



Appeal Decision

Site visit made on 2 November 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2022

Appeal Ref: APP/U4610/W/21/3280039

7 Nutbrook Avenue, Coventry CV4 9LE

- 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 Evans against the decision of Coventry City Council.
 - The application Ref FUL/2020/3095, dated 16 December 2020, was refused by notice dated 11 June 2021.
 - The development proposed is Change of Use from existing C3 dwelling and outbuilding to children's day nursery. New decked areas and perspex canopy areas and dropped kerb to front to form in and out driveway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Reference is made to a previous application on the site, Ref FUL/2020/1414. I have considered the changes to the current proposal compared to the previous proposal outlined in the evidence. However, I must determine the development proposal before me on its own merits, not based on how it compares with the previously refused application. I therefore attach little weight to this matter.
3. A revised National Planning Policy Framework (the Framework) was introduced in July 2021, following submission of the appeal. Parties were given the opportunity to comment on its relevance to the case. I have taken account of the revised Framework in reaching my Decision.

Main Issues

4. The main issues are:
 - whether the need for the proposal in an out of centre location has been demonstrated;
 - the effect of the proposal on the living conditions of occupiers of existing neighbouring properties, and
 - whether the proposal would have an unacceptable impact on highway safety and/or a severe impact on the surrounding highway network.

Reasons

Need

5. Policy CO1 of the Coventry City Council Local Plan 2017, (LP), allows for proposals for community facilities, subject to adhering to a sequential approach

as outlined in the Policy. Having regard to reason for refusal 3 on the Council's Decision Notice, a key issue is whether the proposal demonstrates that there is an unmet need in the local community for the childcare facility proposed, and therefore whether the proposal satisfies sub section '1' 'd' (i) of Policy CO1.

6. I note at the outset that I have not been provided with any LP definitions of the terms "need" and "local community". The term "need" could refer simply to the number of childcare places available, or it could include aspects such as the type of facilities available or the underlying philosophy of providers. With regard to the term "Local community", bearing in mind that the Council advised the appellant to consider the 4 Local Centres nearest to the site for the purposes of the sequential approach referred to in Policy CO1, I consider "Local Community" in this context to refer broadly to the area surrounding the appeal site up to, and not far beyond, the boundaries of the 4 Local Centres identified.
7. The proposal would provide a childcare facility with a "forest school" approach/ethos, catering for up to 22 children aged between 6 weeks to 5 years, open all year round (not just school term time) from 07:45 to 18:00 Monday to Friday.
8. In the absence of any compelling evidence to suggest otherwise, I am satisfied that the appellant's Sequential Assessment demonstrates that there are no suitable vacant premises available within, or on the edge of, the 4 Local Centres surveyed. Additionally, I have not been provided with any evidence which suggests that the proposal would harm the vitality or viability of these Centres.
9. The appellant contends that there is a significant demand for the facility proposed; that there are waiting lists in the locality for such a facility, and that many of the existing nursery facilities do not provide full-day care, for the full year, for children in the age range the proposal wishes to cater for. However, I have not been provided with any substantive evidence that demonstrates a demand for the facility proposed; nor have I been provided with comprehensive evidence that confirms the full extent and nature of existing childcare provision within the local community.
10. The appellant also asserts that other nursery premises near to the site recently closed, or stopped operating, thereby reducing the childcare provision within the local community for children aged 6 weeks to 5 years. Other parties have not challenged these assertions, and I have no grounds for doing so either. However, I do not know the reasons these facilities closed or stopped operating. One reason may have been because there was insufficient demand for such facilities in the locality. Should this be the case, the suggestion that there is an unmet need in the area is seriously undermined.
11. I note that the appellant has experience of running a day nursery less than 2 miles from the site, which has a capacity of 40 places. It is contended that it is always full and that some of the children that attend travel from the area within which the appeal site is located. Although these claims may be true, again I have not been provided with any evidence to substantiate them.
12. Within the appellant's statement it is asserted that the 2011 Census Data shows there were 238 nursery aged children within 400 m of the site. However, a copy of the Census Data referred to is provided in Appendix D of the Transport Statement, which shows that there were 138 children aged 0-4

years, ie under the age of 5. Regardless of the actual number, the figure in isolation is not very useful. Without robust, comprehensive evidence of the existing childcare provision in the area, simply knowing the number of nursery aged children does not in itself demonstrate there is a need for another childcare facility in the area.

13. The appellant suggests that due to planned housing development on allocated sites within the surrounding area, it is likely that additional childcare facilities will be required. I accept this may be the case. However, except for one relatively small site, the allocated housing sites which the appellant has drawn my attention to are located further from the appeal site than the Local Centres considered. As such, the childcare needs of future occupants of new housing on these sites may be served by childcare facilities within their more local, surrounding communities.
14. Bearing the above factors in mind, I am not convinced that a comprehensive, robust assessment of existing childcare facilities or analysis of what additional childcare facilities may be required in the local community, has been undertaken. I therefore consider that it has not been unequivocally demonstrated that there is an unmet need in the local community for the facility proposed. The proposal could therefore lead to children attending from outside the local area, travelling in private motor vehicles, which is the least sustainable mode of transport. Consequently, such development would undermine the underlying aim of local and national planning policies to secure environmentally sustainable development. As such, the proposal does not accord with sub section '1' 'd' (i) of Policy CO1 of the LP or paragraph 7 of the Framework.

Living conditions – noise disturbance

15. The site is located within a quiet residential area and comprises a 3-bedroom detached bungalow with a detached single storey ancillary outbuilding in the rear garden and hard standing to the front and side.
16. As noted above, the proposal would provide year-round childcare for up to 22 children ranging from 6 weeks to 5 years, operating between 07:45 to 18:00 Monday to Friday.
17. As both the main building and outbuilding are detached, there are no party walls via which noise disturbance to occupants of neighbouring properties would be transmitted.
18. Given that the property is a 3-bedroom dwelling with garden and on-site car parking, it could readily accommodate a family comprising parents/carers and children, and a couple of cars. As such, some noise could already be generated from vehicle movements from occupants of the dwelling and their visitors (including van deliveries), and children playing in the garden, although I appreciate this would not be to the extent generated by the proposal.
19. Notwithstanding the various scenarios presented in the Transport Statement, worst case scenario is that most of the drop off and collections would occur around the opening and closing times. Hence, any noise disturbance generated by cars is likely to occur over short periods of time around opening and closing times, which I consider are not outside the broadly accepted times of people going to and coming home from work and/or school. As such, I consider that

any noise generated from vehicles arriving at and departing from the property would not significantly harm the living conditions of occupiers of existing neighbouring properties.

20. The Noise Management Plan proposes to limit the number of children in the garden at any one time to 5; and typically, each group of 5 would be outside for between 45 minutes to one hour, between the hours of 09:30-11:30 and 14:30-17:00 on any given day. I consider the management of outdoor play as proposed would ensure such play occurs during acceptable hours of the day, and that the level of noise generated from such small groups of small children would not be excessive. I also note that the weather would undoubtedly, at times, restrict the extent of outdoor play.
21. Bearing the above factors in mind, I conclude that any noise generated above what could be created by a family residing in the property, would be within acceptable daytime hours and is unlikely to be of a volume, intensity, duration or frequency that would be harmful to the living conditions of occupiers of existing neighbouring properties.

Living conditions – car parking

22. As noted above, although drop off and collections could occur at various times during the day, worst case scenario is that most would occur around the opening and closing times of the facility. During these periods I consider there is likely to be some disruption for residents of Nutbrook Avenue in respect of being able to exit their driveways and access the surrounding highway network or access their driveways on return to their property. I accept that this would cause a degree of inconvenience for residents. However, I consider the extent of inconvenience likely to be caused would not significantly harm the living conditions of occupiers of existing neighbouring properties; as such it would not be a reason to withhold planning permission.
23. Considering all the matters discussed with regard to living conditions, I consider the proposal accords with sub sections '1' 'd' (iii) and '2' 'b' of Policy CO1, and sub section '1' of Policy DE1 of the LP. Collectively, and among other things, these policies require development to respect and be compatible with surrounding uses and not to harm the living conditions of occupants of neighbouring properties.

Highway matters

24. As noted above, the site is located within a tranquil residential area. However, there is a Secondary School located at, and accessed off, the western end of Nutbrook Avenue and a Primary School located on, and accessed off, Hawthorn Lane, not far from the site. The presence of these educational institutions results in private motor vehicles and school buses moving along and temporarily parking on Nutbrook Avenue and Hawthorn Lane, during the times pupils/students arrive at and depart from the institutions.
25. Most pupils/students will leave the educational institutions at the end of the school day, ie around 15:00 to 15:30, which does not coincide with the end of day time for the proposed facility. However, pupils/students would tend to arrive at the schools, some in cars and on buses, during the key time that parents/carers would be dropping off children at the proposed nursery. This would place greater demands on the availability of on-street parking in the

- area, and the flow of traffic on the surrounding highway network, during this period. The proposed hardstanding at the front of the property and additional dropped kerb would allow for at least one car to access the site in a forward gear, park on the site during drop off/collection, and exit in a forward gear.
26. Given the likely number of staff required for the proposed facility, I consider the 3 on-site car parking spaces would be sufficient to accommodate the car parking requirements of staff. I also consider sufficient cycle parking for staff and visitors could be provided on-site, which could have been secured by condition, should I have been allowing the appeal.
27. I accept that one or 2 members of staff and some of the children that would attend the facility would reside within walking distance of the site. However, as noted, the Census Data referred to shows 138 children under the age of five, and not the 238 referred to at times in the appellant's statement and the Transport Statement. Consequently, I am not persuaded by the suggestion in the Transport Statement that the proportion of parents/carers that would walk to the facility would be 50%.
28. The appellant's statement and Transport Statement outline measures the appellant intends to implement to minimise use of the private motor vehicle by parents/carers using the proposed facility, one of which is a Management Plan that would include parents/carers driving to the site requesting/being allocated 15-minute drop-off and collection slots, spread over the key opening and closing times. This would stagger the number of cars arriving at/departing from the site during the peak times. The Transport Statement suggests such measures would form a Travel Plan (TP) and this would be secured via a Section 106 legal agreement (s106). Although the Council did not refuse the application based on there not being a s106 agreement, I have not been presented with one. I also consider that such measures could not be secured by conditions, should I have been allowing the appeal. Consequently, I can give little weight to the proposed measures as there is no mechanism in place to secure them.
29. Nevertheless, taking account of the details of the Nutbrook Avenue highway and the surrounding highway network (eg the length and width of roads and footpaths and the existing traffic regulation arrangements), the context of the site and its immediate surroundings, and allowing for the worst case scenario in terms of drop off and collections at peak times, I consider the proposal would not create unacceptable highway safety issues, nor would it result in a severe impact on the surrounding highway network. As such, the proposal accords with section '2' (c) of Policy CO1 and point '3' of Policy AC3 of the LP, guidance within Appendix 5 of the LP and paragraph 111 of the Framework.

Other considerations, planning balance and conclusion

30. The appellant suggests that the proposal would provide certain benefits to the community. For example, parents/carers would have a wider choice of childcare facilities, and the proposal would provide a facility where children would be safely looked after, thereby enabling parents/carers to access employment opportunities. As such, the proposal would therefore provide wider economic benefits.
31. Notwithstanding my conclusions regarding the effects of the proposal on the living conditions of occupiers of existing neighbouring properties and highway

safety and capacity matters, I consider the benefits outlined do not outweigh the harm I have found in respect of providing a community facility in an out of centre location where it has not been demonstrated that there is an unmet need in the local community for such a facility. Consequently, although the proposal accords with certain elements of LP policies, the proposal does not accord with a key aspect of Policy CO1 and therefore it does not accord with the LP as a whole. For the reasons outlined, the appeal is therefore dismissed.

J Williamson

INSPECTOR