported by an Acoustic Impact Assessment (AIA) which measured existing background noise levels and compared them with the noise of 18 children playing outside for one to two hours a day, utilising noise data collected from an existing small nursery on another site. The results predicted that noise levels would increase from 50.5 to 53.0 dB(A) LAeq. Under the 2014 IEMA "Guidelines for Environmental Noise Assessment", which are a material consideration, an increase of 2.5 dB(A) is considered insignificant as it would have a negligible long term impact on nearby occupiers.
11. The AIA explained the data and calculations which underpinned its conclusions. Background noise levels were based on readings taken from a microphone placed 12m from the property, which were adjusted to account for distance attenuation. The assessment highlighted the impact on Mytstrou, the closest property, but did not indicate that this was the only dwelling which had been assessed for potential disturbance. I find that the AIA's conclusion that neighbours would not be disturbed by the noise of children in the rear garden, provided a noise management plan was implemented, to be reliable.
12. The AIA did not undertake an assessment of noise from children playing inside the building. I have been referred to a proposed day nursery at Bedford Avenue¹ which was granted permission despite its noise assessment not considering noise from children playing inside the building. I have also been referred to a proposed day nursery at Gordon Avenue², which was supported by a noise assessment which considered the impact of the internal use of the building with the windows open, and the noise of children playing within the building was judged acceptable. Having regard to these two examples, and on the basis that noise from indoor usage is unlikely to exceed that of children playing in the garden, I am satisfied that the omission of this data from the AIA does not undermine its findings regarding the noise resulting from children's play.
13. Parking and drop off/pick up facilities for six cars would be provided opposite the property. As five full time equivalent staff would be employed, and up to 18

¹ LPA reference 20/0475/FFU

² LPA reference 25/0065/FFU

children would be dropped off and picked up daily, there is potential for a considerable amount of activity. This is likely to occur mainly in the mornings and afternoons, but also at other times depending on the shift patterns of staff and the work arrangements of parents.

14. The AIA did not assess noise from comings and goings on the basis that a government document entitled Calculation of Road Traffic Noise sets the starting point for an assessment of noise from vehicles as 1,000 vehicles in an 18 hour day. As I have not been provided with this document, I cannot verify its age or status. Moreover, it is unclear whether this threshold incorporates comings and goings to a property as part of the consideration of noise generated by additional vehicles. Whilst the Council relied on this threshold when confirming that noise from comings and goings did not need to be assessed in relation to the Bedford Avenue scheme, by contrast the noise assessment submitted in support of the Gordon Avenue scheme included noise from comings and goings. Taking these points together, I conclude that the proposal is not exempted from assessing potential noise from comings and goings.
15. The AIA found that existing background noise levels are relatively high, owing to aircraft associated with Farnborough Airport, trains on the nearby railway line, and living firing at the Ash Ranges. However, the noise associated with comings and goings would be different in character and frequency, and would include not only the noise of car engines, but also reversing, doors slamming, voices etc. Moreover, the relative narrowness of sections of Salisbury Terrace, its status as a cul-de-sac, and its unbound surface, set it apart from Bedford Avenue and Gordon Avenue. Notwithstanding that the proposal is for a relatively small day nursery, evidence has not been provided to demonstrate that the noise generated by cars manoeuvring in and out of the parking spaces and other associated noise would not cause disturbance to nearby residents.
16. Staff, parents and children would enter the day nursery through a side door next to Overton, the adjacent house. Overton is separated from the appeal site by a close-boarded fence and a driveway, but has two side-facing windows which I have been advised serve a study and bathroom. The appellant has highlighted that the side entrance to the proposed Bedford Avenue day nursery, which the Council objected to, had a potentially greater impact on the adjacent property owing to lower boundary treatment and the closer relationship of the two properties. However, in the absence of an assessment of the noise that such an arrangement could generate, I cannot be certain that the occupiers of Overton would not suffer disturbance as a result of the proposal.
17. The appellant has proposed mitigation in the form of a travel plan and an operational management plan, but no details of how such measures would work have been provided, meaning there is no certainty that the adverse impacts I have identified could be satisfactorily mitigated through the imposition of such conditions. The appellant has argued that the Council had ample time to request additional information on noise whilst the application was live, and that the fact that it did not do so indicates an acceptance that no additional evidence was required. However, it is clear from the Council's appeal statement that this is not the case, and the absence of a request for more information cannot reasonably be interpreted as an acceptance that the proposal is satisfactory from a noise perspective.

18. I therefore conclude that, whilst the noise of children playing would not cause disturbance, the proposal would generate noise and disturbance from comings and goings which would have an unacceptable impact on the living conditions of neighbouring residents, contrary to Policy DM9 of the Core Strategy & Development Management Policies 2011-2028 Adopted February 2012 (CSDMP) and Policy DH1 of the Pre-Submission Surrey Heath Local Plan (2019-2038) (Regulation 19) July 2024 (SHLP).
19. Together these policies set out design principles for development, including that development will be acceptable where it respects the amenities of occupiers of neighbouring property, having regard to pollution. The proposal would conflict with the guidance in the National Planning Policy Framework (the Framework) that development should achieve a high standard of amenity for existing users.

Biodiversity net gain

20. BNG is required under the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (the Act), inserted by the Environment Act 2012. Paragraph 17 of Schedule 7A of the Act lists exemptions for certain types of development where the BNG condition does not apply, one being the de minimis exemption, which applies to development that does not impact a priority habitat, and impacts less than 25sqm of onsite habitat and 5m of linear habitats such as hedgerows.
21. As the proposal is for a change of use of an existing building with no impact on onsite habitat, and as the proposed parking and drop off/pick up area would occupy an area with a predominantly sealed surface and therefore a de minimis impact on onsite habitat, I find that the proposal satisfies the de minimis exemption for BNG. The Council's Local Validation List 2025 requires a Biodiversity Statement template to be completed in all cases, including where the de minimis habitat exemption is claimed. The appellant has subsequently provided the necessary information, including aerial photographs, and the lack of a completed template is not therefore determinative in this instance.
22. I conclude that the proposal satisfies the requirement for BNG in Schedule 7A of the Town and Country Planning Act 1990 and complies with the guidance on habitats and biodiversity contained in the Framework. The proposal would accord with Policy CP14A of the CSDMP, which states that development that results in harm to or loss of features of interest for biodiversity will not be permitted. Since the proposal would not constitute a qualifying development, for the reasons I have stated, it would not conflict with the requirement in Policy E3 of the SHLP to demonstrate a BNG of at least 20 per cent.

Other Matters

23. The Framework emphasises the importance of ensuring a sufficient choice of early years places to meet the needs of existing communities, and requires great weight to be given to the need to create early years facilities. The appellant has referred me to the support offered by the Council for the day nursery at Gordon Avenue, where it noted that as a sustainably-located community facility it played an important role for local families in terms of childcare and pre-school education. The Council highlighted the scheme's social and economic benefits to local people, as well as providing employment opportunities and facilitating parents returning to work.

24. Surrey County Council's Early Years Commissioning Team has highlighted that day nurseries are the most popular model of early education in the local area, with six out of seven day nurseries being either busy or full, the only exception being a newly opened facility. They advise that there is a growing need for early years provision in the local area, which will increase with the expansion of funded entitlement from September 2025. The Team advises early years providers to undertake market research, canvas the views of prospective parents, investigate the feasibility of adapting a property, investigate staff recruitment, and confirm their financial viability, none of which point to a lack of local demand.
25. The Council has referred to a shortfall in the size of the proposed play room for babies, when assessed against the Department of Education's Early Years Stage Statutory Framework July 2025. As a consequence, the room is only capable of accommodating two babies, rather than the three shown on the plans. However, as the number of children is indicative, it would be for the appellant to determine the correct numbers of children which could be accommodated in the day nursery.
26. It has been brought to my attention that currently the building does not satisfy the Building Regulations, lacking a sufficient means of escape in the event of a fire. The appellant has advised that this matter is resolvable by sealing off the bedroom in the roof space. In any event, the Building Regulations fall outside the scope of this appeal, and the matter does not have a bearing on the outcome of the appeal.

Planning Balance and Conclusion

27. I place great weight on the unmet need for day nurseries in the local area and the benefits that a day nursery would bring. In this respect, the proposal would accord with the Framework. However, these benefits do not overcome or justify the harm I have identified in respect of noise and disturbance.
28. For the above reasons, the proposal conflicts with the development plan, when read as a whole. Material considerations do not indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

J Heppell

INSPECTOR