



Appeal Decision

Site visit made on 29 May 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2024

Appeal Ref: APP/R0660/W/24/3337621

129 Gainsborough Road, Crewe, Cheshire East CW2 7PJ

- 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 Mrs Lynsey Taylor (of ABC Childcare Services Ltd) against the decision of Cheshire East Council.
 - The application Ref is 23/4448N.
 - The development proposed is the change of use from childcare on domestic premises to childcare on non-domestic premises. Present capacity of twenty spaces increasing to thirty.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from childcare on domestic premises to childcare on non-domestic premises. Present capacity of twenty spaces increasing to thirty at 129 Gainsborough Road, Crewe, Cheshire East CW2 7PJ in accordance with the terms of the application, Ref 23/4448N, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 Site Location Plan, 1:500 Block Plan, 100/810/2023 Floor Plan Layouts, 100/813/2023 Annex Building – Play Space.
 - 3) The hours of operation of the use hereby permitted shall be limited to between 07:15 to 18:00 Monday to Friday. It shall, at not times, operate on Saturday, Sunday or public holidays.
 - 4) The appeal site shall not be used for the caring of more than 30 children at any one given time.
 - 5) Prior to the development hereby permitted being carried out, a noise management plan shall first be submitted to, and approved in writing by, the Local Planning Authority. The plan shall identify any adverse noise impacts from the hereby permitted increased number of children and, if necessary, mitigation measures as well as a timescale for their implementation. The approved measures shall be implemented in accordance with the agreed timetable and shall thereafter be retained in full.

Preliminary Matters

2. Some of the appellant's submissions suggest that the proposal would increase the number of nursery spaces by eight. However, the description of

development states that this increase would instead be ten. I also note that the Council considered the increase would be by ten and that the decision notice and appeal forms refer to an increase of ten. I have, therefore, considered the proposal against this increase rather than the increase of eight referred to in some of the submissions.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers with regard to noise.

Reasons

4. The appeal site contains a semi-detached building which is, currently, in mixed use between a residential dwelling and a nursery for childcare. The adjoining property is a residential dwelling and the wider area is primarily residential. During my site visit I was able to observe all but one room, the sleep room, and was able to see the outside area and the annexe building. As my visit can only provide a snapshot in time, the level of noise and activities I witnessed during my site visit have not been determinative in my considerations. The only rooms which appeared to solely be used for domestic purposes during my site visit were a bedroom, annotated P4 on the submitted plans, and its associated en-suite.
5. The existing, and proposed, hours of operation are limited to week days and between those hours where people are typically getting ready for, and traveling to, work, are at work, and are travelling back from it. Any impact would therefore be restricted to these hours rather than the more sensitive times overnight and during the weekend when people are more likely to be sleeping, relaxing and, in general, spending more time at home.
6. As the nursery use is already being carried out at the appeal site, a level of noise would already be generated. I consider the predominant part of this noise to be of a domestic nature, stemming from typical household activities, such as cleaning and cooking, and from the children with regards to playing and acting up. However, the intensity of this noise would, by way of the number of children at the site, be greater than is typical for a family home of this size. I understand that the nursery has been present for a significant number of years and I have not been provided with any evidence demonstrating adverse noise impacts on neighbouring occupiers.
7. With consideration of the way in which the existing building is being used, I do not find that the proposed use of the whole property as a nursery would significantly or noticeably alter the effect of the site on the surrounding area. This is particularly so given that room P4 is separated from the neighbouring dwelling by the staircase and hallway. This separation would provide a degree of protection from any increased noise for the neighbouring occupiers. The two properties appear to be handed and should the neighbouring stairs and hallways be similarly located on the shared wall, this would further protect the more sensitive spaces in the neighbouring property from any noise.
8. The additional ten spaces for children at the nursery would increase the potential for noise generated at the site. I find it likely that a great part of this additional noise would not be audible from the neighbouring properties. It is, for instance, unlikely that staff talking or children playing would typically be

audible by neighbouring occupiers. However, there would be an increased risk of noisy behaviour from children which may be accompanied by a noisier response from staff. In my mind it would be shouts, screams and cries from children that would have the most potential of being audible by neighbours inside the property. Outside, children playing more generally would also likely be audible from nearby properties.

9. I have been provided with a noise management plan set out by the appellant. It is fairly simple and appears to make reference to other documents, policies and guidance which have not been provided. The management plan before me is not sufficient that I can be certain it would minimise or mitigate against any unacceptable noise levels. However, I am content that a suitable scheme could be supplied so as to secure appropriate management that would minimise the risk of any increased noise generated by the additional children. This additional information could be provided through a condition and I note the condition suggested by the Council.
10. I note the Council's concerns regarding noise associated with the dropping-off and picking-up children at the nursery. It is likely that noise will be generated by motor vehicles associated with the nursery and the further noise would occur should children and parents talk outside and nearby the appeal site. However, the appeal site is in a residential area on a main thoroughfare, and I noted a school and shop nearby. I therefore consider that a degree of vehicular and pedestrian noise, especially around drop-off and pick-up times would already be typical and that amongst this an increase of up to potentially ten movements would not be unacceptable.
11. In light of the above, the proposed intensification of the nursery use on site would not unacceptably affect the living conditions of neighbouring occupiers to their detriment. The proposal would, therefore, comply with Policy SE12 of the Cheshire East Local Plan Strategy and Policies ENV15, HOU12 and REC3 of the Site Allocations and Development Policies Document. These policies collectively, and amongst other matters, require proposals to relate well to their neighbouring uses, with particular regard to noise, so as not to cause unacceptable harm to the amenity of neighbouring occupiers.

Other Matters

12. The appeal site is situated within a dense residential area where there is a high potential for clients to walk to and from the appeal site. However, I cannot be certain that this would necessarily occur. Nevertheless, I find that the road network in the surrounding area could accommodate any additional private motor vehicle movements generated by the proposal, even if all ten additional clients drove. This is especially so as I understand that drop-offs and pick-ups are staggered through the day which would also minimise the need for on-street parking. Although I note references to accidents, no substantive evidence has been provided to demonstrate that highway safety around the appeal site is any poorer than is typical for a residential area.
13. Although I note concerns from interested parties that a nursery should be directed towards commercial areas, given my findings above and that the appeal site already contains a nursery use, this matter has not been determinative in my considerations. Similarly, the loss of the residential use, especially given it is a mixed residential-nursery use, would not significantly affect the provision of housing within the plan area.

Conditions

14. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
15. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
16. In the interests of protecting the living conditions of neighbouring occupiers from any increases in noise, conditions are necessary restricting the number of children that can be cared for at any one time, and for the hours of operation. A further condition, for the reasons set out above, is necessary requiring the submission of additional details in the form of a noise management plan. This plan must be provided prior to the intensification of the use to ensure no unacceptable impacts occur to neighbouring occupiers.

Conclusion

17. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR