



Appeal Decision

Site visit made on 27 February 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 MAY 2024

Appeal Ref: APP/M3645/W/23/3323588

1 & 2 Woodland Court, Oxted, Surrey RH8 0NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Family First Nurseries against the decision of Tandridge District Council.
 - The application Ref is TA/2022/1242.
 - The development proposed is described as *amalgamation of 1 Woodland Court and 2 Woodland Court, which were previously two separate semi-detached residential dwellings, with the provision of a nursery on the majority of the combined ground floor as well as what was previously the first floor of No 2 Woodland Court. The first floor of what was previously No 1 Woodland Court has been retained as a residential flat with a lounge and separate entrance provided on the ground floor.*
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Decision

1. The appeal is allowed and planning permission is granted for the amalgamation of 1 Woodland Court and 2 Woodland Court with the provision of a nursery on most of the combined ground floor and on part of the first floor, at No 1 & 2 Woodland Court, Oxted, Surrey RH8 0NR in accordance with the terms of the application, Ref TA/2022/1242, and the plans numbered 003-41-01 Rev A, 003-41-03 Rev A (received 14 November 2022) and site location plan, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have used the company name in the banner heading above, given that different people within the company have submitted the planning application and the appeal.
3. The description of development in the banner heading above is taken from the Application Form. However, in the interests of clarity, a revised description of development has been agreed with the appellant. It is clear from the evidence that the development had already been carried out, but I have determined the appeal on the basis of the revised description outlined in my decision above and as shown on the application drawings.
4. The Council's second reason for refusal relates to insufficient information being provided to demonstrate that the traffic generated by the proposal can be adequately accommodated on the adjoining public highway. Subsequently, the appellant has provided further evidence in an updated parking plan and Transport Statement (TS). The Council has confirmed that it no longer wishes to pursue the second reason for refusal. I see no reason to disagree and Policy CSP12 of the Tandridge District Core Strategy 2008 (CS), as well as Policies DP5 and DP7 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2019

(2014) (TLP2), which relate to travel demand, highway safety and safeguarding amenity, have been satisfied.

5. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of the nearest neighbours, with particular regard to noise and disturbance.

Reasons

7. The appeal concerns 1 & 2 Woodland Court, a pair of semi-detached properties whose rear garden is bound by close board panel fencing and abuts the rear gardens of other residential properties. The site lies within an urban area which is predominantly characterised by residential development. There is a primary school on Silkham Road. The properties 1, 1b and 3 Silkham Road front the school and are adjacent to the nursery to the rear.
8. Interested parties have raised concerns regarding noise levels. However, the appellant has submitted a Noise Impact Assessment (July 2022) which demonstrates that the proposal is acceptable in terms of the maximum noise generated. This is not disputed by the Council. Subject to conditions limiting the number of children outside at any time, as well as the hours of outdoor play, I see no reason to take a different view.
9. The pupils attending the primary school have the same break time during the day, in line with school timetabling. The nursery's outdoor play sessions may not be coordinated with these, so there could be an extension of the period during which noise may be experienced during the day. Additionally, the nursery operates for more weeks during the year than the school. However, I have not been provided with compelling evidence to demonstrate that the cumulative impact of the noise associated with the school and nursery results in extensive and excessive noise and disturbance. Hence, I am satisfied that there would not be a harmful effect upon the living conditions of the adjoining neighbours.
10. There may be some increase in noise and disturbance from the dropping-off and collecting of the children, as well as from the additional staff arriving on site. The Transport Statement (May 2023) (TS) sets out that the arrival and departure of pupils and staff is normally staggered, thereby reducing the number of movements at one time. Bearing in mind the ambient noises in the locality, this is unlikely to adversely affect the living conditions of neighbouring residents.
11. Drawing all the above together, I conclude that the proposal has an acceptable effect on the living conditions of the nearest neighbours, with particular regard to noise and disturbance. The proposal accords with Policy DP7 of the TLP2 and with Policy CSP18 of the CS, which seek to protect residential amenity. The proposal accords with the Framework which supports development that creates places with a high standard of amenity for existing users.

Other Matters

12. Concerns have been raised in relation to parking and traffic levels associated with the proposal. However, the TS carried out a parking stress survey for the nursery in operation and concluded that the local highway network can accommodate the parking demand generated by the nursery. Furthermore, the TS concluded that the local highway network within 200m of the appeal site can accommodate the level of trip generation associated with the proposal. There is no substantive evidence before me to the contrary that would lead me to doubt these findings. For these reasons, it is not necessary to impose a condition requiring staggered drop off times, as suggested by the Council. In any event, even if inconsiderate parking practices arise, this is subject to normal policing and controls within the highway.
13. Interested parties raised concerns in relation to the pollution caused by cars. However, given that the expected traffic generation associated with the proposal is not substantial, it is unlikely that this gives rise to unacceptable harm to air quality.
14. My attention is drawn to a restrictive covenant which does not allow any business or trade to operate from the property. However, this is a civil matter that falls outside my consideration of this appeal.
15. Concerns in relation to privacy have been raised. However, there are no proposed external changes to the building, so the privacy of the nearest residents is not affected by the proposal. Similarly, there are no proposed changes to the frontage of the properties. In light of other parking arrangements nearby, the driveway is not harmful to the character and appearance of the area.
16. Interested parties suggest that other nurseries in Oxted have vacancies for children and that children would be safer in purpose-built facilities. Nevertheless, the Framework recognises it is important that a sufficient choice of school places is available to meet the needs of existing and new communities, so the proposal would make a positive contribution towards this objective. Any matters related to the safety of children while attending the nursery are controlled by other legislation.

Conditions

17. I have considered the Council's suggested planning conditions in light of the Framework and Planning Practice Guidance, including as referred to above, and amended these where necessary for clarity.
18. In the interest of highway safety, a condition requiring parking spaces to be provided in accordance with the approved plans is necessary. To ensure that adequate cycle parking is provided as a means to promote sustainable travel, a condition is necessary to require the provision and retention of cycle parking facilities.
19. In order to protect the living conditions of the nearest neighbours, conditions restricting the hours of operation, the hours of use of outdoor space as well as the number of children outside at any time are necessary.

Conclusion

20. Overall, I conclude that the proposal complies with the development plan as a whole. There are no material considerations that indicate that a decision should be taken otherwise than in accordance with it. As such, the appeal is allowed.

P Terceiro

INSPECTOR

Schedule of Conditions

- 1) Within one month of the date of this decision the 6no parking spaces shown on drawing no 003-41-03 Rev A (received 14 November 2022) shall be provided. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- 2) The use hereby permitted shall cease within one month of the date of failure to meet any of the requirements set out in i) to iv) below:
 - i) Within six months of the date of this decision a scheme for the facilities for the secure, covered parking of 5no bicycles and the provision of a charging point for e-bikes by said facilities shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within nine months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) The use hereby permitted shall operate only between the hours of 07:00 and 18:30 on Monday to Friday and shall not take place at any time on Saturdays, Sundays or on Bank or Public Holidays.
- 4) The outside garden area to the rear of the properties shall be used in connection with the use hereby permitted only between the hours of 09:00 and 17:00 on Monday to Friday, and shall not be used at any time on Saturdays, Sundays or on Bank or Public Holidays.
- 5) The use of the garden area in connection with the use hereby permitted shall be restricted to a maximum of 20 children at one time.

End of Conditions