

Reference: 19/00563/FUL	Site: 5 King George Vi Avenue East Tilbury Essex RM18 8SL
Ward: East Tilbury	Proposal: Side and rear extension and change of use from C3 Residential to D1 Children's Day Care Nursery

Plan Number(s):		
Reference	Name	Received
001C	Existing Plans	14th June 2019
002C	Proposed Elevations	14th June 2019
003C	Proposed Floor Plans	14th June 2019
004C	Proposed Plans	14th June 2019

The application is also accompanied by:	
- Planning Statement	
Applicant: Mr & Mrs Faley	Validated: 12 April 2019 Date of expiry: 28 October 2019 (Extension of time agreed with applicant)
Recommendation: Refuse	

This application is scheduled for determination by the Council's Planning Committee because the application was called in by Cllr T Kelly, Cllr F Massey and Cllr S Sammons in accordance with Part 3 (b) 2.1 (d)(i) of the Council's constitution to consider the proposal on the grounds of the impact upon the East Tilbury Conservation Area, parking, noise and suitability within a residential area.

1.0 DESCRIPTION OF PROPOSAL

1.1 The application seeks permission for the erection of a two storey side extension, single storey rear extension and the change of use from a residential property (use class C3) to a children's day-care nursery (use class D1).

2.0 SITE DESCRIPTION

- 2.1 The application site is a semi-detached residence on the western side of King George VI Avenue. The site is located within East Tilbury Conservation Area.

3.0 RELEVANT HISTORY

None.

4.0 CONSULTATIONS AND REPRESENTATIONS

- 4.1 Detailed below is a summary of the consultation responses received. The full version of each consultation response can be viewed on the Council's website via public access at the following link: www.thurrock.gov.uk/planning

PUBLICITY:

- 4.2 This application has been advertised by way of individual neighbour notification letters, press advert and public site notice which has been displayed nearby. Twenty nine comments have been received, objecting to the proposal on the following grounds:

- Access to site;
- Additional traffic / parking;
- Impact upon Conservation Area;
- Lack of need;
- Litter/smells;
- Loss of amenity;
- Loss of residential unit;
- Out of character;
- Overlooking property;
- Possible excessive noise.

4.3 EDUCATION

No objections.

4.4 ENVIRONMENTAL PROTECTION:

No objections.

4.5 CONSERVATION ADVISOR

The proposed scheme would cause less than substantial harm to the significance of the designated heritage asset.

4.6 HIGHWAYS:

Objection, recommend refusal.

5.0 POLICY CONTEXT

National Planning Guidance

National Planning Policy Framework (NPPF)

5.1 The revised NPPF was published on 24th July 2018 (and subsequently updated with minor amendments on 19th February 2019). The NPPF sets out the Government's planning policies. Paragraph 11 of the Framework expresses a presumption in favour of sustainable development. This paragraph goes on to state that for decision taking this means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date¹, granting permission unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed²; or*
 - ii *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

¹ *This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites ...*

² *The policies referred to are those in this Framework relating to: habitats sites and/or SSSIs, land designated as Green Belt, Local Green Space, AONBs, National Parks, Heritage Coast, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change.*

Paragraph 2 of the NPPF confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions.

The following headings and content of the NPPF are relevant to the consideration of the current proposals:

- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 12. Achieving well-designed places
- 16. Conserving and enhancing the historic environment

5.2 Planning Policy Guidance

In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Conserving and enhancing the historic environment
- Design
- Determining a planning application
- Use of Planning Conditions

5.3 Local Planning Policy

Thurrock Local Development Framework (2015)

The Council adopted the “Core Strategy and Policies for the Management of Development Plan Document” (as amended) in 2015. The following Core Strategy policies apply to the proposals:

Thematic Policies:

- CSTP1 (Strategic Housing Provision)
- CSTP10 (Community Facilities)
- CSTP12 (Education and Learning)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)
- CSTP24 (Heritage Assets and the Historic Environment)

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)
- PMD2 (Design and Layout)²
- PMD4 (Historic Environment)²
- PMD8 (Parking Standards)
- PMD9 (Road Network Hierarchy)

5.4 Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an Issues and Options (Stage 1) document and simultaneously undertook a ‘Call for Sites’ exercise. In December 2018 the Council consulted on an ‘Issues and Options (Stage 2 Spatial Options and Sites)’ document

5.5 Thurrock Design Strategy

In March 2017 the Council launched the Thurrock Design Strategy. The Design Strategy sets out the main design principles to be used by applicants for all new development in Thurrock. The Design Strategy is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy.

6.0 ASSESSMENT

6.1 The principal issues to be considered in the determination of this application are:

- I. Principle of the Development
- II. Design and impact on the historic environment
- III. Traffic Impact, Access and Car Parking
- IV. Impact on Neighbouring Amenity
- V. Other Matters

I. PRINCIPLE OF THE DEVELOPMENT

- 6.2 In relation to the proposed change of use element of the proposals, the following section is relevant. The application site is a semi-detached dwellinghouse within a residential area. Policy CSTP1 relates to strategic housing provision and states that *“For the period 1 April 2009 to 31 March 2021, an additional 13,550 dwellings are required to meet this policy aim”*. The proposed change of use would result in the loss of a residential unit. The loss of the residential unit would therefore need to be balanced against any public benefit arising from the proposals.
- 6.3 Policy CSTP12 dictates that the Council will work with relevant partners to ensure “the provision of pre-school, primary school, high school, further education and special education facilities meets current and future needs”.
- 6.4 The Council’s Education department has raised no objection to the scheme. Consultation responses suggest that, due to the existence of only two childminders in East Tilbury, it could be argued that parental choice is limited within the area.
- 6.5 However, no information has been provided demonstrating that there is a specific need for pre-school facilities within the area, to outweigh the loss of a residential unit. Furthermore, even if there were a need for this type of institution, no evidence has been submitted which demonstrates that it could not be provided in another location. The proposed change of use element of the proposals therefore fails to comply with policy CSTP1 of the Core Strategy and is unacceptable in principle.

II. DESIGN AND IMPACT ON THE HISTORIC ENVIRONMENT

- 6.6 The application site lies within the East Tilbury Conservation Area, which has been identified as being in ‘Very Bad’ condition by Historic England and is included in their ‘Heritage at Risk’ register. The extension component of the proposal must therefore be carefully considered.
- 6.7 The Council’s Conservation Advisor has highlighted that the cumulative effect of extensions and alterations within the Conservation Area, as a whole, is having a pronounced negative impact upon the character of the heritage asset. He considers that the proposed scheme would cause ‘less than substantial harm’ to its significance. Paragraph 196 of the National Planning Policy Framework requires that this harm be weighed against the public benefits of the proposal.
- 6.8 A number of other properties along King George VI Avenue have undertaken similar extensions. The impact of these various extensions is such that the character of the Conservation Area has changed over time. The design of the extensions are acceptable in terms of the visual appearance and in relation to the dwelling itself. Appropriate conditions could be applied to ensure materials and details are of the

highest quality. Given that the built development would be acceptable within the streetscene it is not considered the proposal would be objectionable in terms of the overall design of the proposals or the character of the Conservation Area.

III. TRAFFIC IMPACT, ACCESS AND CAR PARKING

- 6.9 Policy PMD2 of the Core Strategy relates to the design and layout of all components of a development and indicates that all development should allow safe and easy access while meeting appropriate standards.

Policy PMD8 of the Core Strategy concerns parking standards for new development proposals. The policy requires all development to provide a sufficient level of parking and to ensure that parking is accessible.

Policy PMD9 of the Core Strategy aims to ensure access to all sites is suitable. In relation to the current proposal the policy requires that development ensures that road safety is not compromised.

- 6.10 The change of use from a residential property to a commercial day nursery would intensify the use of the site and as such an assessment needs to be made in relation to traffic, parking and access.
- 6.11 The proposed parking layout indicates that there would be four spaces located to the front of the site perpendicular to the road. These would be accessed by a centrally located drop kerb. Given the layout of the parking spaces in relation to the access the two outer spaces would be inaccessible which would lead to awkward manoeuvring on the highway, resulting in pedestrian and highway safety concerns. This is further exacerbated by the fact that plans demonstrate a vehicular crossover which is excessively wide with insufficient site splays within the property boundary. Therefore the parking layout is unacceptable and contrary to the requirements of Policy PMD2.
- 6.12 The Council's Draft Parking Standards require that for the proposed D1 use, full time staff should be provided with an off-street parking space. The information provided indicates there will be 3 full time members of staff, however only 2 spaces have been allocated to staff. This would lead to parking migrating to the highway, contrary to policy PMD8.
- 6.13 The standards also require that a day crèche provides at least 1 disabled parking space. This has not been demonstrated on the plans submitted and would require additional space on the frontage, which does not appear to be possible.
- 6.14 In addition to the concerns regarding insufficient staff and disabled parking provision, the proposed change of use would result in increased vehicle movements to the site, as parents drop off and collect their children. The lack of parking provision would result in parking on the highway which is contrary to policy and would result in an adverse impact upon highway and pedestrian safety in the vicinity of the site further suggesting a failure to comply with Policies PMD2 and PMD9 resulting in harm to the wider area.

- 6.15 For the reason above the proposal would result in insufficient parking provision, pedestrian and highway safety concerns and would be contrary to policies PMD2, PMD8 and PMD9 of the Core Strategy.

IV. IMPACT ON NEIGHBOURING AMENITY

- 6.16 Policy PMD1 of the Core Strategy states that development will not be permitted where it would have an unacceptable impact on the amenity of neighbouring occupiers or the amenity, health or safety of future occupiers of the site.
- 6.17 The change of use from residential to a day care nursery for up to 16 children and 5 staff will inherently intensify use of the site. Opening hours have been listed as 7:00am to 6:45pm Monday to Friday throughout the year, with no operation at weekends or bank holidays. Whilst the limit on weekend and bank holiday opening limits the use to a degree, the intensified use of the site for the vast majority of the year would result in disruption and disturbance to neighbours
- 6.18 This intensification has implications in terms of amenity of neighbouring residential properties. Children would be dropped off and picked up in the morning, potentially during the day and in the evening.
- 6.19 The planning statement submitted with the applications indicates that use of the outdoor space will be staggered across the morning and afternoon to minimise the impact of noise upon neighbouring properties. The reality of this is that noise impact will be constant throughout the day and therefore harmful to neighbouring residential properties, particularly in summer months.
- 6.20 It is proposed that internal noise would be mitigated by triple glazed windows; however this has not formed part of the application submission and has been suggested by the applicant as a potential planning condition.
- 6.21 Whilst triple glazed windows would limit disturbance from internal noise this would only be effective during winter months. In warmer weather it is not possible to ensure these windows remain closed and therefore they would not prevent the outbreak of noise which would impact immediate neighbours who would be affected by the increased noise levels in comparison with residential use.
- 6.22 The proposal would therefore result in unacceptable impacts upon neighbouring properties within this residential area due to an intensification of activity during pick off and drop off times, due to the use of the outdoor space and the internal space for a number of children and adults not normally associated with a residential property, contrary to policy PMD1 of the adopted Core Strategy.

V. OTHER MATTERS

- 6.23 The comments from neighbours in relation to potential increased noise and disturbance, intensification of use of the site, associated vehicle movement and parking pressures and uncharacteristic nature of the proposed use, combined with concerns regarding a lack of need are noted. These matters have been considered in the report and it is considered that the proposed change of use would lead to an

unacceptable increase in noise and traffic and loss of amenity for other properties in this area. Furthermore, the proposal would be uncharacteristic within a residential area and therefore the site is unsuitable for the proposed use.

7.0 CONCLUSIONS AND REASON(S) FOR REFUSAL

- 7.1 The proposed development represents the change of use from a residential property to a commercial premises, to be used as a day care nursery. The proposed use would result in a loss of a residential unit contrary to policy CSTP1. Whilst there would be some benefit of childcare provision there is a lack of justification to demonstrate that this benefit would outweigh the loss of the residential unit.
- 7.2 The level of parking and parking layout is unacceptable and creates concerns in terms of pedestrian and highway safety, as well as access and egress from the premises. The proposal is therefore contrary to policies PMD2, PMD8 and PMD9 of the Core Strategy.
- 7.3 The proposed change of use would result in increased noise and disturbance and an unacceptable impact upon amenity of neighbouring properties, contrary to policy PMD1 of the Core Strategy.

8.0 RECOMMENDATION

8.1 Refuse, for the following reasons.

1. The proposed development would, by reason of the loss of a residential unit without justification of a required wider public benefit, fail to adhere to the Council's target in relation to housing provision. The proposal is therefore contrary to Policy CSTP1 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015).
2. The proposed development by reason of vehicle movements at the start, during and at the end of the day; through use of external areas over a prolonged period, particularly in the summer, and general disturbance resulting from an intensified use of the building compared to a residential use would result in an unacceptable impact upon the amenity of the neighbouring properties due to noise and disturbance contrary to policy PMD1 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015).
3. The proposed development would, by reason of its unacceptable level of parking provision and layout, result in migration of parking to the highway and concerns regarding pedestrian and highway safety when spaces are accessed, as well as safety of users and visitors to the premises. The proposal is therefore contrary to Policies PMD2, PMD8 and PMD9 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015).

Informative:

- 1 Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) - Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing with the Applicant/Agent. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

www.thurrock.gov.uk/planning