



Appeal Decision

Site visit made on 25 April 2022

by C Megginson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2022

Appeal Ref: APP/L2440/W/21/3285187

5 Maidwell Close, Wigston, LE18 3WU

- 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 Kendall against the decision of Oadby and Wigston Borough Council.
 - The application Ref 21/00126/FUL, dated 15 March 2021, was refused by notice dated 1 October 2021.
 - The development proposed is described as 'we currently have one childminder and one assistant working from the property and wish to increase this to one childminder and two assistants which will therefore increase the number of children looked after at the property.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the planning application form. Similar is shown on the appeal form. The Council's decision notice identifies the proposed development as the 'use of residential dwelling by two childminders and one assistant'. Whilst this slightly differs from the information offered by the appellant, the type and nature of the use of the building as it is sought through the appeal scheme is sufficiently obvious to me from the evidence that has been provided. I have proceeded on this basis.
3. The Council's decision notice alleges that neighbouring occupiers would be subject to disturbance from noise from traffic movements associated with the proposed development. The accompanying delegated report raises additional substantive concerns over air quality in the same regard.

Main Issues

4. With the above in mind, the main issues are the effect of the proposed development on a) the living conditions of neighbouring occupiers with specific regard to noise disturbance and air quality; and b) highway safety.

Reasons

Living Conditions

5. The appeal property is a detached dwelling situated at the head of a cul-de-sac. Neighbouring buildings are single and two storey detached dwellings, arranged conventionally, set back from and facing the road, with parking to the front and sides. The lack of through traffic and spacious nature of the detached

plots gives the cul-de-sac a quiet residential feel. The head of the cul-de-sac provides direct access to three properties including the appeal property. The rear garden of the appeal property adjoins neighbouring gardens to one side and to the rear.

6. The appeal property currently provides a childcare facility with one childminder and one assistant. The proposal would seek to intensify the childcare use by adding a further childcare assistant. This would allow a maximum of 18 children under the age of eight to be cared for at any one time (six children per childminder). As only three children per childminder can be under the age of five, during term time and during school hours a maximum of nine children would be present. Before and after school sessions run 07.30-09:00 and 15:00-17:30 respectively. Whilst the appellant states that the facility is not currently used to its maximum capacity, they have also cited a high demand for childcare in the area and so it would not be unreasonable to assume that these maximum figures would be reached.
7. The activity generated by the childcare facility and the attendant comings and goings would lead to a level that would be considerably and noticeably more marked and intensive than that which could reasonably be expected to be associated with a single house, even one occupied by a large family. This would give rise to a general level of noise and disturbance at an intensity that would be disruptive, particularly to the occupiers of the neighbouring properties.
8. I appreciate that some children would arrive at the facility on foot and that siblings would arrive in the same car. Nonetheless, noise and disturbance from multiple cars driving into the head of the cul-de-sac, parking, unloading and loading children and turning would likely give rise to considerable disturbance throughout the day and particularly at either end of the school day. Whilst the main entrance to the facility is away from neighbouring properties, further noise will come from car radios, car doors opening and closing and talking as part of the drop off and pick up.
9. Furthermore, the proximity of neighbouring rear gardens creates a sensitive relationship and would mean that occupiers are likely to experience noise and disturbance when children are playing in the garden, resulting in subsequent harm to their living conditions. Whilst the appellant would limit the use of the garden for playtime to set times, these times would still cover a significant portion of the day. I appreciate that the children will also sometimes be out on walks in the neighbourhood or out on day trips, however, and in the main, they would be something of an ever present at the building.
10. Noise levels could be controlled through measures such as asking children and parents to keep noise to a minimum and through writing into parents contracts staggered arrival and pick up times and specifying that they must only park on the drive, not the road. The intention behind such measures is laudable but, it would be challenging to say the least to curb natural human behaviour and therefore a condition in this regard would be difficult to enforce.
11. In terms of the Council's concerns regarding air quality and the effect of additional traffic, more vehicles in the immediate area could have an adverse effect. That said, I have limited evidence to be able to confirm this either way. In any case, and if there were a lack of harm in regard to this matter, it would not be a positive element of the appeal proposals. Particularly given the harm I

have found in regard to disturbance from noise and the living conditions of neighbouring occupiers.

12. The appeal scheme would therefore be contrary to the amenity protection aims of Policy 6 of the Borough of Oadby and Wigston Local Plan (2019) and the National Planning Policy Framework (the Framework).

Highway Safety

13. The appeal property has a large gravel drive to the front which includes a detached double garage, located at the end of the drive, perpendicular to the house. Whilst the drive may be large enough for at least 6 cars to park, the short-term nature of such parking would result in a high turnover of cars, particularly at peak drop off and pick up times.
14. Furthermore, the awkward shape of the drive would severely limit the number of cars that could safely park and then manoeuvre out of the drive. This would result in ad hoc parking within the turning head of the cul-de-sac that provides access to the driveways of two other properties. This would represent an unsatisfactory arrangement and the ad hoc, uncontrolled movement of cars would amount to a significant adverse effect on highway safety. It would give rise to a congested highway that would inhibit the free flow of traffic. The appellants suggestion to specify that parents must park on the drive rather than the road would not be a workable solution for these reasons.
15. Consequently, the proposals would give rise to harm to highway safety. They would therefore conflict with Policy 6 of the Borough of Oadby and Wigston Local Plan (2019) which, amongst other things, requires proposals to provide appropriate parking facilities. The proposal would also conflict with the highway safety aims of the Framework and the Residential Development Supplementary Planning Document (the SPD).

Other Matter

16. The Council's reason for refusal mentions the character of the area changing materially and their argument focuses on comings and goings from traffic. Evidence in this regard is light and the Council don't allege any specific harm arising out of it. Arguably, the character of the area would change from residential to residential and part commercial, however, the proposed development would not include any external changes and whilst the function of the area would change, the main harm in regard to this change would be in terms of the adverse effect on the living conditions of neighbouring occupiers and the safe use of the highway in the terms I have set out and dealt with in response to the main issues of the case..

Conclusion

17. The appeal scheme would conflict with the development plan. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed

C. Megginson

INSPECTOR