



Appeal Decision

Site visit made on 30 November 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Appeal Ref: APP/P4415/W/21/3279467

142 Moor Lane South, Ravenfield, Rotherham S65 4QR

- 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 Michael Kemp against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2021/0538, dated 22 March 2021, was refused by notice dated 4 June 2021.
 - The development proposed is the use of the private swimming pool for swimming lessons (use class sui Generis)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development as stated on the decision notice in the banner header above in the interests of precision, because other descriptions offered are lengthy and they exceed that necessary to describe the development.
3. The swimming pool was a pre-existing building associated with the dwelling. The application is made retrospectively and proposes to continue the use of the pool for swimming lessons on a commercial basis. I shall determine the appeal accordingly.

Main Issues

4. The main issues are the effect of the development on (i) the living conditions of the occupiers of nearby dwellings, with particular reference to noise and disturbance and (ii) highway safety with regard to parking.

Reasons

Living conditions

5. The use operates between the hours of 16:00 and 19:00. Each lesson lasts 30 minutes and the information provided shows that this allows for 5 classes to take place. A class has no more than 6 swimmers. There is some uncertainty as to the day(s) on which the use is intended to operate, with the application form stating both that this would be on a Tuesday or a Wednesday but also that the use would take place for no more than 6 hours per week. The submissions made by the appellant during the course of the appeal further suggest that the use is sought on a maximum of 3 weekday evenings (9

- hours), although a limit of any 2 weekdays would be accepted if that addressed concerns relating to any harmful impacts identified.
6. The pool can be accessed by a door to the side of the dwelling, close to the common boundary with 144 Moor Lane South. The hard surfacing which forms the driveway continues to this door, and there is additional hard standing to the front of the dwelling and along the driveway which connects to Moor Lane South. No plans have been submitted to confirm the level of parking that is possible on the appeal site, but it appears that the 6-vehicle figure referred to by the appellant would be achievable. This would however require a degree of manoeuvring within the property, and I note that the appellant also asks visitors to reverse up the drive so that they can leave in a forward gear.
 7. There will be considerable levels of noise generated by vehicles entering and leaving the site and manoeuvring on it. Noise will further result from car doors opening and closing and by visitors chatting and conversing as they leave and return to their vehicles. The submissions by the appellant suggest that there will be the arrival and departure of no more than 30 cars during a 2.5-hour session, although this will often be nearer to 20 cars. Therefore, even if the parking for the different sessions is staggered between on-site and off-site as proposed, there will be a substantial number of vehicles entering and leaving the site during the periods that the use will be operational. There is also likely to be spikes in noise generated from voices as visitors both leave and enter the site during class changeover times.
 8. This level of activity far exceeds the number of vehicle movements and visitors that could reasonably be expected to be associated with a residential dwelling. Furthermore, the noise and disturbance that will be generated by this level and type of activity will take place within concentrated time periods and at hours of the day when residents are more likely to be at home and enjoying leisure time. It will, as a result, cause significant harm to living conditions. Due to the close proximity to the common boundary with 144 Moor Lane South and in particular its rear garden area, the impact will be most focussed on that property, although the level of activity means that impacts would also arise at dwellings further away.
 9. Whilst there is noise generated from traffic movements along Moor Lane South, the dwellings in the surrounding area are set back away from this road, and therefore the impact of road noise is not comparable to that I have identified. I also acknowledge that the Council's Environmental Health Officer raised no objection as they considered that there would be no significant loss of amenity by virtue of noise, air quality or land pollution impact. It is not however certain as to what matters that this assessment encompassed, with reference made only to the structure and insulation of the swimming pool, insurance and processes to maintain the safety and correct pH of the water. Therefore, whilst I have had regard to this consultation response, I have reached my own conclusions on this main issue.
 10. I have given consideration to the various options for the hours of use that have been presented, which could be controlled by way of a planning condition. However, it is the substantial number of movements and visitors that will be associated with the use and their concentration within a relatively short time period in the late afternoon/early evening that give rise to the concerns with respect to living conditions. Whilst limiting the number of days would reduce

the number of times the impacts arose, and therefore cause harm on a lesser number of occasions per week, the use on just one weekday per week would still cause a level of harm that would have an unacceptable impact on the living conditions of the occupiers of nearby dwellings.

11. For these reasons, I conclude that the use will cause significant harm to the living conditions of the occupiers of nearby dwellings due to noise and disturbance arising from the movements of vehicles and visitors. Consequently, the development fails to accord with Policies SP11 and SP52 of the Rotherham Local Plan 2014, where they seek to protect living conditions.

Highway safety

12. Reference is made to parking provision that has been made available at an industrial unit on Lidget Lane, which will be staggered with parking at the appeal dwelling. Although this is close to the site, it is not within the planning application site area nor under the ownership or control of the appellant. By the appellant's own admission there is no legal agreement in place with respect to the use of that property, and therefore the arrangement to use this area could be revoked at any point. In such an instance, these vehicles would revert to parking on nearby roads.
13. Representations made by interested parties suggest that car parking associated with the use has taken place on a number of nearby roads. The Council's primary concern which is referenced in the reason for refusal is with the possibility of parking on Moor Lane South. Whilst this could occur owing to the absence of restrictions on the road, there is some merit in the appellant's suggestion that this will not transpire, as it is evident that there are more attractive propositions for parking on other roads in the proximity of the appeal site.
14. That said, it has not been demonstrated that the number of vehicles likely to be visiting in association with the use that would need to park on the public highway could do so safely. There is, for example, only very limited evidence relating to parking stresses on adjacent roads at the late afternoon/early evening times when the use is in operation and when residents and their vehicles are more likely to be at home. As a result, there is the possibility that visitors may park, not necessarily through choice, in a way that impedes the safe operation of the highway network, including with respect to parking on Moor Lane South itself.
15. Whilst the appellant would provide guidance on where to park and they also refer to a car park management plan, I am not persuaded that this could be controlled by way of a planning condition, as it would need to relate to land which forms the public highway and is not under their control. Furthermore, based on the information that is before me, I have found that it is not certain that acceptable on road parking arrangements could be achieved.
16. In conclusion, the ability of the surrounding highway network to safely absorb the level of parking requirement necessary for the use is uncertain, and I have no substantive evidence before me to demonstrate that such parking could be achieved without giving rise to unacceptable harm to highway safety. This is therefore contrary to paragraph 111 of the National Planning Policy Framework, where it refers to matters relating to highway safety.

Conclusion

17. For the reasons given above, I conclude that the appeal should be dismissed.

Graham Wright

INSPECTOR