



Appeal Decision

Site visit made on 18 March 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2020

Appeal Ref: APP/Z2260/W/19/3244071

38 Addiscombe Road, Margate CT9 2SU

- 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 Julia Carr against the decision of Thanet District Council.
 - The application Ref F/TH/19/0716, dated 24 May 2019, was refused by notice dated 7 August 2019.
 - The development proposed is the change of use of a dwelling (Use Class C3) to a dwelling and day nursery for up to 15 children (Use Classes C3 and D1).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the interest of clarity and brevity, I have used the description of the proposal from the Council's Decision Notice which is described as 'the change of use of a dwelling (Use Class C3) to a dwelling and day nursery for up to 15 children (Use Classes C3 and D1)'.
3. Although the appellant suggests that she was misled by the Council as to the acceptability of the proposal, this is a matter for the parties and not for my consideration as part of this case.

Main Issues

4. The main issues are the effect of the development on:
 - highway safety, and;
 - the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

Highway safety

5. The appeal property is located in an area of predominantly two-storey residential dwellings and a number of nearby commercial buildings. No 38 Addiscombe Road is a terraced residential property facing the highway with one off road parking space to the front. The property does not have a dropped kerb to the front. No 38 is currently in operation as a childcare business for 9-12 children. The proposal is to change the use of the property, from a Class C3 dwelling to a dwelling and day nursery for up to 15 children (Use Classes C3 and D1).

6. There may well be the potential for parking or garaging to the rear of the property; including parking for any future members of staff. However, whether this is an acceptable or viable solution for parking associated with the nursery or not, I have limited details of that suggestion before me. Therefore, I have considered the proposal on the submitted evidence, and its individual planning merits.
7. Moreover, although there appeared to be 3 cycle-type stores to the front of the property at the time of my site visit these were obstructed by a parked car and bins. Therefore, I cannot be certain that these would be readily available for cycle parking associated with the nursery, and hence give this provision limited weight.
8. At my site visit I noticed that the traffic flow along Addiscombe Road is relatively constant, and that there is some limited on-street parking directly adjacent to the appeal site, although some sections are restricted by double yellow lines. Nearby there are commercial premises, and a residential side junction with Wharfdale Road. Therefore, in this built up area the available parking spaces would be occupied for periods of time by a range of users such as business employees, customers, residents or visitors to the surrounding area.
9. As such, despite the relatively modest number of patrons arriving by car, the temptation to 'drop off' or 'pick up' directly outside the nursery or close to the nearby junction would be high due to the limited or restricted parking opportunities nearby. Moreover, notwithstanding the appellant's 'parking survey' for the existing client numbers, I have no convincing evidence to persuade me to the contrary.
10. Consequently, while the additional 'drop-offs' and 'pick-ups' are not likely to significantly impede the flow of traffic along this section of Addiscombe Road, the restricted parking opportunities for residents and nearby businesses, combined with the increased vehicular activity associated with the proposed nursery, would lead to periods of restricted visibility along Addiscombe Road, particularly for vehicles emerging from Wharfdale Road and nearby private driveways. Therefore, the proposal would impact on highway safety for vehicles and pedestrians alike.
11. I note from the appellant's submitted evidence that many of the current patrons of the nursery arrive by foot, and that their arrival can be staggered across the course of the day. However, whether a dropped kerb to the front of the property is available in the future or not, and notwithstanding the level of current parking demand, the increased volume of traffic and parking that the proposal would attract, particularly at more popular times of the day, such as morning 'drop off' and afternoon/evening 'pick up', would harm highway safety on this well-used section of Addiscombe Road.
12. As such, I conclude that the proposed nursery would harm highway safety along Addiscombe Road, and is therefore, contrary to Policy TR16 of the Thanet Local Plan 2006 (TLP) which requires that development will make satisfactory provision for the parking of vehicles, and Paragraph 109 of the National Planning Policy Framework (the Framework) the aims of which include that development should be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Living conditions

13. I acknowledge that the proposal is for a larger number of children than currently experienced by the neighbouring occupiers. However, the submitted noise impact assessment, that has been accepted by the Council's Environmental Health Officer subject to the imposition of a condition, sets out a plan for both internal and garden use of the nursery.
14. I also acknowledge the Council's concerns that the plan would not be enforceable. However, these concerns could be addressed through the imposition of the suggested condition that could be monitored via complaints received from local neighbours. Nevertheless, I have no evidence to suggest that the use and activity associated with the business to date has led to neighbour complaints, and limited evidence before me that points to the fact that 15 children, would create unacceptable noise levels and disturbance in comparison to the 9 or 12 children associated with the current arrangements.
15. Indeed, the plan contains practical ways to mitigate any noise that might be associated with the use of the nursery, both during the week, after school and on Saturdays. I have considered the plan in detail and conclude that it is both feasible and viable for the number of children proposed, and the size and layout of the building.
16. Moreover, there is no technical evidence which indicates that the building does not meet suitable acoustic requirements for a property of this size and type. As such, I conclude that the proposal would not harm the living conditions of neighbouring occupiers with particular regard to noise and disturbance.
17. Therefore, the proposal accords with Policy D1 of the TLP, which says, amongst other things, that all development should be compatible with the neighbouring buildings and not lead to unacceptable loss of amenity due to noise.
18. For similar reasons, the proposal meets the requirements of Paragraph 127 of the Framework which requires that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other matters

19. I recognise that the current business likely offers a much-needed service to children with additional needs in the area, and that it is highly regarded by members of the local community. However, this does not outweigh the harm I have found to highway safety.

Conclusions

20. Although I have found in favour of the appellant with regard to the living conditions of neighbouring occupiers this does not overcome the harm caused to highway safety in the area.
21. For the reasons given above, I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR