
Appeal Decision

Site visit made on 20 June 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 31 July 2017

Appeal Ref: APP/W4705/W/17/3172009

4 Park Square, Bradford BD6 3PT

- 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 Ms S Williams against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 16/06578/FUL, dated 20 July 2016, was refused by notice dated 26 September 2016.
 - The development proposed is change of use of dwelling to mixed use of residential and childminding care business.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council adopted the Bradford Core Strategy (CS) on 18 July 2017. Following this, the Council has confirmed that Policy UR3 of the Bradford Replacement Unitary Development Plan has now been superseded by Policies SC9 and DS5 of the CS. Furthermore, the Council has confirmed that there is no significant material change in the policy position regarding this case arising from the adoption of the CS. Therefore, I find that neither the Council's nor the appellant's case is materially affected by the change in policy context. As a result, I have determined the appeal within the most up-to-date policy context.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers with regard to noise and disturbance.

Reasons

4. The appeal property is a semi-detached dwelling situated on a corner plot in a predominantly residential area. The property and those adjoining it are set back from the relatively busy Reevy Road and arranged around an area of grassed open space with trees which forms Park Square. There is a road to the front of the properties which provides access to those dwellings. There is also a lay-by adjacent to the road which provides off-street parking for about seven cars. The property is currently in use as a dwelling and a childminding business. The appeal proposal seeks to increase the number of childcare places available at the premises.

5. The Council considers the proposed increase from 10 to 16 children at the premises would materially change the nature of the business from a childminding enterprise to a day nursery. I note that the Council's Environmental Health Officer has made reference to the Childcare Act 2006 (the Act) which, I am led to understand, limits the number of children under 8 years old in the care of a child minder to 6 children (including their own). Furthermore, it is stated that whilst there is provision in the Act for an assistant, this also places restrictions on the number of children and how long they can be in the sole care of an assistant.
6. Notwithstanding the above, from what I have seen and read, there is no substantive evidence before me to indicate that the appellant's business is not, or would not be, operating in accordance with the relevant legal and statutory requirements and frameworks for such an enterprise. Whilst I acknowledge that there would likely be legal and physical requirements to be met were the proposal to be allowed, I am satisfied that these would be undertaken where appropriate.
7. The Council states that the proposal would likely result in an increase in journeys to and from the premises made by clients throughout the day. It is argued that this would increase the noise and disturbance experienced by neighbouring occupiers due to more vehicle movements, children in the garden areas and general activity associated with the use. The appellant states that the property has a larger than average garden area which can be used in such a way as to ensure that there would be no adverse impact directly adjacent to neighbouring outdoor garden areas. Furthermore, to minimise any adverse impacts, the appellant has suggested that measures would be put in place to ensure that only 10 children would be in the garden area at any one time.
8. I note that the Council indicates that the childminding business has been operating at the premises since 2012 and during that time neighbours have made complaints. Notwithstanding this, whilst the nature of those complaints is not indicated, based on the evidence before me, I am not persuaded that the large garden area of the premises would mitigate any adverse impacts on neighbouring occupiers, including noise and disturbance, given the proximity of the neighbouring garden areas. Furthermore, I find that the appellant's suggestion of managing child numbers in the garden area would be difficult to achieve and to control and enforce through planning conditions.
9. The appellant states that the appeal property and some neighbouring properties are adjacent to a local park. I am led to understand that the park is regularly used for events such as fun days and football matches. As a result, there is often noise and disturbance from such activities experienced by neighbouring occupiers. Therefore, it is argued that such impacts would be more apparent and detrimental to nearby occupiers than any impact likely to arise from the appeal proposal.
10. Whilst I appreciate the point, I find that any noise and disturbance resulting from activities and events at the nearby park would be softened by the belt of mature trees between the park and the relevant properties and by the distances involved. This contrasts sharply with the proximity of any noise and disturbance arising from the appeal proposal to neighbouring occupiers. Furthermore, I find it reasonable to consider that such events at the park would not occur on a daily basis. However, the increased activity, noise and

disturbance at the premises would affect neighbouring occupiers on a more frequent, and most likely, daily basis throughout the week.

11. I note that the rooms used for childcare within the appeal property are not adjacent to neighbouring properties. However, in my view, the proximity of the premises to neighbouring properties and their occupiers would inevitably result in an adverse impact with regard to noise and disturbance.
12. The opening hours of the existing business are not proposed to change. These times are reasonably aligned to a standard working day, considering the nature of the childminding business and I do not consider them to be unsociable hours. As such, I find that journeys to and from the premises would not result in any significant adverse impact on neighbours during unsociable hours.
13. However, due to the nature of the business and from what I have seen and read, children arrive and leave throughout the day. Therefore, whilst such journeys would be dispersed across the day, so too would the impact of the increased activity generated by the proposal felt by neighbouring occupiers.
14. The appellant has identified several other childcare providers operating in the local area and states that all are within 5 metres of residential properties. In addition, I note that all have capacity for in excess of 40 children. I have had due regard to the information provided by the appellant. However, I do not have the full details of each of these other premises or their specific circumstances before me. Whilst there are some similarities to the appeal proposal, there are also differences in terms of their scale, location and their individual context. As a result, I give only limited weight to these matters in determining this appeal. In any event, I must assess the proposal and setting before me on its own individual merits and circumstances.
15. I appreciate that the appellant operates a successful childcare business and it is evident that the effect on neighbouring occupiers is foremost in the appellant's considerations and that the proposal would allow the business to grow. Notwithstanding this, the proposed increase in child places would result in a significant adverse impact on the living conditions of neighbouring occupiers with regard to an increase in activity, noise and disturbance. As such, I find that the benefits would be outweighed by the harm I have identified.
16. Consequently, I conclude that the proposal would have a significant adverse effect on the living conditions of neighbouring occupiers with regard to noise and disturbance. It would therefore be contrary to Policies SC9 and DS5 of the CS. Amongst other matters, these policies seek to ensure that development is appropriate to its local context and has no adverse effect on its surroundings or the living conditions of existing or future neighbouring occupiers.

Conclusion

17. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR