



Appeal Decision

Site visit made on 4 July 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2024

Appeal Ref: APP/V3120/W/23/3329166

8 Wilkins Way, Wantage, Oxfordshire OX12 7GJ

- 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 Mr and Mrs Peris of Little Fishes Childminding against the decision of Vale of White Horse District Council.
 - The application Ref is P22/V2393/FUL.
 - The development proposed is change of use from C3 to a mixed residential and nursery for the care of up to 18 children.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have removed reference to the proposal being retrospective from the description of development above, since this is not a description of development.

Main Issues

3. The main issues are the effect of the proposal on the living conditions of occupants of nearby properties, with particular regard to noise disturbance; (ii) effects on highway safety, and (iii) whether suitable waste storage arrangements could be achieved.

Reasons

Living Conditions

4. Policy DP23 of the Vale of White Horse Local Plan Part 2, 2019 (the LPP2) states that development should demonstrate that it will not result in significant adverse impacts on the amenity of neighbouring uses in relation to matters including noise. Policy DP25 of the LPP2 states, among other things, that noise-generating development will not be permitted if mitigation cannot be provided within an appropriate design or standard.
5. No.8 Wilkins Way is located on the edge of a new residential development, close to the A417 but accessed via a network of smaller streets enclosed by housing. The pattern of residential development is relatively dense and there are other properties including habitable room windows and private outdoor gardens very close to the appeal site.
6. The use operates between 7.30am and 6pm Monday to Friday, albeit not including bank holidays or another four weeks throughout the year when the

operators take leave. The number of children on the premises varies throughout the day with about half requiring care during the day, and the other half utilising wrap-around school hours. Nonetheless, the use of the site by children throughout the day has the potential to cause noise disturbance, particularly given the proximity of other residential properties. While it is alleged that some may find the sound of children enjoyable and expected within a residential area, this is a subjective matter and would likely depend on the levels and duration throughout the day.

7. The appellant has provided a Noise Survey and Noise Impact Assessment Report (the NIA) to consider these effects. However, concerns were raised by the Council in respect of its methodology, in particular that noise data was used from elsewhere rather than the site itself and that it did not consider the potential impact in summer months and instead used an unrepresentative period. Further concerns for the NIA have also been raised as part of the appeal and there is no further evidence which has been submitted which would lead me to doubt the Council's findings or alleviate these concerns.
8. In addition, there is conflict between the findings of the NIA and evidence held by the Council and third parties where sound levels recorded at a neighbouring property during the summer were found to be at a level described as high and intrusive. This is not supported by evidence of how or when it was recorded, however, together with the letters from third parties which suggest noise disturbance does occur during the day, this casts further doubt on the findings of the NIA and adds to my concerns.
9. On this basis, it cannot be established that the proposal is acceptable in terms of its effects on neighbouring properties and potential mitigation measures to reduce or control the level of noise have not been put forward. Neither is there substantive evidence to demonstrate that the noise arising from the proposed use would be comparable to that of six children from a childminding service which would not require planning permission.
10. In conclusion on this main issue, in the absence of evidence to the contrary, the proposal causes harm to the living conditions of occupants of nearby properties in terms of noise disturbance. Accordingly, it would conflict with policies DP23 and DP25 of the LPP2, summarised above.

Highway Safety

11. The appeal site has a driveway with space for tandem parked vehicles and there are parking bays dispersed around the streets of the wider development which include a bay adjacent to the garden of no.8. Despite being at the end of a cul de sac, there is a public footpath which crosses in front of the site, and the end of the cul de sac provides access to other nearby properties as well as no.8.
12. The capacity for 18 children has the potential to generate 36 vehicle movements associated with their drop off and pick up, during which vehicles would need to stop nearby. There is no formal drop off/ pick up facility on Wilkins Way and users visiting the site would therefore need to use the on-street parking bays. However, the nearby bays have limited capacity due to their size and, at the time of my site visit in the middle of the morning, several spaces within them were occupied. While this was only a snapshot in time, there is not evidence to suggest that this is not characteristic of other times of

day or that those parking bays have the spare capacity to accommodate the vehicles associated with the use, particularly if some spaces were also to be used by staff for the duration of the day. There is also no turning head at the end of the cul de sac close to the appeal site and I note the concerns of the Highway Authority for the extent of vehicle movements given the nature of the highway here.

13. As a consequence of these factors, if those parking bays were full, vehicles visiting the site would need to stop elsewhere in the street where they would be likely to cause obstruction to other vehicles or pedestrians, causing conditions prejudicial to highway safety.
14. Given its location in a residential development it is likely that some drop offs and pick ups would be made by foot, although there is not substantive evidence of the extent to which this occurs. Drop offs and pick ups by car may also be staggered movements, rather than all at once, and may be relatively quick, helping to reduce the effects on the highway. However there is not evidence of the period over which the staggering occurs or how the process would be managed in perpetuity to ensure highway safety would be maintained.
15. Overall, there is insufficient evidence to demonstrate that the effects of the proposal on highway safety would be acceptable. The proposal would conflict with Core Policies 33 and 35 of the Local Plan 2031 Part 1 (the LPP1) and Policy DP16 of the LPP2 which together seek to ensure that the impacts of new development on the local road network are minimised, and that adequate provision is made for parking and vehicle turning.

Waste Storage

16. It is the Council's case that a commercial waste collection would be required. While there is no detailed information on this matter, it is likely that an appropriate storage area could be accommodated into the rear garden and the appellant has stated their agreement to use a commercial waste management company if required. As such, there is sufficient certainty on this matter that a planning condition could reasonably be used to secure further details if the appeal were otherwise to be allowed. This would be adequate to ensure compliance with LPP2 Policy DP28 which requires non-residential uses to provide sufficient space for storage of refuse and recycling containers, and the Council's Design Guide¹ relating to its design.

Other Matters

17. Based on the many letters which support the application, there is demand for local childminders and wrap-around school care and the site provides a highly valued facility for its users, including those with learning disabilities, which is an important benefit which I give significant weight. It is also reported that the business helps raise money for charity and the use generates some economic benefit through its employment and support to working parents. While there may be a nursery facility planned for the wider development it is not apparent that this is already in operation or would provide the same services as the appeal scheme. However these benefits would not outweigh the conflict found

¹ South Oxfordshire and Vale of White Horse Joint Design Guide 2022

with the development plan, and the adverse effects of the development could be significant and long lasting.

18. The appellant has highlighted a grant of planning permission in 2016 for a childminding service of similar hours, sought retrospectively. However this would appear to be some distance from the appeal site in a more rural location and the associated report states that no objections or noise complaints had been received by the Council. As such it cannot be established that the circumstances are the same as this appeal.
19. The appellant may have received conflicting advice which would have been frustrating and may have obtained the relevant consents from other bodies including the Kingsgrove Management Company and Ofsted. However these would not override, or necessarily provide reason to grant, planning permission given the considerations would be different. There may be other childminders in the area operating without the benefit of planning permission. However ,if this is the case it is a matter for the Council and these examples would not provide a justification to grant planning permission here.
20. While local policies specific to a childminding business have not been brought to my attention, there are development plan policies relevant to the proposal, as set out above. As such the absence of such a policy would not trigger the provisions of paragraph 11d) of the National Planning Policy Framework.

Conclusion

21. The proposal would conflict with the development plan when read as a whole and there are not material considerations of sufficient weight to warrant a decision other than in accordance with it. The appeal is therefore dismissed.

C Shearing

INSPECTOR