

OFFICER REPORT FOR DECISION UNDER DELEGATED AUTHORITY

APPLICATION NO: P1079.24

WARD: St Albans **Date Received:** 1st August 2024

ADDRESS: 37 Park Lane
Hornchurch

PROPOSAL: Change of use from residential to childcare/nursery, and ground floor rear extension.

DRAWING NO(S): 101 Rev 00
200 Rev 02
201 Rev 00
202 Rev 00
203 Rev 00
205 Rev 00
206 Rev 00
204 Rev 01
100 Rev 00

RECOMMENDATION: It is recommended that **planning permission be REFUSED** for the reason(s) given at the end of the report

SITE DESCRIPTION

Application site is an end of terrace dwelling located on the corner of Park Lane and Clifton Road adjacent to the Raphael Independent School (which is closed) and near to the Brentwood Road Local Centre. The site is neither listed, nor within a Conservation Area. It benefits from a number of historic extensions which has increased its habitable floor area.

DESCRIPTION OF PROPOSAL

Consent is sought for the use of the property as a Day Nursery/Childcare. The applicant outlines that there would be to accommodate 25 children aged 0-5 y/o with a total of six staff members present. The business would operate between 07:30AM and 18:30PM. It is also proposed to infill an area at the rear of the property at ground floor level (Clifton Road side). A small infill extension to the flank/rear elevation is proposed.

By way of background an earlier application seeking the use of the property as a day nursery for 40 Children and 10 staff members with hours of 07:00AM and 18:00PM was refused under ref: P1074.23 for the following reasons:

In the absence of any evidence to the contrary the nature of the proposed use, with associated activities in comparison with the lawful use of the existing premises as a single dwelling house would adversely affect the predominantly residential character of the area and therefore, would be contrary to Policies 16 and 17 of the Havering Local Plan 2016-2031 which amongst other things requires uses as that proposed not to adversely impact on residential character and amenity.

In the absence of evidence to the contrary the proposed use of the site, external areas and increased comings and goings including vehicle movement, and the noise from activities associated with the proposed use, from the proposed scheme would be detrimental to the amenities of the surrounding neighbouring dwellings and hence the proposed development would accordingly be contrary to Havering Local Plan 2016-2031 Policies 6, 7, 16, 17, 26 and 34 which seek amongst other things high quality development that ensures that the amenity and quality of life of existing residents is not adversely affected. These aims are reflected in the National Planning Policy Framework at Para 130(f).

In the absence of evidence to the contrary the proposed change of use would lead to increased vehicle movement to and from the site over the existing lawful use. Whilst there are existing restrictions in place there would be increased demand for limited on-street parking which would increase parking pressure and congestion at peak times to the detriment of surrounding neighbouring amenity and the safe and free flow of traffic with potential impact upon highways safety for both pedestrian and vehicular traffic and would therefore be contrary to Havering Local Plan 2016-2031 Policies 16, 17, 23 and 24 in addition to Paragraph 111 of the NPPF.

The current proposals seek to overcome the above through submission of further detail in relation to those refusal reasons. This presents in a detailed NIA, Transport Statement, Draft travel plan and Planning Statement.

RELEVANT HISTORY

P1074.23	Change of use from residential to childcare/nursery, and ground floor rear extension.
Refuse	31-08-2023

CONSULTATIONS/REPRESENTATIONS

Surrounding neighbouring occupiers were invited to comment through direct notification. Nine letters of objection have been received and one letter of support was submitted. Comments made are summarised below:

- Insufficient parking/increased parking demand
- Highway safety/insufficient drop-off area
- Detrimental to residential character
- Noise and disturbance
- Inconsistencies with noise report/findings and methodology
- Adequacy of space for proposed number of occupants
- Safety/security

Some other matters raised, such as the experience of the applicant etc. are not material planning considerations.

In addition to the above two letters of support were received

In addition the following comments were received from other stakeholders:

LBH Early Years - Identified need in the ward

LBH Waste - No objection

LBH Public Protection - Objection on noise grounds

RELEVANT POLICIES

Havering Local Plan 2016-031 - Policies 16, 17, 23, 24, 26 and 34.

London Plan - Policies S1, S3 and S4.

NPPF

MAYORAL CIL IMPLICATIONS

STAFF COMMENTS

The main considerations are the principle of development, the loss of housing versus the provision of a community facility, the impact on neighbouring amenity through the use of the site and any highways/highway safety issues.

The floor plans provided are not to a metric scale, however on the basis that the proposals concern a change of use and no other development this is not considered to inhibit decision making.

PRINCIPLE OF DEVELOPMENT

The proposals would result in the loss of a single family dwelling (four bedrooms). Policies 1, 2, 3 and 5 of the Havering Local Plan 2016-2031 refer to housing in the borough. At Policy 3 (Housing Supply) it requires that decision making resist the net loss of residential development and at Policy 5 (Housing Mix) it reinforces that there is a shortage of family housing. Given that the proposals concern the loss of only a single dwelling, it is not considered, on balance, that permission could reasonably be withheld on this basis solely.

In reaching this view, officers are mindful of the other benefits associated with the proposed use. The proposals would be for the purpose of providing Social Infrastructure which is recognised to take in early years provision. At Policy 16 of the Havering Local Plan 2016-2031 it states that the Council will support proposals for new and extended social infrastructure provided that they:

a. Are accessible by public transport and active travel;

- b. Are located within the community that they are intended to serve and incorporate an inclusive design;
- c. Do not adversely impact on residential character and amenity;
- d. Ensure highway safety, especially in regards to pedestrians and cyclists;
- e. Explore the possibility to co-locate in multiuse buildings with complimentary services; and
- f. Are provided in flexible, adaptable and 'healthy' buildings.

At Policy 17 of the HLP it states that development proposals for childcare facilities will be supported where they would:

- i. Contributes to the delivery the Council's agreed Commissioning Plan for Education Provision and the Schools Expansion Programme;
- ii. Is located within the community it is intended to serve and is accessible by public transport, walking and cycling;
- iii. Is of a high quality design and provides a safe environment; and
- iv. Provides, private, secure and safe outdoor amenity and playing space in line with Government building guidelines, which is located away from busy roads.

With regards to the above, Policies 16 and 17 have similar overall objectives and each recognises the importance of, and need for, early years provision and childcare. They are each broadly consistent with London Plan Policy 23. With regards to the Council's Commissioning Plan for Education, this supports the set-up of new businesses, particularly in areas of place pressure. Whilst the applicant has not provided any comprehensive evidence, the applicant advises that the use would be within the community that it would serve and within walking distance which would meet some of the objectives above.

However the impacts on residential character and amenity, highway safety and the appropriateness of the building and its design for the use proposed all require further consideration.

DESIGN/IMPACT ON STREET/GARDEN SCENE

There is no objection to the infill extension at ground floor level. Whilst this would be visible in the street the overall visual impression would not be far enough removed from the existing for this element to be opposed.

Turning then to the proposed use. Policy 16 requires that Social Infrastructure requires that uses do not adversely impact on residential character and amenity. There would be no outwards signs of the change of use in terms of the appearance of the building as to the use itself. The current application does not suggest any external works or signage in association with the business use as aside from the small infill extension which would replicate the height and form of the existing and would have limited street-scene impacts.

Notwithstanding the above, the subject property has already been extended historically. This has increased the available floor-space and through the conversion would be suggestive of a business of considerable scale. The applicant indicates that there would be 25 children and 6 staff members. This is a reduction over the earlier submission by 15 children and 4 staff. Whilst this reduction is noted and offers improvement, the level of occupancy of the dwelling house would still represent a

significant uplift over any other lawful use. This would present in both the number of children/staff present during the day as well as visits to and from the premises by those using the service. These visits to the site would be staggered throughout the day owing to the Morning/afternoon/full-day time-slots such that there would be a level of activity distinguishable from surrounding residential properties.

Whilst the potential increased comings and goings to the site would be unlikely to manifest in any significant impacts in terms of the visual appearance of the property, the greater numbers that would attend, work at and visit the property would amount to an intensification in use that would be likely to result in additional noise and disturbance over and above that generated by the lawful use as a single dwelling house.

As such and in the absence of any evidence to the contrary the nature of the use, with associated intensification of use as indicated above could adversely affect the predominantly residential character of the area which would be contrary to Policies 16 and 17 of the Havering Local Plan 2016-2031 which amongst other things requires uses as that proposed not to adversely impact on residential character and amenity.

IMPACT ON AMENITY

As above, Policies 16 and 17 of the Havering Local Plan 2016-2031 requires consideration of the impact of uses as that proposed on residential amenity. These considerations are reinforced by Policies 26 and 34 also and underpinned by the London Plan and NPPF.

Whilst officers acknowledge the close proximity of the nearby Raphael Independent School and Brentwood Road Local Centre, with the exception of the school, the surrounds are predominantly single family dwellings. The nearby school ceased use some two years ago and has been vacant since. Nevertheless Park Lane is heavily trafficked. As with the earlier refused application, even with the reduction in scale noted the proposed use would reasonably give rise to a higher number of persons attending the property than would be likely to be associated with the lawful use of the property as a single dwelling house.

The number of children and staff even reduced is suggestive of an intensive business use well removed from this. These impacts are somewhat difficult to assess as by their nature day nursery uses and the activity and noise associated can fluctuate. As with the earlier submission it is not unreasonable to assert that the nature of the use with associated intensification of activity would adversely affect the predominantly residential character of the area.

The use of the premises as a Day Nursery would produce noise levels and activity significantly louder and more sustained than that which could be associated with the lawful use of the premises. A requirement of Policy 7(iv) is an outdoor play space and the garden would be used for those purposes. It is inevitable that there will be a certain level of noise and disturbance from the activities and play undertaken by children, in the same way that the playground of a school may give rise to such noise and disturbance.

In response to the earlier refusal the applicant provides a detailed Noise Impact Assessment undertaken by Hepworth Acoustics. The findings conclude that based on work undertaken that the use of the external play area and vehicle movements to and from the site would be "unlikely to

result in an unacceptable increase in noise at the nearest residential properties".

Comments made by the Council's Public Protection team are in contrast to this view and resulted in an objection being made. The method of assessment was observed to consider the average noise level over hours of operation and does not take into account the acoustic characteristics of the children playing, which would be causing a loss of amenity to the neighbouring residential properties. Whilst it is acknowledged that BS4142 cannot be used for this type of noise source, in order to determine if there is a likely occurrence of complaints, the predicted noise level of about 54dB is around 10dB above the background noise level (L90), which has not been addressed in the noise report. OFSTED's EYFS outdoor play provision recommends that children should have at least 45minutes of outdoor play per day. This means that there will be a minimum of 3 hours 45 mins of outdoor play per day (assuming this is per morning/afternoon session, would amount to 7 hours of outdoor play), which would in the absence of any evidence otherwise result in a detrimental relationship to neighbouring occupiers.

It is accepted that the use of the adjacent school historically may have brought with it noise from outside play however the subject dwelling is part of a terraced row and the proximity to sensitive receptors is therefore a key consideration. Officers accept that the school as a longstanding use means that, to an extent, the amenity of surrounding occupants was historically somewhat lessened. The school site has been subject to plans to redevelop for residential however there is no current permission for the site known to officers. Even were it reinstated/reopened as a school the impacts would not lessen or mitigate those from the current proposals. The proposed change of use would represent the introduction of a noise generating use in far closer proximity to residential uses than the school. There is no evidence before officers that this would not unduly harm the amenity of those occupants. Whilst a condition could be imposed to limit the use of the outside area at times and also frequency as has been done elsewhere in the borough, the proximity of the external play and scale of the proposed business is such that officers are not convinced that these measures would address the fundamental concerns held.

The applicant indicates that the garden area would be used by not more than five children. Whilst officers recognise that similar conditions have been imposed on other similar uses in the borough, it is also accepted that such conditions are difficult to enforce and lend themselves to being breached. Officers attribute significant weight to comments made by the Council's EHO in particular that there is concern that the proposals can be suitably mitigated as this reinforces concerns by officers over the appropriateness of the dwelling to accommodate a use of this scale.

Noise from vehicle movement to and from the site has been reasoned to be transient and officers have no reason to dispute this conclusion. However it is considered that the use of the site for the purposes intended would be detrimental to the amenity of surrounding neighbouring occupiers and that the development would conflict with HLP Policies 6, 7, 16, 17, 26 and 34 which seek high quality development that ensures that the amenity and quality of life of existing residents is not adversely affected.

HIGHWAY/PARKING

Parking provision and matters of highway consideration are represented in Policies 23 and 24 of the Havering Local Plan 2016-2031. The PTAL rating for the site is 2 which translates to poor access to public transport. This would translate to a high provision of parking being required/a high reliance on

private car ownership/reliance on other modes of transport owing to the poor access to public transport.

Public Transport Accessibility Levels (PTALs) are used by TFL to produce a consistent London wide public transport access mapping facility to help boroughs with locational planning and assessment of appropriate parking provision by measuring broad public transport accessibility levels. There is evidence that car use reduces as access to public transport (as measured by PTALs) increases.

The applicant proposed two staff parking spaces, one to the front of the site and another to the rear alongside the garage. It is unclear why the garage is not demolished to allow for greater visibility and potentially another space however it is acknowledged that this arrangement is historic and could be used by occupants of the dwelling were it used a dwelling house. Nevertheless officers would question the convenience of entering and exiting the site from this space.

There would be no drop-off facility as such, owing to the location and type of property being considered. As such and as with the earlier submission the applicant would be reliant on surrounding roads/alternative methods of attending the site. There are a number of restrictions in place within surrounding roads which would in theory prevent those attending the site from parking within the immediate proximity of the site through residents permit bays and no waiting areas.

Whilst the restrictions in place may of course mean that those attending the site may use public transport or other methods to drop off/pick-up, it may also lead to those attending the site parking inconsiderately and using marked bays. This is a concern from the perspective of residents based on representations made in the same as it was with the earlier refused application. There is no means for the planning system to control how people would park when attending the site, the acceptability rests on whether the use of the property as proposed would make adequate provision for the use as intended and that there would be no adverse impacts on highway/pedestrian safety.

The applicant's transport statement highlights instances on 1 May 2024 between 07:30 and 08:00 and 2 May 2024 17:30 and 18:00 where the site was visited and where 27 spaces were observed within marked bays excluding single and double yellow lines less than 150m from the site. One space was observed immediately in front of Park Lane and two spaces alongside in Clifton Road in the marked bays. There is no reason to dispute the observations made however there is concern that the findings are a snapshot in time only and not suitably robust particularly in view of the nature of the use proposed which may generate activity and movement which may fluctuate day-to-day. The findings are based on an anticipated 50% attending a full day session with the other 50% split between attending a morning or afternoon session only. The calculations are undertaken on that basis and conclude that there would be 17 arrivals and 17 departures throughout the day. It is recognised that this is based on the anticipated uptake.

Permit restrictions are engaged between 08:30AM and 18:30PM which would mean that bays could not be used in theory for those attending the site to drop off collect at 13:00PM.

The applicant in their transport statement highlights that in the borough "even when waiting is prohibited, if you can do safely you may set down and pick up passengers and may also stop to load or unload goods unless this is prohibited by short yellow kerb marks". The statement highlights that the closest unrestricted parking is on Park Crescent some 160m from the site. It is a reasonable conclusion to make that as there is no dedicated drop-off facility that users attending the site to drop-off/collect would do so from Brentwood Road/Clifton Road where there are waiting restrictions in place. The applicant appears to accept that there would be reliance on this to an extent.

It is a reasonable assertion to make that users would seek to park as closely to the site as possible out of convenience. It is likely then that there may be some congestion around the site and at peak periods where users collecting/dropping off in those restricted waiting areas. It is not unreasonable to form the view that the site would attract greater vehicle and other movement to and from the site than were it in use as a single dwelling house. Whilst the applicant reasons that the time periods are staggered throughout the day, it is not unreasonable to assert that there would be congestion at those peak periods. The findings of the transport statement are also based on anticipated uptake of morning and afternoon sessions. Officers would question how the site would accommodate a higher uptake of full-day users and associated movement to and from the site.

Whilst officers do not dispute the findings of the Transport Statement it is not possible to conclude that the change of use would not increase vehicle movement to the site in a way which would intensify unacceptably existing on-street parking stress and congestion. The scale of the business use is one which is likely to attract a high level of movement to and from the site which would not be comparable to the existing lawful use. It is the view of officers that the character of the property and location does not lend itself to such an intense business operation. In principle the provision of a Day Nursery in this location is not objectionable mindful that there is identified need, however this must be tempered against the physical character of the property and relationship to surroundings.

A draft travel plan is provided. It is considered that in the event of approval such measures as agreed would offer benefits. Similarly it is noted that EVCPs are indicated which could be secured through condition.

Notwithstanding the above Para 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative Impacts on the road network would be severe. On the basis of scale of the business use and character of activity which may fluctuate officers consider that there are sufficient grounds to withhold permission at this time as there would be conflict with both the NPPF and Havering Local Plan 2016-2031 Policies 16, 17, 23 and 24.

KEY ISSUES/CONCLUSIONS

Whilst the use would be one for which there is likely to be a need within the borough and which would offer some benefits in that respect, there is insufficient information to demonstrate that the site is suitable in terms of the impact on the residential character of the area and amenity of surrounding occupiers and other required policy objectives for Social Infrastructure including the impacts on the highway.

Consideration has been given to whether the use could exist and be restricted through planning conditions, however this would likely place unreasonable restrictions on the proposed operations in light of the constraints identified. Whilst the number of occupants and staff is reduced over the earlier refused submission, it is considered that the scale of the business operation remains incompatible with the surrounding area.

Having regard to the above and in doing so all material planning considerations REFUSAL is recommended accordingly.

RECOMMENDATION:

It is recommended that **planning permission be REFUSED** for the following reason(s)

1 Refusal non standard

The scale of the business use based on the number of children/staff proposed and associated likely activity in comparison with the lawful use of the existing premises as a single dwelling house would adversely affect the predominantly residential character of the area and therefore would be contrary to Policies 16 and 17 of the Havering Local Plan 2016-2031 which amongst other things requires uses as that proposed not to adversely impact on residential character and amenity.

2 Refusal non standard

The use of the site as proposed through scale of the business operation proposed and in particular the use of external areas through noise and disturbance are not capable of being suitably mitigated and would be detrimental to the amenity of the surrounding neighbouring dwellings. Accordingly the proposed development would be contrary to Havering Local Plan 2016-2031 Policies 6, 7, 16, 17, 26 and 34 which seek amongst other things high quality development that ensures that the amenity and quality of life of existing residents is not adversely affected. These aims are reflected in the National Planning Policy Framework at Para 130(f).

3 Refusal non standard

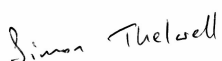
On the basis of the scale of the business use through staff, users and occupancy of the property there would be increased vehicle movement to and from the site over the existing lawful use which would lead to increase demand for on-street parking and encourage users to wait in close proximity to the site potentially detrimental to highway and pedestrian safety. The proposals would likely increase parking pressure and congestion at peak times to the detriment of surrounding neighbouring amenity and the safe and free flow of traffic with potential impact upon highways safety for both pedestrian and vehicular traffic. There would be conflict with Havering Local Plan 2016-2031 Policies 16, 17, 23 and 24 in addition to Paragraph 111 of the NPPF.

INFORMATIVES

1 Refusal - No negotiation

Statement Required by Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015: Consideration was given to seeking amendments, but given conflict with adopted planning policy, notification of intended refusal and the reason(s) for it was given to the applicant in writing 04-10-2024

Authorising Officer:



Simon Thelwell

4th October 2024