The Planning Inspectorate

Appeal Decision

Site visit made on 29 November 2016

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 5 December 2016

Appeal Ref: APP/V4305/W/16/3157866
Whiston Hospital Social Club, Sandstone Drive, Whiston, Knowsley, L35 7LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr R Taylor (Waverton House Day Nursery) against the decision of Knowsley Metropolitan Borough Council.
- The application Ref 15/00821/FUL, dated 6 January 2016, was approved on 7 March 2016 and planning permission was granted subject to conditions.
- The development permitted is described on the decision notice as "application to vary condition No 2 and No 18 attached to planning permission 13/00404/FUL - change of use of office building (use class B1) to children's day care centre (use class D1) to include external alterations to car parking area together with associated works which require the development to be carried out in accordance with approved plans and restricts opening hours, to allow for amendments to elevations, site layout/landscaping and revised opening hours."
- The condition in dispute is No 9 which states that: "The use hereby permitted shall not operate outside the hours 07:00 until 20.00 on Monday - Friday and 09.00 to 17.00 hrs on Saturday and not at all on Sunday or Bank or Public Holidays without the prior approval in writing of the Local Planning Authority."
- The reason given for the condition is: "To safeguard the amenities of nearby residents and to comply with the National Planning Policy Framework, Policies CS2 and CS19 of the Knowsley Local Plan: Core Strategy adopted January 2016 and Saved Policy H5 of the Knowsley Replacement Unitary Development Plan, adopted June 2006."

Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted under 13/00404/FUL for a "change of use of office building (Use Class B1) to children's day care centre (use class D1) to include external alterations to west elevation to access new play area, alterations to car parking area together with associated works." This permission was subject to conditions including those relating to the approved plans and hours of operation.

3. A further application, 15/00821/FUL sought to vary these 2 conditions however, the new permission included a Condition 9 which although allowing for longer opening hours, did not give the appellant the desired 6:30 am Monday to Friday opening time. The premises, currently, cannot operate

outside of the hours of 7am and 8pm on these days. I shall deal with the appeal on the basis of this disputed hours condition.

4. The main issue, therefore, is the whether the condition is reasonable and necessary to protect the living conditions of nearby residents.

Reasons

5. The nursery is situated in a mixed use area. There are health care buildings opposite the site on Sandstone Drive and a nearby fire station. I accept that Avondale House health care building and the fire station are 24 hour uses. However, the nursery car park is to the rear of the nursery and it is surrounded by dwellings including flats as well as houses on Blundell Road where the access to the car park is located. Blundell Road, unlike this end of Sandstone Drive, is of a predominantly residential nature and is further removed from the 24 hour uses.

6. I appreciate that not all children would arrive at 6:30 but arrivals would generate noise by car engines, doors and voices. These comings and goings could well disturb people in the dwellings who could reasonably expect to be sleeping at this early morning time. Therefore, I consider that the proposed earlier opening time would be a nuisance. I appreciate the appellant's comments that there have not been any complaints so far but this might not be the case in the event of long term early morning starts.

7. I conclude therefore, that the proposed condition is reasonable and necessary to protect the living conditions of the occupiers of nearby dwellings and it conforms with Policy CS2 of the Knowsley Local Plan: Core Strategy 2016 and Saved Policy H5 of the Knowsley Replacement Unitary Development Plan 2006 which, in combination, seek to protect residential amenity from noise and disturbance. The Council refers to Core Strategy Policy CS19 in its reason for the condition but I do not have that policy before me.

8. The needs of shift workers to drop off children do not outweigh the harm I have identified. I have considered all other matters raised but none outweigh the conclusions I have reached.

9. The appeal is therefore dismissed.

Siobhan Watson

INSPECTOR