
Appeal Decision

Site visit made on 15 August 2016

by J Flack BA Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 August 2016

Appeal Ref: APP/W0530/W/16/3151089

**The Old Granary, Mill Road, Great Wilbraham, Cambridge, Cambridgeshire
CB21 5JW**

- 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 Mr Chris Gurney and Mrs Alison Gurney against the decision of South Cambridgeshire District Council.
 - The application Ref S/0709/16/FL, dated 10 March 2016, was refused by notice dated 10 May 2016.
 - The development proposed is change of use of detached outbuilding pertinent to dwelling in connection with child-minding business.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of detached outbuilding pertinent to dwelling in connection with child-minding business at The Old Granary, Mill Road, Great Wilbraham, Cambridge, Cambridgeshire CB21 5JW in accordance with the terms of the application, Ref S/0709/16/FL, dated 10 March 2016, and the plans numbered 10038-03 and 10038 - 05, subject to the conditions set out in the Schedule to this decision.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of adjacent residents, with particular regard to noise and disturbance.

Reasons

3. The Old Granary is a large dwelling located at the edge of the village of Great Wilbraham. It fronts onto Mill Road, and has a large curtilage whose rear boundary backs onto the rear gardens of Nos 67 to 73 High Street. My observations during my visit were that this is a reasonably tranquil environment, although there is some noise from occasional lorries and other traffic using Mill Road and High Street.
4. The proposal has already been implemented, although no child-minding activities were taking place at the time of my visit. The business operates from a modest single storey outbuilding adjacent to Mill Road. This has been converted to provide an activity room, together with kitchen and toilet facilities. The existing access to Mill Road is used, and a large gravelled area between the outbuilding and the dwelling provides parking and turning facilities. At the rear of the outbuilding, a small rectangular area of land provides a garden for

the child-minding business, this being subdivided from the remainder of the property's rear garden and provided with play equipment.

5. The rear boundary of the business garden directly adjoins the garden of No 73 High Street, which is set much closer to the curtilage of the Old Granary than the Nos 67 – 71. However, the length of shared boundary is very short and is located at the foot of 73's garden, and it is marked by a high close boarded fence. The business garden is otherwise separated from the curtilages of Nos 67 – 73 by the retained domestic garden of the Old Granary, and most of the boundary between the two garden areas is marked by a screen of tall conifers. Moreover, I saw that there is also conifer screening along the shared boundaries of the Old Granary and Nos 67 – 71 High Street.
6. It is clearly necessary to any child-minding business that children are provided with appropriate opportunities for outdoor play. The appellant states that outdoor play sessions are limited to short periods in which not all children will wish to participate, and over-exuberance will be restrained. However, these are not matters which could reasonably be controlled by planning conditions given that flexibility is necessary to meet the needs and characteristics of individual children.
7. Nevertheless, it is unlikely that children would be in the business garden for very long periods, and no significant disturbance would arise from the outbuilding given that the activities room is located adjacent to the Mill Road frontage. Moreover, this is a very small scale business. The appellant states that it is limited to ten children, and that opening hours are 08.30 to 17.30 Mondays to Fridays. These matters could be controlled by conditions. I also observe that it is not uncommon for such business to be located in established residential areas, and my attention has been drawn to the First Steps Nursery in nearby Church Street. I saw on my visit that this is an apparently much larger operation than the appellant's business and its premises are surrounded by residential development on three sides.
8. Taking into account all of the matters raised before me, I consider that the proposal would be likely to cause adjacent residents to experience a greater degree of noise and disturbance than would typically arise from a purely residential use of the site. However, the small scale and limited hours of the business, together with the screening effect of existing boundary treatments, are such that the degree of increased noise and disturbance would not be unacceptably substantial.
9. I conclude therefore that the proposal would not cause unacceptable harm to the living conditions of adjacent residents. The proposal would not conflict with the requirement of Policy DP/3 of the Development Control Policies that development must not have an unacceptable adverse impact on residential amenity or the requirement of Policy NE/15 that development must not have an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing development.
10. The Council has suggested a number of conditions in the event that I allow the appeal. A condition requiring the development to be carried out in accordance with approved plans is inappropriate as the application is retrospective, but in the interests of certainty I shall refer to the cited plans in my decision. To ensure that the present nature of the business use is secured for the future in the interests of the living conditions of adjacent residents, conditions are

necessary to limit the use to the outbuilding and business garden, and to control changes of use, numbers of children and hours of operation. In relation to the latter, it is appropriate for the hours to be slightly in excess of the appellant's opening hours to allow reasonable flexibility in accommodating the arrival and departure of children.

11. The Council also proposes various conditions relating to highway matters. I saw that the access has good visibility in either direction owing to the curvature of Mill Road, but it is nevertheless important that the visibility splays shown on the plans are maintained. I have imposed a single condition accordingly. However, I saw that the inward opening gates currently provided at the access point are considerably set back from the edge of the carriageway, such that it is unlikely that a vehicle waiting to enter the site would project into the carriageway. Given also that the child-minding business would not be likely to create a very significant number of additional vehicle movements, the road is not particularly busy, and that there is no suggestion in the evidence before me that the business has resulted in any detriment to highway safety in its operation to date, the suggested conditions as to gates and the driveway are unnecessary. Moreover, I saw that most of the short length of Mill Road leading from the village centre to the appeal property is provided with a footway, and the remaining section has a wide, level and well maintained grass verge which is usable by pedestrians and pushchairs. Given also that this is a very small business, the highway authority's requirement of a footway extension is excessive and the Council's suggested condition to secure this is unnecessary.
12. For the above reasons, the appeal is allowed and planning permission is granted subject to the conditions set out in the Schedule below.

J Flack

INSPECTOR

SCHEDULE

CONDITIONS

- 1) The child-minding business shall not be operated on the site before 0800 hours or after 1800 hours on weekdays, nor at any time on Saturdays, Sundays and Bank Holidays, unless otherwise previously agreed in writing with the Local Planning Authority.
- 2) The child-minding business shall be restricted to a maximum of 10 children, and no child-minding activities shall take place on or within any buildings or land within the site other than the outbuilding and fenced garden area denoted on plan 10038 – 03 as to be used in association with the child-minding business.
- 3) Notwithstanding the provisions of Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting those orders with or without modification), the denoted outbuilding and fenced garden area shall be used solely for child-minding activities and for no other purpose (including any other purposes in Class D1 of the Schedule to the Use Classes Order or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).
- 4) The visibility splays shown on plan No: 10038-05 shall be permanently maintained free from any obstruction exceeding 0.6m above the level of the adjacent highway carriageway.