



Appeal Decision

Site visit made on 12 January 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2021

Appeal Ref: APP/X2410/W/20/3259584

153 Maple Road South, Loughborough LE11 2JW

- 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 Mr Jonathan Grain against the decision of Charnwood Borough Council.
 - The application Ref P/20/0495/2, dated 1 March 2020, was refused by notice dated 29 July 2020.
 - The development proposed is change of use to mixed use residential and day nursery.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development above is taken from the Council's Decision Notice as it describes the development in a more concise manner than that set out on the planning application form. I am satisfied that neither party was prejudiced by this form of action.

Main Issue

3. The main issue in this case is the impact of the development on the living conditions of nearby residents.

Reasons

4. The appeal property is a brick built semi-detached dwelling located within an area of similar styled residential dwellings.
5. The appeal proposals seek change of use to a mixed use comprising residential use and that of a day nursery which would relate to the provision of childcare services for up to 10no children between the hours of 0700 to 1800 Monday to Friday, with no operational use outside of these hours. The application form states that the children would use the external garden areas front and rear, and specific internal areas of the property. No external alterations are proposed as part of this change of use.
6. The Council's reason for refusal clarifies the nature of activities that would harm the living conditions of adjacent occupiers, and in my view, the principal activities would be the use of the external areas and noise and disturbance from vehicles arriving and departing from the appeal site.

7. The National Planning Policy Framework (the Framework) indicates in Paragraph 180 that planning policies and should ensure that new development is appropriate for its location by “mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life”.
8. The proposed use has to be assessed within the context of the existing noise environment. At the time of my site visit, local traffic levels were low, as was background daytime noise, and there were no sources in the immediate vicinity of the appeal site which would produce a loud or sudden noise. The overall character of Maple Road South is of a quiet residential area.
9. I note that whilst there is no objection from Highways, the amount of noise and disturbance from moving vehicles, parking manoeuvres and the opening and closing of car doors would be more frequent than would be compared with its use as a single dwelling. The noise and disturbance associated with the parking that would take place outside the property and on Maple Road South would be noticeable to the occupiers of properties near to the appeal site and would adversely affect the quiet residential surroundings.
10. The appellant has indicated that the outdoor areas to the front and rear would be used, and I have no doubt that a supervised use of play equipment and facilities would ensure that noise levels can be closely controlled. Whilst the sound of children playing can be an accepted and welcome part of the noise environment, by its nature and irregular pattern it can also be a source of disturbance.
11. I have taken into consideration that a condition could be imposed to restrict the number of children outside at any one time to mitigate adverse impacts from noise and disturbance. However, the monitoring of such a condition would require access to private land and be impractical and inappropriate in the context of a day nursery use and as such would not meet the tests for conditions.
12. A condition restricting the duration of outdoor play would not be a reasonable restriction to impose on such as facility, where a degree of flexibility in arrangements would be required for effective day to day operation. Again, this could not meet the tests for conditions. Whilst the outdoor play areas would not be used during the evenings or weekends, the duration of outdoor play and subsequent noise level would be likely to exceed what could be expected in conjunction with the use of the property as a residential dwelling and would be likely to adversely affect the private amenity areas of neighbouring dwellings.
13. Therefore, I conclude that the development would be likely to cause material harm to the living conditions of nearby occupiers. The adverse effects could not be satisfactorily mitigated through the use of conditions that could satisfy the tests for conditions. As a result I find that the proposals are in conflict with Policy CS2 of the Charnwood Local Plan Core Strategy (2015) and saved Policy EV/1 of the Borough of Charnwood Local Plan (2004) which amongst other matters, expect development to protect the amenity of people who live nearby and safeguard their amenities.

Other Matters

14. I have noted the frustrations of the applicant with regard to the conduct of the Council during this application, and I would suggest that any complaint is taken up with the Council themselves.
15. I have also taken into consideration the other decisions taken by the Council that have been forwarded by the appellant. However, I do not have full details of these schemes, nor am I aware of the development context. I have dealt with the appeal on its own merits, based on the information in front of me and I have identified harm as detailed above.

Planning Balance and Conclusion

16. Adverse effect from noise and disturbance has to be balanced against the economic and social benefits of the proposal. Benefits could arise from the potential for additional jobs to be created and the availability of childcare facilities. This accords with the Framework in terms of the provision of Community Services and its wider sustainability.
17. However, this has to be balanced against the effects of the proposal on existing residents. Whilst there would be no material harm to the character and appearance of the area, I consider that the scale of the proposal would give rise to noise and disturbance from vehicular movements and use of the outdoor play area beyond the level that could be reasonably expected in a residential area. This would be materially harmful to the living conditions currently enjoyed by the occupiers of neighbouring properties. The benefits of the proposal would not outweigh the harm identified, including the conflict with the development plan.
18. I recognise that my decision will be disappointing to the appellant, but a balanced judgement has to be made and having regard to the circumstances of the case, I conclude that the benefits would not outweigh the harm identified.
19. For the reasons outlined above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR