

Appeal Decision

Site visit made on 21 November 2016

by **JP Roberts BSc(Hons), LLB(Hons), MRTPI**

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

Decision date: 8th December 2016

Appeal Ref: APP/R0335/W/16/3153605

The Teepee Day Nursery, Pembroke, Bracknell RG12 7RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Small is Beautiful Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 15/1216/FUL, dated 9 December 2015, was refused by notice dated 25 February 2016.
 - The application sought planning permission for the erection of a single storey side extension to nursery and increase in number of children or babies (a) present in the garden at any one time from 12 to 14 and (b) receiving nursery services at any one time from 40 to 49, without complying with a condition attached to planning permission Ref 01/00487/FUL, dated 9 August 2001.
 - The condition in dispute is:
No 5 of planning permission 01/00487/FUL which states that:
There shall be a maximum of 49 children or babies children (sic) receiving nursery services at any point in time, and the hours of use shall be restricted to 0800 to 1800 hours Monday to Friday, and at no other times whatsoever.
 - The reason given for the conditions is:
In the interests of the amenities of adjoining properties.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey side extension to nursery and increase in number of children or babies (a) present in the garden at any one time from 12 to 14 and (b) receiving nursery services at any one time from 40 to 49 at The Teepee Day Nursery, Pembroke, Bracknell RG12 7RD in accordance with the application Ref 15/1216/FUL, dated 9 December 2015 without compliance with condition No 5 previously imposed on the planning permission Ref 01/00487/FUL, dated 9 August 2001, or with condition No 01 previously imposed on planning permission 13/00823/FUL, approved on 4 December 2013.

Procedural matter

2. It is intended to amend the condition of previous planning permissions to allow up to 53 children or babies to use the nursery at any one time, i.e. an increase of 4 children over the number already permitted by the Council. The part of the condition in dispute which restricts the hours of use has already been varied by the grant of planning permission Ref 13/00823/FUL, approved on 4 December 2013, which permits the operation of the nursery between 07:00
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and 19:00 hours Monday to Friday and at no time at all on Saturdays and Sundays or Public Holidays.

3. That permission is also subject to condition 01, which states:

No more than 49 children or babies shall receive nursery services at the premises at one time.

The reason given for the condition is:

In the interest of residential amenities of neighbouring properties and adequate car parking.

4. Although the appeal application did not specifically seek to vary both of these conditions, I shall treat it as if it did. The Council dealt with the application on this basis, and no-one would be prejudiced by my doing so.

Main Issue

5. The main issue is the effect of amending the condition on highway safety and the convenience of nearby residential occupiers.

Reasons

6. The day nursery is a former caretaker's bungalow located in the grounds of St Margaret Clitherow Catholic Primary School. The site is located at the end of Pembroke, an otherwise wholly residential cul-de-sac. A car park separates the nursery from the primary school, in which the nursery has an arrangement with the school to use 5 adjacent parking spaces for nursery staff, and 9 spaces for parents' parking.
7. I carried out my site visit, unannounced, on a Monday morning between 06:50 and 08:15, which, according to the appellants' parking survey, included the busiest morning hour, when most arrivals took place. I saw that prior to the nursery opening there were no places on Pembroke where parking could take place without causing an obstruction.
8. In a one hour period, I noted some 24 cars arriving bringing children to the nursery, with the average stay being 5 minutes. From what I saw, no parent arrived with more than one child, so during that one hour, almost half the permitted number of children arrived at the nursery. Some 48 movements in the hour equates to an average of less than one movement per minute.
9. The appellants say that about a third of those children on the waiting list for the nursery are siblings of children already at the nursery. Thus there is a realistic chance that some of the 4 additional children proposed may share car trips with a sibling, thus limiting the number of additional movements. Even if all four extra children were to travel separately, the additional trips would be likely to be spread over the morning arrival window between 07:00 and 09:00 and in my view, the increase in traffic flow would be immaterial, and would not alter highway safety conditions.
10. Turning to parking, the Council's parking standards require 1 staff parking space for every staff member and 1 parent/visitor space for every 4 children. It is clear that there is already a shortfall in parking provision to meet the standard, in that there should be 12-13 spaces for parents' parking, but that is a pre-existing position. In applying the Council's standards to the proposed

increase in children, the additional number of children proposed would generate a need for 1 further parking space. On-street parking is available in Pembroke, and although residents use nearly all of these spaces at times, from what I observed, it is likely that some will be vacated by the time that children arrive at the nursery.

11. Although the appellants say that the core opening time of the primary school starts at 08:50, I noted that the first car to arrive in connection with the school did so at 07:25, and a steady number of cars appeared to arrive in connection with the primary school during my observations, all well before 08:50. At no time during my observations were the car parking spaces allocated to the nursery full. No parents parked in Pembroke (or elsewhere) or walked to the nursery, although several staff members arrived on foot, by bike or were dropped off. By the time that the first parent arrived (at 07:07) there were several on-street parking spaces on Pembroke which had been vacated by local residents and could have been used by parents without causing either a hazard or inconvenience to local residents.
12. Whilst the pattern of arrivals that I observed may not be replicated on other days, it is consistent with the log which the appellants submitted. Local residents have told me of highway problems that have already been experienced in connection with the nursery, including parking in parts of Pembroke where parking is prohibited, the obstruction of a disabled space, speeding and inconsiderate driving.
13. It was clear to me that the primary school, because of its much larger size in comparison with the nursery, is likely to generate significantly greater numbers of vehicular movements concentrated around school start and finish times, a view which is supported by observations from the Highway Authority. I noted that parking restrictions through single yellow lines have been imposed around the entrance of the school. These restrictions operate from 08:30, around the time when children arrive at the school, and I consider it likely that it is the school which creates the greater problem for residents rather than the nursery. As it is, the objections from local residents are anecdotal and lack the specificity which is necessary to substantiate an objection on highway safety grounds.
14. As I found that there was adequate capacity in the car park, with some spaces available in Pembroke, where no harm would be caused to safety or the convenience of local residents, I conclude that an extra 4 children would make an immaterial difference to highway safety or the convenience of nearby residential occupiers.
15. However, my findings are based on the parking spaces being available to the nursery, without which all parking would need to take place on the public highway, which is already under severe stress. The appellants do not own the school car park, and I have been told only that the shared parking arrangement is a fluid situation which has existed for a number of years. I consider that the acceptability of any increase in numbers of children attending is dependent on the continued availability of the car park. I shall therefore impose a condition to give effect to this by way of a management plan, as suggested by the appellants.
16. I therefore conclude that subject to the condition referred to above, the proposed variation of the conditions would not result in material harm to

highway safety or the convenience of nearby residential occupiers. Nor would it conflict with Policies M4 or M9 of the saved Bracknell Forest Borough Local Plan 2002 which respectively deal with material increases in the use of highways and parking. I also find no conflict with Policy CS23 of the Bracknell Forest Core Strategy, adopted in 2008, which deals with transport.

Other matters

17. Local residents have raised issues about noise and disturbance arising from the use of the nursery. There is a condition which restricts the number of children permitted to use the garden at any one time, which would not be affected by the proposal, and it would continue to have effect. I consider that the movement of four additional children from cars to the nursery and back would be small in number, would be fleeting and would occur some distance from the nearest dwelling. I therefore consider that the proposed increase would be unlikely to have any material impact on neighbours' living conditions.

Conditions

18. The Council has suggested that I re-impose conditions from existing permissions, as well as limiting the numbers of children as proposed here, and I consider it appropriate to do so, to protect the living conditions of neighbours and in the interests of highway safety. For similar reasons I shall impose a condition relating to parking, as discussed above.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed.

JP Roberts

INSPECTOR

ANNEX

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) No more than 53 children or babies shall be present at the nursery at any one time.
- 3) The nursery use shall not operate outside of the times of 07:00 to 19:00 hours on Mondays to Fridays and not at all on Saturdays, Sundays or Public Holidays.
- 4) The garden shall not be used by more than 14 children or babies between the hours of 08:00 to 09:00 hours Mondays to Fridays and more than 49 children or babies between the hours of 09:00 to 18:00 hours Mondays to Fridays, and not at all outside these hours.
- 5) Prior to any increase in the numbers of children attending the nursery taking place, a scheme shall be submitted and approved in writing by the local planning authority showing the location of 5 car parking spaces for nursery staff parking and 9 spaces for use by parents of children attending the nursery. The submitted scheme shall also include a management plan setting out how the parking spaces shall be used. The approved management plan shall be adhered to at all times.