



Appeal Decision

Site visit made on 25 September 2018

by R Sabu BA(Hons), BArch, MA, PgDip ARB

an Inspector appointed by the Secretary of State

Decision date: 31 October 2018

Appeal Ref: APP/R5510/W/18/3197379

Ministeps Nursery, 150 Joel Street, Northwood HA6 1NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Merali of MD Homes against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 698/APP/2017/3447, dated 21 September 2017, was refused by notice dated 29 December 2017.
 - The development proposed is described as, 'a change of use application from C3 to D1. The replacement of the first floor residential flat with a staff room and an additional classroom and outdoor play-space.'
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Decision

1. The appeal is allowed and planning permission is granted for a change of use application from C3 to D1. The replacement of the first floor residential flat with a staff room and an additional classroom and outdoor play-space at Ministeps Nursery, 150 Joel Street, Northwood HA6 1NL in accordance with the terms of the application, Ref 698/APP/2017/3447, dated 21 September 2017, and the plans submitted with it, subject to the conditions set out at the end of this decision.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the living conditions of adjoining residential occupiers with particular regard to noise and disturbance; and
 - The effect of the loss of residential accommodation on local housing stock and whether the loss would be outweighed by any benefits of the proposal.

Reasons

Living Conditions

3. Although the proposed development would increase the number of children at the nursery, the appellant has confirmed that there will not be an increase in the number of children using the rear amenity space at any one time. This was controlled by a condition attached to the previous approval and the appellant has accepted a similar condition to be attached to this approval. Therefore the noise disturbance from the rear amenity space to adjoining residential occupiers would not be increased by the proposed development.

4. Moreover, the additional outdoor space would be at the end of the garden furthest away from the nursery building and adjacent properties. Therefore the noise levels resulting from the use of the additional garden area would be similar to the existing arrangement and would be dispersed along the length of the rear amenity area having a negligible effect in terms of noise disturbance.
5. The room of the existing residential flat which is proposed to accommodate additional children is at the front of the building with a window which faces the junction of Joel Street and Norwich Road. There would therefore be limited noise disturbance to the adjoining residential occupiers from the conversion of this room to childcare facility. The existing 'Room D' which is already established as a nursery room would be enlarged to accommodate additional children and would have 1 additional small window looking out to the rear amenity space over a canopy. The additional noise emission from the small window would have a negligible effect on the neighbouring properties.
6. Changing the opening hours constraints from 8:00am to 7:30am in order to offer a breakfast club is likely to have a negligible effect on the demands for on street parking and the living conditions of neighbouring occupiers, particularly as the proposed drop off/pick up facility would provide short-term parking adjacent to the nursery entrance for the few parents who are likely to use the facility during this time. The Council's Highways Engineer saw no reasons to object to the proposed development in terms of traffic congestion and given the evidence before me, I see no reason to disagree. Therefore amending this restriction would not be contrary to Policies OE1 and OE3 of the Local Plan.
7. For the reasons given above, the proposed development would not harm the living conditions of adjoining residential occupiers with particular regard to noise and disturbance and would therefore accord with Policies OE1, OE3 and the Supplementary Planning Document¹ which together, aim to ameliorate the effects of noise with respect to the quality of life of the Borough's residents.

Residential accommodation

8. The main parties agree that the proposed development would result in a loss of residential accommodation. The first floor residential flat can only be accessed from within the nursery as it does not have separate access. The council has accepted that the one bedroom unit is considered ancillary to the main Class D1 use; it would therefore only be available to the limited numbers of nursery staff. However this provision is no longer required by nursery staff members. Furthermore, given the evidence provided by the appellant confirming the unsuitability of the flat for open market residential use, in practice the loss to the local housing stock is negligible.
9. Policies H2 and H3 of the Local Plan² and policy 3.14 of the London Plan³ seek to resist the loss of residential accommodation, but provides the following exception in paragraph 7.8(a) of the Local Plan:

"access to the dwelling unit is gained only through the retail or other commercial premises and it can be demonstrated to the satisfaction of the Local Planning

¹ London Borough of Hillingdon – Noise Supplementary Planning Document - Hillingdon Local Development Framework - Planning and Transportation Group April 2006

² Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)

³ The London Plan, the Spatial Development Strategy for London Consolidated with Alterations Since 2011, March 2016

Authority that the construction of an alternative access cannot be provided either physically or at reasonable cost.”

The nursery is selling a service to the general public and should therefore be considered commercial premises. Furthermore, given the configuration of the property, the likelihood of a reasonable means of independent access being constructed is slim. Therefore although the proposed development would result in the loss of residential accommodation, it would accord with policies H2 and H3 through its compliance with the exception set out in paragraph 7.8(a).

10. Policies R12 and R13 of the Local Plan allow for the provision of childcare facilities provided that there is no loss of residential accommodation, and this is not disputed. However, the existing 1-bed flat provides only a negligible contribution to the local housing stock. Consequently, although there would be minor conflict with these policies I am satisfied that the loss of residential accommodation would be outweighed by the community benefits of additional childcare places. This need is set out in the Council’s Childcare Sufficiency Assessment⁴.
11. In summary, for the reasons set out above the proposed development would have a negligible effect on the local housing stock and the loss would be outweighed by the benefits of the proposal.

Other matters

12. I acknowledge that a number of objections were raised by neighbours concerned about highways safety and increased traffic congestion. There is little substantive evidence before me to support these concerns and the Council’s Highways Engineer has not raised any objections. As the evidence before me suggests that there is existing on-street parking capacity to accommodate some increased parking I see no reason to disagree.

Conditions

13. I have imposed standard conditions relating to the commencement of development. It is necessary to require compliance with the submitted plans; therefore a standard condition to this effect has been included. For the avoidance of doubt, it is also necessary to clarify the amended opening hours of the nursery. In addition, I have imposed a condition setting out the limit on the number of children permitted to in the outdoor play area at any one time, and a condition restricting deliveries is included which has not changed from the extant permission⁵. These conditions are to limit the noise and disturbance generated by the development.
14. As the proposed development would reduce the soft landscaping to the front of the property, I have imposed a condition requiring additional landscaping to safeguard the character and appearance of the area.
15. Finally, I have imposed a condition for additional cycle spaces to facilitate sustainable transport options. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

⁴ Childcare Sufficiency Assessment London Borough of Hillingdon December 2017

⁵ Council reference 698/APP/2011/2951

Conclusion

16. For all the reasons given, I conclude that the proposed development would accord with the development plan and the appeal should be allowed.

R Sabu

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 16019PA0101, 16019PA0201.
- 3) Within 6 months of development commencing, details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) a statement setting out the design objectives and how these will be delivered;
 - ii) earthworks showing existing and proposed finished levels or contours;
 - iii) means of enclosure and retaining structures;
 - iv) boundary treatments;
 - v) vehicle parking layouts;
 - vi) other vehicle and pedestrian access and circulation areas;
 - vii) hard surfacing materials;
 - viii) lighting, floodlighting and CCTV;

The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use in accordance with the agreed implementation programme.

- 4) The use hereby permitted shall only take place between the following hours: 0730 to 1800 Mondays to Fridays only and shall be closed on Bank Holidays.
- 5) The outdoor play area within the site shall be restricted to a maximum of 19 children at any one time and only between the hours of 1000 and 1600 on any day that the nursery is open.
- 6) Deliveries shall be taken or despatched from the site only between 0730 to 1800 on Mondays to Fridays, and 0800 to 1300 on Saturdays and not at any time on Sundays or on Bank or Public Holidays.
- 7) The proposed development shall not be occupied until space has been laid out within the site in accordance with drawing no. 16019PA0201 for 8 bicycles to be parked. That space shall thereafter be kept available for the parking of bicycles only.