



Appeal Decision

Site visit made on 28 November 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 1ST December 2017

Appeal Ref: APP/V2825/W/17/3179291

1A Meadway, Northampton, Northamptonshire NN3 3BP

- 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 Miss Claire Cavender of Kiddies@home, against the decision of Northampton Borough Council.
 - The application Ref n/2016/1699, dated 20 December 2016, was refused by notice dated 17 March 2017.
 - The development proposed is change of use from dwellinghouse (Use Class C3) to dwellinghouse with childminding business for up to 12 children (retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from dwellinghouse (Use Class C3) to dwellinghouse with childminding business for up to 12 children (retrospective) at 1A Meadway, Northampton, Northamptonshire NN3 3BP in accordance with the terms of the application, Ref n/2016/1699, dated 20 December 2016, subject to the following conditions:
 - The dwellinghouse shall be used for the purposes of a Day Nursery (Use Class D1) and be open for children and their parents or carers between 0800 hrs and 1800 hrs on Mondays to Fridays only. The dwellinghouse shall not be used for a purpose other than as a dwellinghouse outside the aforementioned hours or on Sundays, Bank or Public Holidays.
 - The aforementioned dwellinghouse including associated external areas shall be used for the provision of childcare for no more than twelve children at any one time.
 - No more than four children are to be anywhere outside the dwellinghouse for the purposes of recreation at any one time during the aforementioned hours of operation.
 - Periods of outdoor play are not to exceed two hours in total between the aforementioned hours of operation as a childminding business.

Procedural Matter

2. For clarity and brevity I have used the description of development given on the decision notice in the heading above.

Main Issues

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

Reasons

4. Number 1A Meadway (No 1A) is a modest bungalow situated on a broad and quiet residential road. The development before me is to regularise the use of No 1A for childminding.
5. The interior of No 1A is well organised, and clearly set up for the childminding business. Outside, although the plot is modest, there are two contiguous fenced and paved areas, one of which is covered and provided with play equipment and soft-surfacing.
6. At the time of my visit there were twelve pre-school children with three carers. I did not notice any noise emanating from inside the dwelling. In any case, the concerns raised appear to relate primarily to use of the external play areas, as well as vehicle movements and disturbance associated with parents and carers dropping off and collecting children.
7. I appreciate that the loudness of noise generated by children at play can be variable and unpredictable. However, this would be the case for children and friends playing in their own garden. In any case, the appellant has accepted that conditions could be imposed to limit the hours of business and the number of children cared for, as well as limits on outdoor play, if the appeal is allowed. I am satisfied that conditions restricting the size and operational hours of the business, as well as periods of outdoor play, would provide significant mitigation with regard to noise nuisance. In any case, the use of the play area is limited by its size, and given the age of the children I saw at my visit, outdoor play would require supervision which is a further control.
8. I see no reason why a condition limiting the number of children outside at any one time would not be enforceable. It is likely that the business requires a routine in order to accommodate meal and sleep requirements, and recreation would be one of those elements.
9. The Council states that a dwelling would not normally have children in continuous residence. However, the occupancy of children in the life of a dwelling would be predicated upon individual circumstances and the frequency with which the dwelling changed hands. This would be infinitely variable and unpredictable. Furthermore, notwithstanding that No 1A's previous occupiers may have been childless, there is nothing before me to indicate that the dwelling could not be occupied by a family with children.
10. Moreover, although No 1A is infill development, there is a reasonably generous building pattern and Meadway itself appeared to be wide enough for two running lanes, as well as parked cars on each side of the road. The play area abuts the road and as such is not contiguous with the rear amenity areas of nearby dwellings. Although the play area abuts the front garden of 1 Meadway (No 1), No 1's main outdoor amenity area appears to be at its rear and the primary windows for its habitable rooms are on the opposite side from No 1A. Furthermore, such noise as is generated from the play area would be associated primarily with the road frontage where it is more acceptable, and

the play area's fencing and roof covering will limit noise emissions to some extent.

11. There has also been a concern raised in relation to the disturbance caused by children being dropped off. However, there is no supporting evidence to indicate that this causes highway safety or operational issues and at my visit (mid-day) the road was quiet with ample availability of on-street parking. I recognise this is a snapshot in time but my observations accord with the findings of the highways authority which has no objections to the development. Although I acknowledge that the current staggered nature of drop-offs might change, I am satisfied that child care hours for individual children will always be variable. Even if there are periods when all the children are dropped off at the same time, I am not satisfied that this would be sufficient to warrant dismissal of the appeal on highway grounds.
12. Furthermore, with regard to parking by employees of other nearby businesses, and parents with children at the local school, I appreciate the inconvenience for residents of Meadway. However, the road is freely available for public parking and on-street parking by non-residents is commonplace in many urban situations.
13. The Council has suggested that the development might generate noise internally. However, there is nothing before me to indicate what these noise sources might be. Air conditioning units and extraction fans are mentioned by the Council but even if such items were installed they would be likely to be suitable for domestic use and as such, available for any domestic premises without planning controls.
14. The Council's decision notice cites Policy BN9 of the Local Plan¹ (LP). This requires new development to reduce the adverse impacts of noise. Notwithstanding that there is limited evidence before me to suggest that the business emits significant noise at present, with appropriate conditions in place, I am satisfied that the business would not have adverse effects on the living conditions of occupiers of neighbouring dwellings with respect to noise and disturbance. As such, I conclude that the development would not be contrary to the provisions of LP Policy BN9.
15. The Council has also referred to the National Planning Policy Framework (the Framework) in its decision notice. However, there is no reference to specific paragraphs and I conclude that there is nothing before me to indicate that the development is contrary to the provisions of the Framework.

Other matters

16. A number of interested parties have raised concerns in relation to No 1A's tenant, health and safety, Osted regulations, restrictive covenants, access to bathroom and kitchen facilities, and refuse disposal. However, such issues are outwith the scope of this appeal and the observations made weigh neither for nor against my reasoning.
17. With regard to the likelihood of this development setting a precedent for other businesses in the area, there is no evidence before me to indicate that this is likely. In any case, the Council would determine any application on its individual merits.

¹ Northampton Borough Council, Northampton Local Plan 1993-2006, adopted June 1997

18. I also give little weight to the concern that the play area is untidy. I appreciate that the area might have been tidied for my visit, but it is a small area and visibility is restricted by boundary fencing and the roof covering. In any case, any garden might be considered untidy by neighbours as expectations vary. The nearest bedroom windows are at No 1. They are secondary windows and have an oblique view of the play area only. I give this argument little weight.

Conditions

19. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In respect of the condition relating to noise control, there is nothing before me to suggest there is significant noise emanating from inside No 1A and as such a condition requiring internal noise control is not necessary to make the development acceptable in planning terms.
20. In respect of external noise, I have imposed conditions specifying limits on the number of children playing outdoors at any one time and the maximum duration of outdoor play in any one day. I have also imposed conditions specifying an upper limit on the number of children cared for, and hours of operation of the business. These conditions are necessary to protect the amenity of occupiers of neighbouring dwellings. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

21. For the reasons given above and taking all matters into account, I conclude that the development would not be contrary to the relevant policies of the Council's Local Plan and that therefore the appeal should be allowed.

Amanda Blicq

INSPECTOR