
Appeal Decision

Site visit made on 31 May 2017

by Stephen Hawkins MA MRTPI

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

Decision date: 20th June 2017

Appeal Ref: APP/D0121/W/17/3167087
Cowslip Lane, Hewish BS24 6AH

- 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 A Mead of Puxton Ltd against the decision of North Somerset Council.
 - The application Ref 16/P/2634/F, dated 25 October 2016, was refused by notice dated 3 January 2017.
 - The development proposed is change of use from offices to children's day nursery.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr A Mead of Puxton Ltd against North Somerset Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposal would be suitably located, having regard to the accessibility of the appeal site by a range of transport modes and any identified local shortfall in childcare provision.

Reasons

4. Puxton Park is a diversified farming enterprise which has evolved into a substantial all-weather farm visitor attraction comprising amongst other things, an adventure park, play areas, a farm shop, cheese factory, falconry centre and associated eating establishments. The park is located in countryside between the large seaside town of Weston Super Mare and the village of Congresbury.
 5. The park contains various buildings including a small group containing the farm shop and restaurant, reception and indoor play area, located adjacent to the main car park for the attraction. The proposed nursery would occupy part of the first floor above the farm shop and would cater for up to 43 children in the 0-4 age range.
 6. The appellant suggests that the nursery aims to meet the needs of people living in the surrounding rural area. However, nearby Congresbury and Weston Super Mare have much larger concentrations of population compared with the rural area. Also, the park has good access to the primary road network.
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Consequently, in my view it is likely that significant numbers of children would come to the nursery from the nearby built-up areas.

7. The nursery would be around 5 kilometres from Congresbury. There is a footway along the A370 between the village and the park entrance. However, this would be beyond a reasonable walking distance. The A370 also experiences high volumes of traffic, often travelling at reasonably high speeds, and there is limited street lighting. Worle, a suburb on the eastern edge of Weston Super Mare, is around 2 kilometres to the west of the park entrance. Approaching the park from that direction, there appears to be no continuous footway and it would be necessary for pedestrians to negotiate a roundabout serving junction 21 of the M5. There are limited formal crossing points for pedestrians in either direction.
8. Moreover, to access the nursery from the park entrance, it would be necessary to travel around 700 metres along the private drive, which largely lacks pedestrian refuges. Walking or cycling are unlikely to be seen as attractive alternatives to the private car in accessing a nursery unless the distance is reasonably short and it is perceived as being relatively safe. Consequently, the access to the nursery via the A370 is unlikely to be seen as convenient or safe to use by pedestrians or cyclists, especially those with young children.
9. In terms of children who might live in smaller villages in the locality and more scattered parts of the local rural community, local public rights of way and cycle paths could be used to provide access to the nursery. Whilst some of these routes might have been upgraded, based on the limited information I have been provided with they are still mostly likely to consist of rural footpaths and country lanes. To access the nursery would therefore involve travelling over considerable distances, along unlit and often unmade surfaces as well as crossing busier roads. Therefore, it would be unrealistic to expect that such routes would be perceived as being convenient or safe for pedestrians or cyclists with young children.
10. There are bus stops on the A370 adjacent to the park entrance. However, I have not been given any details of the times and frequency of bus services. Moreover, to access the nursery from the bus parents and children would have to cross the busy A370 on their outward or return journeys at a point where there is no signalised pedestrian crossing. Also they would still have to negotiate the park's long drive. Even if there were a frequent bus service corresponding with the nursery pick-up and drop-off times, the above factors are likely to mean that parents would not perceive the bus as being a convenient or safe alternative to car use.
11. I understand that the bus route may have been a factor in the Council not objecting to other recent developments at the park. I have been given few details in that respect but in any event, other development is unlikely to have involved the type of short duration visits, often at the beginning and end of the day, that would generally be associated with a nursery. Therefore those developments may have been better suited to the use of public transport compared with the appeal scheme.
12. The appellant suggested that that the nursery would result in linked trips, including from parents visiting other attractions at the park and by its use by the children of park staff. However, he also suggested that the drop-off and collection of children would mainly take place outside of the park's traditional

working hours, in order to reduce the pressure on parking. Consequently, I am not clear whether any other facilities would actually be open at times when parents are picking up or dropping off their children. Moreover, whilst I have not been given any details of the overall numbers of staff employed at the park, in my view it would be unlikely that the children of staff would occupy a significant number of the nursery places. Consequently, I have given only limited weight to any benefits offered in this respect.

13. I note that the appellant is willing to accept a pre-commencement condition requiring sustainable transport measures to be implemented through a Travel Plan. The park's minibuses could be used to collect or drop off children or a walking bus could be created. However, the nursery could potentially cater for children spread over a reasonably wide geographic area. Their parents are unlikely to all have the same working patterns and other household commitments. This could give rise to some parents wishing to drop-off and collect their children at various times throughout the day. Consequently, in practice the operation of minibuses is unlikely to be a practical, viable alternative to most parents accessing the nursery by car. For similar reasons, a 'walking bus' is unlikely to be a practical arrangement. I have had regard to the Council's adopted Travel Plans: Supplementary Planning Document. However, for the above reasons I consider that a Travel Plan would not make the development acceptable.
14. The appellant has referred to two nurseries permitted in the countryside involving farm offices in other parts of the country. However, in the absence of further details I am unable to draw any meaningful comparisons with the appeal scheme. I have also been referred to an hotel development adjacent to Bristol Airport for comparison. From the information supplied, there would not be a significant increase in car-borne trips in that case, as they would largely be linked with trips to the airport. The walking distances involved would appear to be significantly less than those which could occur from the appeal scheme and there would appear to be some provision for pedestrians to cross the A38. Consequently, that development is not directly comparable with the appeal scheme.
15. I note that the Council's Highways Team did not object to the proposal on safety grounds. Even so, I do not find any inconsistency in the Council's case in that respect. Consideration of accessibility by a range of transport modes is largely separate from and is not predicated upon, matters of highway safety.
16. It would be unrealistic to expect that the private car would not be used by some parents when dropping off or collecting their children at the nursery. Nevertheless, given all of the above factors, the nursery would not maximise opportunities for walking, cycling and public transport as practical, convenient and safe alternative modes of transport to the private car. Consequently, I am not convinced that the nursery would be well related to the community it would serve.
17. I understand that there is an increased local demand for childcare places following the Government's introduction of Free Early Education places for 2 year olds, supplementing that already available for 3 and 4 year olds. The appellant states that existing nurseries in the area are mostly full and over-subscribed, apart from some limited places for 3-4 year olds. Data based on an Ofsted source was supplied with the application and indicates that there are

313 nursery spaces available in the local Children's Centre (CC) reach area. I understand that the CC reach area embraces some nearby parts of Weston Super Mare, but not the surrounding rural area. The predicted requirement for 397 places for 3- 4 year olds is extracted from birth data and I have assumed is for a similar area. The actual number of places required is likely to be higher, as ages 0-3 are apparently not shown in the Ofsted data.

18. Nevertheless, I understand that the Council in its capacity as the Local Education Authority (LEA) considers that there are adequate nursery places in the adjacent town, villages and the surrounding rural area. The LEA has supplied a detailed list of early years childcare providers within a three-mile radius of the park. The number of places provided in each case is not detailed and I am not clear how this radius compares with the CC reach area, in terms of the geographical area covered. Even so, the LEA list appears to show a significantly greater number of childcare providers available in the surrounding area, including nurseries, pre-schools and childminders, than the list produced by the appellant.
19. The LEA also explained that it anticipates that up to 104 extra places for 3-4 year olds and 16 spaces for 0-2 years would become available in the surrounding area, in time for September 2017. The appellant suggested that one of the extended nurseries would not cater for children throughout the full working day, due to its limited operating hours. However, according to information supplied by the LEA it would operate from 0800 -1800 hours. Whilst I also have been referred to an additional 80 places to be brought forward as part of an ongoing large-scale residential development, I think it would be very optimistic to assume that these would be delivered within a similar timescale. Consequently, I have not taken those places into account. This reservation aside, there is no clear evidence before me to suggest that the other extra places referred to by the LEA will not be delivered within the above timescale. Overall and also having regard to their statutory responsibilities regarding child education, I give the LEA's evidence significant weight.
20. There have been some recent nursery, pre-school and after school closures in the area. It appears that these closures may in part be due to changes in government funding which may have affected business viability, although there may be other underlying reasons. However, most of the closed facilities do not appear to be on the LEA's list of childcare providers. Consequently, I am not clear how such closures would represent a significant reduction in the existing level of provision identified by the LEA. Moreover, it appears that at least one of the closed nurseries is being marketed for sale as such. Therefore, it might not be unreasonable to assume at this time that it might re-open in the foreseeable future, in particular if there was in fact an established local shortfall in nursery places.
21. I understand that three local pre-schools are over-subscribed. Even so, I also understand that one of the pre-schools is being extended and that elsewhere in the area, a new school is opening with a nursery class. The closure of some childcare facilities outside of school term-time could reflect their close relationships with adjacent schools or could equally reflect a reduced level of demand for childcare services during school holidays. The appellant has also referred to a shortage of holiday clubs and after school clubs in North Somerset. I note that the nursery would offer a holiday club. Nevertheless, there is no detailed information on the level of local need in this respect.

22. It would appear that St Anne's Primary School, West Wick, Hewish is the nearest primary school to the nursery and it has an operational pre-school. The LEA does not assess the need for additional childcare places by reference to the school catchment area. I note the appellant's suggestion that this results in children having to travel further for pre-school places. However, like most other nurseries, the nursery would be run as a business. Therefore, it would not be bound to take any children from the catchment area of the local school. The appellant suggests that the nursery would serve smaller villages like Hewish and Wick St Lawrence, as well as more scattered parts of the local rural community. This might be the case, but it would also be likely to draw children from as wide an area as is required in order to fill as many available places as possible. Consequently, it would be unrealistic and inaccurate to assess whether the nursery would satisfy a need for additional childcare places by reference a specific school catchment area.
23. I note that in a recent appeal an Inspector considered that the area surrounding the park is not overwhelmingly rural and made reference to the existing educational, as well as tourism and commercial, uses at the attraction¹. However, I do not read that decision, which referred to an entirely different form of development on a different part of the park, as providing any measure of support for the appeal scheme.
24. The proposal would enhance the services offered and assist in sustaining the park, as well as offering an educational facility and increase parental choice in terms of childcare. The park provides a range of services which might be subject of repeat visits by the local rural community. However, as already noted above given the nearby larger concentrations of population in the adjacent built-up areas it is more likely that significant numbers of children would come to the nursery from beyond the rural area. Accordingly, whilst there might be economic benefits, any social benefits that would be provided by the proposal are not assured and can only be afforded limited weight.
25. Therefore, on the basis of all of the information before me, whilst I acknowledge that some evidence pulls in the other direction and that there has been support from interested parties for the nursery, I am not persuaded that it has been clearly demonstrated that there is an identifiable shortfall in childcare places in the surrounding area. Accordingly, the claim of a local need for the nursery would not outweigh the harm that would be caused, having regard to it not being accessible by a wide range of transport modes.
26. Therefore, the proposal would not accord with Policy DM69 of the adopted North Somerset Sites and Policies Plan (SPP), as it is outside of the settlement boundary and it has not been demonstrated that it is well related to the community it is intended to serve, or in a location genuinely accessible by a choice of transport modes. The proposal would also not accord with Policy CS25 of the adopted North Somerset Core Strategy (CS), as it would not be directly accessible to pedestrian and cycleway network and there is not an identified shortfall in the local provision of learning facilities for children. Moreover, by not being well related to the community it is intended to serve the proposal would therefore not accord with CS Policy CS33. The failure of the proposal to make the fullest possible use of public transport, walking and

¹ Ref APP/D0121/W/15/3130691.

cycling would also be inconsistent with one of the core principles of the National Planning Policy Framework (the Framework), at paragraph 17.

27. I have also been referred to Policy DM54 of the SPP, which supports employment development on previous developed land in the countryside, including for facilities such as schools. The proposal is analogous to a school use. Even if I were to find compliance with Policy DM54, on its own this would not mean that the proposal complied with the Development Plan, as it has to be assessed against the policies contained therein as a whole.

Conclusion

28. The proposal would not accord with the Development Plan and it would be inconsistent with the Framework. Therefore, I conclude that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR