



Appeal Decision

Site visit made on 14 September 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 17 October 2022

Appeal Ref: APP/W4223/W/22/3294650

33 Leaside Avenue, Chadderton OL1 2QZ

- 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 Yvonne Lee (Age UK Oldham) against the decision of Oldham Council.
 - The application Ref FUL/347636/21, dated 22 September 2021, was refused by notice dated 13 December 2021.
 - The development proposed is the change of use of property from residential use (C3) to Class E (day care centre).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the decision notice, which more succinctly and accurately describes the proposal than the application form.

Main Issues

3. The main issues are the effect of the proposed development on highway safety and the living conditions of residents of surrounding properties, with particular regard to noise and disturbance

Reasons

Highway Safety

4. The site comprises a three bedroom detached bungalow with front paved driveway in the residential street of Leaside Avenue, situated adjacent to a curve in the road. The proposal seeks to change the use of the property from a residential dwelling to a day care centre, which would operate between the hours of 08:30 – 16:00, Monday – Friday.
5. I have had regard to the Technical Note provided, which outlines the movements likely to be associated with the proposal. Most centre users, accompanied by a singular member of staff, would arrive and depart by a minibus, which would otherwise be kept off site. Typically, a further three centre users would be dropped off and picked up by car, and four staff members would travel by car to and from the site daily.
6. While the current residential use of the appeal property would result in vehicular movements, these would be limited by the modest scale of the dwelling, which would be unlikely to accommodate a large number of

occupants with a range of types and levels of movements. Accordingly, the various movements associated with the proposal would result in increased vehicular activity at the site. While this would be heavily concentrated to certain time periods during the week, at these points there would be a much greater intensity of movement than the residential use of the property.

7. The appellant submits that the driveway could provide parking for four vehicles, including the minibus, without overhanging the highway. However, when fully parked this would be tight, with inadequate turning space to enter and exit in forward gear. Coupled with the fact that space would also be required for centre users to board and alight the bus in the driveway, it would be unlikely for four vehicles to park in this space.
8. Accordingly, it is likely the proposal would result in on-street parking. While the appellant encourages car sharing and intends for the minibus to utilise the driveway, despite the appellant's best intentions there is no guarantee that this would always be the case. As such it remains that four staff cars and the minibus could be present at any one time, creating reliance on on-street parking even if the driveway was fully utilised.
9. I found Leaside Avenue to not be heavily parked, with most vehicles kept off-street and some sporadic on-street parking occurring by mounting the footpath. However, while space is available, the road is narrow and the site is positioned at a bend. As such, even acknowledging the low traffic speeds in the surrounds, on-street parking in the vicinity of the property would unduly hinder vehicular and pedestrian flow and reduce visibility for highway users, thereby increasing collision risk.
10. This would be exacerbated during pick up and drop off. While reference has been made to staggered drop off, nothing substantive guarantees this would be the case, such that both the minibus and collecting cars could be attending the site at the same time. For convenience and to avoid centre users having a long journey to cars, those collecting and dropping off would likely park as close to the premises as possible. While temporary, this would still result in regular periods of increased on-street parking in the site vicinity. Combined with on-street staff cars, this would create a significant obstruction for both pedestrians and vehicle users at a point of reduced visibility in an already narrow road.
11. In addition, such heavy parking could possibly restrict access to other residential properties, further impacting on highway movements and reducing the free flow of drivers and pedestrians. Overall, the increased movements and likely on-street parking associated with the proposal would therefore unduly affect the safe and efficient operation of the immediate highway network in Leaside Avenue.
12. For the reasons given I find that the development would have a significant adverse effect on highway safety. In this regard it would not comply with Policy 9 of the Oldham Development Plan Document - Joint Core Strategy and Development Management Policies 2011 (the DPD) insofar as it seeks to ensure development minimises traffic levels and does not harm the safety of road users.

Noise and disturbance

13. As outlined above, the proposal would result in increased vehicular movements when compared with its current lawful use. This would give rise to additional activity at the site and in the surrounds, and lead to associated noise resulting from parking, opening and closing of car doors and the general comings and goings linked to staff, users and families or carers.
14. However, I am mindful that the time during which this noise would occur is limited by the operating hours of the proposal. As such, while the centre would operate five days a week, the noise linked to the additional comings and goings would not occur early in the morning, late into the evening or at weekends, when the area would be less active and a level of peace and quiet could be reasonably expected.
15. In addition, although Leaside Avenue is a solely residential setting, the number of households present on the street would inevitably result in a variety of levels and types of activity occurring throughout the day. In this context, and combined with the centre operating hours, the additional noise of the proposal is unlikely to be so significant as to cause undue disturbance to the surrounding residents.
16. For the reasons given I find that the proposal would not have a significant adverse effect on the living conditions of residents of surrounding properties, with particular regard to noise and disturbance. In this regard it would comply with Policy 9 of the DPD insofar as it seeks to ensure development does not cause significant harm to the amenity of existing and future neighbouring occupiers through impacts on noise.

Other Matters

17. The appellant has referred to the Bluebells Day Centre on Ripponden Road. I observed this on my visit and have had regard to the letters of support from its neighbouring residents. However, unlike Leaside Avenue, the wide, straight nature of Ripponden Road, combined with the precise shape, scale and layout of the driveway at Bluebells Day Centre, ensures that parking and vehicular movements associated with the use can be accommodated without interference with highway safety. In any event, each proposal must be assessed on its own site specific circumstances.
18. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination and to advance equality of opportunity. As the proposal would provide a day care centre for elderly and disabled individuals, it would relate to persons who share relevant protected characteristics. It does not follow from the PSED that the appeal should succeed, rather that the benefit to elderly and disabled centre users should be taken into account in the planning balance.
19. I have given considerable weight to this identified benefit. However, it remains that such a use should not unduly interfere with the safe and efficient operation of the highway network. As such, I do not consider that the identified benefit would outweigh the significant harm outlined above. Furthermore, while I have concluded that the proposal would not result in

harm to the living conditions of surrounding residents, this represents a lack of harm, which is neutral in the planning balance.

Conclusion

20. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR