



Appeal Decision

Site visit made on 20 May 2020

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2020

Appeal Ref: APP/M0655/W/20/3245628

Heathfield House, Delenty Drive, Birchwood, Warrington WA3 6AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr & Mrs Kirkwood of Heathfield House Nursery against the decision of Warrington Borough Council.
- The application Ref 2019/35322, dated 19 June 2019, was refused by notice dated 13 November 2019.
- The application sought planning permission for a single storey extension to the rear of the building to replace outbuilding and provide additional nursery accommodation, without complying with conditions attached to planning permission Ref APP/M655/A/13/2209344, dated 15 May 2014.
- The conditions in dispute are Nos 2 and 3 which state that:

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 77/12/1; 77/12/BP; 77/12/2 (elevations); and 77/12/2 (Proposed Ground floor Plan).

The reason given for the condition is:
for the avoidance of doubt.

3. There shall be no more than 44 children at the nursery at any one time.

The reason given for the condition is:
in the interests of highway safety and residential amenity.

Decision

1. The appeal is allowed and planning permission is granted for a single storey extension to the rear of the building to replace outbuilding and provide additional nursery accommodation at Heathfield House, Delenty Drive, Birchwood, Warrington WA3 6AP in accordance with the application Ref 2019/35322, dated 19 June 2019, without compliance with conditions number 2 and 3 previously imposed on planning permission Ref APP/M655/A/13/2209344, dated 15 May 2014, and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 77/12/BP1 (revised Sept 2019).
 - 2) There shall be no more than 56 children at the nursery at any one time.

- 3) Childcare shall not take place other than between the hours of 08.00 – 18.00 Mondays – Fridays. The premises shall not be used on Saturdays or Sundays.
- 4) The use of the building as a nursery for 56 children shall not commence until the car, cycle, motorcycle parking and turning area have been surfaced and laid out in accordance with approved plan 77/12/BP1 (revised Sept 2019). The parking and turning area shall be retained thereafter for use as specified on the approved plan.

Application for costs

2. An application for costs was made by Mr & Mrs Kirkwood against Warrington Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Planning permission was granted on appeal in 2014¹ for an extension to Heathfield House Nursery and to increase the number of children who could be accommodated, from 38 to 44. The current appeal seeks to vary conditions 2 and 3 of that permission, to enable a further increase in the number of children to 56, and to alter the layout of the car park to accommodate additional spaces.

Main Issue

4. The main issue is the effect of varying the conditions on:
 - i) highway safety
 - ii) the living conditions of neighbouring properties, with particular regard to disturbance and noise.

Reasons

Highway safety

5. The nursery is located in a residential area, close to a large employment area. There are parking restrictions along Delenty Drive, and a residents parking permit scheme operates on Nelson Road and the adjoining streets, during the hours that the nursery is open.
6. The existing parking restrictions on the surrounding streets, and the proximity of the site to a priority junction, mean that adequate provision for staff and visitor parking needs to be made on-site to avoid interference with other users of the highway, including pedestrians, which might result from cars queuing or reversing onto the highway.
7. The existing car park has spaces marked out for 10 cars, some of which are in a tandem arrangement, and there are 2 cycle stands. To accommodate the proposed increase in numbers of children, a further 4 car parking spaces are proposed so that in total, there would be eight car parking spaces for staff and six for visitors.
8. The Council's adopted parking standards are contained in the Supplementary Planning Document - Standards for Parking in New Development 2015 (SPD),

¹ Appeal ref APP/M0655/A/13/2209344

with additional guidance provided in Design Guidance Note 1: Parking and Servicing (DGN1). These standards apply to the proposed scheme, but cannot be applied retrospectively to the existing parking layout, which was permitted prior to their adoption. For the purpose of the standards, the site is located within Area B, where day nurseries require one space per member of staff, plus one space per 4 day care attendees. Drop-off spaces are to be determined on a case by case basis.

9. The appellant has confirmed that one extra member of staff would be required to accommodate the additional 12 children. On this basis, the provision of an additional 4 spaces would meet the car parking standard. Space would be provided for motorcycle and additional cycle parking, which would enable the standard to be met for these modes of transport. The SPD requires car parking spaces to be larger than was previously required, and the appellant has confirmed that the 4 proposed spaces would be large enough to meet this increased standard.
10. The additional car parking provision would be achieved by adding a third row of spaces to the existing tandem parking arrangement. I acknowledge that DGN1 is generally unsupportive of tandem or triple parking, but this has previously been accepted at the appeal site. Although all of the staff parking spaces would be blocked in by visitor spaces, the appellant has confirmed that staff are accustomed to a tandem parking arrangement, and that it does not cause any operational difficulties. Staff generally arrive before, and leave after, the children, and are aware of each other's travel habits so park accordingly. Where staff members do need to move to allow a colleague to leave, this is a simple operation when visitor spaces are not being used.
11. The proposed layout would involve a continuation of this arrangement for staff parking and, although it would increase the number of blocked-in spaces by two, I see no reason why it should not continue to work.
12. The proposed increase in numbers of children would result in additional demand for parking associated with parents dropping off and picking up children. Evidence provided by the appellant includes a survey of travel patterns at the nursery during a week in January 2020 when it was operating at full capacity. The survey confirmed that the existing ten spaces are sufficient to meet the needs of the nursery for the majority of the time, with a brief shortfall of one space being noted for a period of several minutes, on two of the five days surveyed, at the busiest times when children were being dropped off in the morning.
13. The proposal would result in up to 12 additional visitor movements in both the morning and evening periods, although that this may be less depending on take up of places, numbers of siblings and travel mode. However, even assuming the worst case scenario, this is a fairly small number of additional movements which are likely to be spread over a period of time. The extra visitor spaces would allow the existing shortfall to be met whilst providing capacity to cater for the increased demand.
14. The proposed parking layout would reduce the amount of space available within the site for manoeuvring at busy times, and to help compensate for this, a grasscrete turning area would be provided. The appellant's traffic report has demonstrated that, with the turning area, there would be sufficient space for vehicles to manoeuvre within the site and to enter and leave in forward gear.

15. I note the Council's concerns about haphazard movements on site; vehicles reversing across the footway and onto the highway; the lack of visibility and proximity to a priority junction. However, the provision of sufficient quantity of parking spaces would mean that parents would be able to park on site, without the need to queue within or outside the site. The turning area would avoid the need to reverse onto the highway. Drivers would need to take care in the car park and may need to wait for others to manoeuvre within the site before leaving, but that is the case in the current situation.
16. I have been provided with no substantive evidence of any existing problems resulting from traffic reversing out of the site or causing conflicts with pedestrians, and have no reason to suppose that the limited amount of additional vehicles movements or proposed changes to the layout of the car park would result in any particular difficulties.
17. The appellant has confirmed that the proposed increase in child numbers would not affect the number or size of service vehicles which regularly visit the site. Large service vehicles do not visit the site, and deliveries are scheduled for times outside the busy periods for drop-offs and pick-ups. The Council's Highways Officer has accepted that the proposed turning area would provide space for manoeuvre and would make servicing easier. I therefore have no reasons to suppose that the proposal would result in any problems with regard to servicing. A separate service yard is not necessary for this scale of use, and would not be justified by the proposed variation in conditions.
18. In response to concerns raised by the Council, the appellant has proposed a condition requiring that one of the visitor spaces is marked out as a disabled parking space. The Council's parking standard recommends a standard allocation for visitor disabled spaces of 5% of the total car park capacity, with provision for disabled staff parking to be made as necessary. As such, the requirement for visitor disabled parking in this case would be less than one space.
19. The visitor spaces would be predominately for drop-offs and pick-ups, so would only be occupied for short periods of time, with a quick turnover at busy times. The provision of sufficient spaces to meet demand means that allocating a space for disabled visitor use may not be necessary and could restrict capacity at peak times, when all the spaces may be required. As such, I have not imposed the proposed condition, but this does not preclude the business from marking out one of the larger spaces as a disabled space at any time, to meet the specific needs of staff or customers.
20. I conclude that the proposed variation of conditions would not cause harm to highway safety. As such, I have found no conflict with Policy QE 6 of the Local Plan Core Strategy 2014 (LPCS), which requires consideration of the effect and timing of traffic movement to and from the site and car parking, including impacts on highway safety, or Policy MP 1, which requires that proposals adhere to car and cycle parking standards.
21. In addition, the proposal complies with LPCS Policy CS1, which sets out the overall spatial strategy for the borough and requires, amongst other considerations, that development safeguards public safety. In their statement, the Council has also referred to the requirement in this policy that sites be developed in appropriate locations accessible by public transport, walking and

cycling. However, as the nursery is an existing use, this requirement is not applicable.

Living Conditions

22. The proposal would result in additional vehicle movements from parents picking up and dropping off, and I note the Council's concerns about the potential impact of this on the terrace of houses which back onto Nelson Road, opposite the nursery car park. However, the nursery is located in a built up area where such uses are to be expected. Furthermore, the additional traffic associated with the proposal would be limited and would be likely to occur at times when local residents are already subject to a degree of traffic noise and disturbance. The nursery opening hours are restricted and there are no proposals to alter them. Given the fairly small increase in the number of children proposed, I consider that the proposal would not cause undue harm as a result of increased comings and goings.
23. The additional children would use the outdoor playspace and would add to the existing noise of children playing. I acknowledge that outdoor play areas for young children can cause disturbance, due to the nature of the noise as much as the volume, and the proximity of nearby properties to the play area means that local residents will be able to hear it. The closest property is neighbouring Little Heath, although the outbuildings between the play area and the rear garden of Little Heath will provide a degree of screening from noise. Nos 17 and 18 Centurian Close are also close by, separated from the play area by a parking area and fence. However, despite this proximity, the Council's Environmental Protection officer has not raised any concerns about noise, and I am not aware of any complaints having been made about noise from the nursery.
24. The appellant has commented that currently there is nothing to prevent the 44 children, which the nursery is permitted to accommodate, from all playing outside at the same time, but in reality this does not happen, and the maximum number of children outside at any one time is usually no more than 30. The appellant has suggested that a condition be imposed to limit the numbers playing outside at any one time to 28, but I agree with the Council that this would be very difficult to enforce.
25. I was able to view the play area on my site visit and could see that it is not an overly large space. To my mind, it is unlikely that the play area could accommodate many more children at any one time, and having regard to the appellant's comments about the existing operation of the outside areas, it is unlikely that the proposals would result in more than a small number of additional children outside at any one time. As such, any extra noise from the increased number of children is likely to be limited.
26. The appellant has submitted a noise report which suggests that noise levels would be reduced as a result of the proposal. However, this is based on the suggested restriction of 28 children outside at any one time, which I have found to be unnecessary and difficult to enforce. I have therefore given little weight to this report.
27. I conclude that the proposal would not cause undue harm to the living conditions of neighbouring occupiers as a result of noise or disturbance. In respect of these matters, I have found no conflict with LPCS Policy QE 6

regarding the need to respect the living conditions of existing neighbouring occupiers.

Other matters

28. I note comments from third parties supporting the initial objection to the scheme from the Highways Officer, but I have given little weight to this objection as it was withdrawn following further explanation of the details of the case, as permitted and proposed, and the inclusion of the turning area.
29. I also note the Council's concerns that future demand for parking could result in pressure to use the front garden area, which could cause harm to the character of the locally listed Heathfield House. However, other than small areas for cycle and motorcycle parking, the current proposal would meet the need for parking without the need to use the front garden, and would not cause harm to the appearance of the building. Any future proposals would need to be considered by the Council, and schemes that caused harm to the building could be resisted.

Conditions

30. It is not necessary to repeat condition 1 of the original permission (APP/M0655/A/13/2209344), as the development is already operational.
31. To provide certainty, I have amended condition 2 of the original permission (now renumbered 1) to refer to the plan submitted with the appeal proposal. Reference to other drawings showing details of the extension is no longer required as this building has now been constructed. Similarly, condition 6 of the original permission, which required samples of materials to be used in the building, is no longer necessary.
32. I have altered condition 3 (now condition 2) to specify the revised number of children that can be present in the nursery at any one time, in the interests of residential amenity and highway safety. Condition 5 (now condition 4) also needs to be revised to ensure that the car park is laid out and retained as specified, also in the interests of highway safety.
33. Condition 4 (now 3) restricts days and hours of operation and is still needed to protect the living conditions of neighbouring occupiers.
34. The Highways Officer has suggested conditions requiring details of cycle parking and the operation of the turning area. However, details of the cycle parking and turning areas are shown on the submitted plan, and the supporting evidence shows how vehicles can use the turning area to enter and leave the site in forward gear. Further information is not necessary and the suggested conditions are therefore not required.
35. For the reasons previously given, I have not varied the conditions to require a designed disabled space to be laid out, or to limit the number of children who could play outside, as suggested by the appellant.

Conclusion

36. For the reasons given, I conclude that the appeal is allowed subject to the conditions set out.

R Morgan

INSPECTOR