
Appeal Decision

Site visit made on 5 June 2018

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 June 2018

Appeal Ref: APP/H1840/W/18/3193724

Hillcrests, Malinshill Road, Evesham WR11 2QG

- 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 Mrs Young against the decision of Wychavon District Council.
 - The application Ref 17/01417/FUL, dated 7 July 2017, was refused by notice dated 16 October 2017.
 - The development proposed was originally described as "*change of use for childcare business*".
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Decision

1. The appeal is allowed and planning permission is granted for change of use from residential to childcare business and residential at Hillcrests, Malinshill Road, Evesham WR11 2QG in accordance with the terms of the application, Ref 17/01417/FUL, dated 7 July 2017, subject to the following conditions:-
 - 1) Unless modified by the condition below the development hereby permitted shall be carried out in accordance with the following approved plans:- amended location plan; amended block plan showing parking; existing floor plan and existing block plan.
 - 2) No more than 6 individual children shall be cared for, as part of the childcare use hereby permitted, throughout the duration of each day that the use is open for business.

Preliminary matter

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details before me that the development comprises a partial change of use of the dwelling to incorporate a childcare business. The residential use of the property would remain. The Council dealt with it on this basis and so shall I. Consequently, I have altered the description of development within the formal decision to reflect this.
3. It is clear that the childcare business use has commenced and I have dealt with the appeal on this basis.

Main Issue

4. The main issue is the effect on highway safety with regard to the width, alignment and surface condition of Malinshill Road and the achievable visibility splays at its junction with Evendene Road to the west of the appeal site.

Reasons

5. The appeal site is a detached dwelling accessed from Malinshill Road. This road serves eleven dwellings, is a Public Right of Way (PROW) and is of restricted width for the majority of its length. Only part of the road is of tarmac construction with the western end being compacted stone with a grass central strip.
6. The appellant has been operating a childcare business from the property for some time looking after her own young child and up to 2 other children. Due to increased demand it would appear that a second person now also provides childcare to enable up to 6 children to be cared for at the dwelling. Due to its nature the users of the childcare business arrive at staggered times. I acknowledge that the childcare contract requires users to park on Evendene Road and walk to the property. However, in my experience, it is highly likely that the necessity for a speedy handover and collection of children by parents/carers would increase the pressure to park close to the dwelling especially in inclement weather.
7. Nevertheless, I am mindful that the Council have stated that a childcare business can be treated as ancillary to the residential use without the need for planning permission if no additional people are employed within that business. This constitutes the fallback position and as the use has commenced it is highly likely that the building will continue to be used partially as a childcare business with no additional employees if this appeal is dismissed. Consequently, the differences between this proposal and the fallback position would relate to the additional traffic generated by one member of staff and 3 additional children.
8. At my site visit (middle of the day) I noted that there were relatively few vehicles using Evendene Road in the immediate vicinity of Malinshill Road. I acknowledge that at other times of the day it may be busier but there is no evidence before me to suggest that the road is normally heavily trafficked. From my observations and the evidence before me Malinshill Road appears to be only lightly trafficked. It is highly likely that only parties requiring access to one of the eleven dwellings would drive along it due to its restricted width and the tight bend adjacent to 6 Malinshill Road.
9. There are limited passing places, no pavements and no lighting along Malinshill Road and these factors could lead to conflict between vehicles and pedestrians using it as a PROW. However, there is little evidence before me to indicate that accidents between vehicles and pedestrians have occurred on this road. Moreover, the limited use of the road by vehicles reduces this risk of conflict and any vehicles travelling along it would be doing so at a very low speed due to the factors outlined above.
10. The additional children and member of staff result in a modest increase in traffic, in comparison to the fallback position, accessing the property if all the parents/carers and the member of staff arrive in cars. It is highly likely that given that the eastern end of Malinshill Road is tarmacked and generally wider than the western end that the majority of this additional vehicular use is via the eastern end of Malinshill Road. Furthermore, the appellant has indicated that she would be willing to accept a condition restricting the number of children to 6 that can be cared for on any one day. This would ensure that the number of additional trips to the property would be minimised.

11. The western junction of Malinshill Road and Evendene Road has reduced visibility, due to boundary treatments, in a southerly direction. As such, the recommended 2.4m x 43m visibility splay contained within Worcestershire County Council's Highway Design Guide (HDG) cannot be met in that direction. The appellant is of the opinion that the 'x' distance could be reduced to 2m instead of 2.4m. Manual for Streets 2 (MfS2) states that this may be considered in some slow-speed situations when flows on the minor arm are low. Even though, there are no specific speed restricting measures on Evendene Road I observed that there was a modest amount of on-street parking in the immediate vicinity of the junction that appears to restrict the overall speed of traffic.
12. Reference has been made to a bus stop adjacent to this junction and there is a post near to it. However, there is no sign or timetable on that post as there are on other posts that appear to be utilised as bus stops on Evendene Road. As such, it appears that this post no longer serves as a current bus stop.
13. I consider that given the limited vehicular use of the western end of Malinshill Road and the likely reduced speed of traffic on Evendene Road that it is appropriate in this case to reduce the 'x' distance down to 2m. Furthermore, even though this may mean that the front of some vehicles would protrude slightly into the running carriageway of Evendene Road due to the relatively open plan nature of the area and the alignment of that road these vehicles would be clearly visible to oncoming traffic. The appellant has stated that with the reduced 'x' distance of 2m a 'y' distance of 43m can be achieved in the southerly direction and this is not specifically disputed by the Council.
14. On the basis of the evidence before me, for the reasons set out, I am satisfied that there is safe and suitable access to the site and that the partial change of use of the property does not have a harmful effect on highway safety. It follows that the proposal complies with Policies SWDP4 and SWDP21 of the South Worcestershire Development Plan. These policies, amongst other things, state that proposals must demonstrate that they address road safety and that vehicular traffic from the development should be able to access the highway safely. The proposal would also comply with the relevant design criteria within the HDG and MfS2.

Other matters

15. Local residents object to the proposal on a wider basis, including in respect of noise and disturbance, the suitability of the property for this type of use and additional wear and tear on the surface of Malinshill Road. These did not form part of the Council's reasons for refusal and I am satisfied that these matters would not result in a level of harm which would justify dismissal of the appeal.
16. While I understand that my decision will be disappointing for some local residents, the information before me does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

Conditions

17. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance and the National Planning Policy Framework. In the interests of conciseness and enforceability the

wording of the Council's suggested conditions has been amended. In order to provide certainty as to what has been permitted I have imposed a condition specifying the relevant drawings. In the interests of highway safety, it is necessary to impose a condition in relation to the maximum number of children that can attend the childcare business on a daily basis.

Conclusion

18. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be allowed.

D. Boffin

INSPECTOR