



Appeal Decision

Site visit made on 24 May 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 July 2022

Appeal Ref: APP/W3005/W/22/3291973

Hucknall Day Nursery, 100 Nottingham Road, Hucknall NG15 7QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Paul Woodman, Hucknall Day Nursery, against the decision of Ashfield District Council.
 - The application Ref V/2021/0461, dated 8 June 2021, was approved on 10 September 2021 and planning permission was granted subject to conditions.
 - The development permitted is the construction of a timber framed and clad classroom on land at the back of the existing nursery.
 - The condition in dispute is No.5 which states that: *"The hereby approved classroom, in addition to all the other buildings at the site that form the day nursery shall provide care for a maximum of 100 children."*
 - The reason given for the condition is: *"To ensure there is sufficient car parking capacity to meet the requirements of the business and to protect residential amenity."*
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Decision

1. The appeal is allowed and the planning permission Ref V/2021/0461 for the construction of a timber framed and clad classroom on land at the back of the existing nursery at Hucknall Day Nursery, 100 Nottingham Road, Hucknall NG15 7QE, granted on 10 September 2021 by Ashfield District Council, is varied, by deleting condition No.5 and substituting for it the following condition:
 - 5) The hereby approved classroom, in addition to all the other buildings at the site that form the day nursery shall provide care for a maximum of 110 children.

Background and Main Issue

2. This site is an established children's nursery. In 2019, planning permission (Ref V/2019/0566) allowed the expansion of the nursery business. It included a condition limiting the capacity of the nursery to 86 children; a figure arrived at following discussion between both parties during the determination of the application.
3. The planning permission, which is the subject of this appeal, allowing the construction of the classroom, included the now disputed condition restricting the nursery to provide care for a maximum of 100 children at any one time. The reasons given for imposing the condition are to ensure that there is sufficient car parking to meet the requirements of the business and to protect residential amenity.

4. As part of the application submission, the supporting statement indicated that an additional classroom was required to fulfil demand in the area and a presentation to surrounding residents explained the need to accommodate up to 24 additional children. The intention was therefore to increase capacity by 24 children resulting in a total of 110 places.
5. During the determination of the application the Council appeared not to be aware of the 110-capacity sought as it was not clearly stated in the application documentation and I have not seen evidence that the total number of children was discussed. Condition No.5 was attached to the planning permission limiting the nursery to a maximum of 100 children. The appellant wishes to vary the condition by increasing the capacity of the nursery by an additional 10 children to a maximum of 110 children.
6. The main issues, therefore, are the effect upon parking provision and highway safety, and on the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons

7. The current permission will provide an additional 6 parking spaces, making a total of 21 spaces on the site. During the determination of the application, no objection to this was received by the Highways Authority. However, I am unclear whether the Highways Authority was aware of the 110-capacity sought as the planning officer's delegated report mentions an increase of only 14 rather than 24 children. No other objections were received in relation to parking or highway safety.
8. I have no detailed evidence of car park usage patterns or modes of travel by parents and staff to be able to assess whether an additional 10 children would impact on parking provision or highway safety. However, I recognise the typically flexible drop off patterns and usage associated with nurseries which avoids significant concentrations of traffic at any one time or day and not all parents or staff will be necessarily arriving by car. I am also aware that there are some opportunities in the immediate area for street parking and that staff parking could be reduced if required.
9. I note the Council's comments that the permitted capacity of the nursery already exceeds the parking provision of the site. However, there is no evidence that the ratio of parking spaces to child places was inadequate based on the 86-capacity approved in 2019 (Ref.V/2019/0566). Compared to the 2019 application, the proposed variation of Condition 5 would increase the capacity of the car park by 40% (from 15 spaces to 21 spaces), and the number of children by 28% (from 86 places to 110 places). There would therefore be proportionally more car parking for 110 children than there would be for 86 children.
10. There is no evidence of a parking or highway safety problem on the lower number of child places. Therefore, as the appellant would be marginally increasing car parking provision by more than the increase in places, I conclude that there will be no harm.
11. The nursery is in a predominantly residential area with a retirement complex to the north and residential dwellings to the west and south. The nursery's main play area is to the south-west in close proximity to many of these residential

properties. The new classroom would be sited in the western corner of the playground adjoining some residential properties, and the playground would be divided to provide a separate area for pre-school children; an area which is already used as an all-weather playground.

12. I recognise that an objection to this planning application was received from a nearby resident citing distress caused by increasing levels of noise and disturbance, predominantly as a result of children playing outside. However, this is an established nursery business in a residential area and in granting the current planning application the Council considered that noise levels associated with the increased provision would not be too dissimilar to those currently experienced. Moreover, educational uses such as schools and nurseries are a common feature within residential areas.
13. The nursery has expanded from 86 children in 2019 to a current total of 100 children. Whilst there is no noise assessment data before me, only one objection regarding noise and disturbance in relation to the recently approved application demonstrates that noise and disturbance is not detrimentally affecting a significant number of the surrounding residents. I also recognise that the placing of the new classroom close to the boundary with residential properties may help to limit noise spread, especially affecting those occupants in the retirement complex. Therefore, being mindful that planning permission has already been granted to increase the capacity up to 100, I consider that increasing the capacity to 110 children is unlikely to cause an unacceptable level of additional noise and disturbance.
14. I therefore conclude that there would be no harmful effect upon parking and highway safety, or on the living conditions of nearby residents. It would, therefore, accord with Policies ST1 and ST2 of the Ashfield Local Plan Review 2002 which seek, amongst other things, to protect residential amenity and highway safety. It would also comply with the provisions of section 12 of the 2021 National Planning Policy Framework which seeks to achieve well designed places.

Conclusion

15. For the reasons given above, taking all matters into consideration, I conclude that the appeal should succeed. I will vary the planning permission as set out in the formal decision by deleting the disputed condition and substituting it with a replacement condition increasing the maximum capacity of the nursery to 110 children, in accordance with the appellant's expectations.

G Bayliss

INSPECTOR