



Appeal Decision

Site visit made on 26 August 2025

by **D Ellis MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 October 2025

Appeal Ref: APP/P0240/W/25/3367001

Ryecroft, 198-200 West Street, Dunstable, Central Bedfordshire LU6 1NX

- 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 Riverstone Developments (Dunstable) Ltd against the decision of Central Bedfordshire Council.
 - The application Ref is CB/24/03536/FULL.
 - The development proposed is change of use from former residential care home (Use Class C2) to children's day nursery (Use Class E) with minor internal and external alterations and upgrades, provision of associated play area and landscaping, bin and cycle stores.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The documentation submitted with the original application states that the proposed nursery would provide for up to 110 children. Correspondence between the appellant and the Council during the application period shows that the appellant suggested a lower limit of 82 children, however the Council did not accept this restriction on the grounds of enforceability. As such, the Council determined the application on the basis of the maximum of 110 children as was originally proposed. However, the appellant asserts that a condition to limit the number of children at the nursery is common practice for such schemes, and I see no reason why this could not be enforced through a register of the children at the nursery. As such I find that such a condition would meet the six tests for condition as set out in paragraph 57 of the National Planning Policy Framework.
3. As part of the appeal the appellant has submitted a revised transport assessment which has assessed the impacts of a scheme based on up to 85 children and that they are willing to see a condition imposed to this effect. Furthermore, the appellant has also referenced up to 82 children in their final comments in line with their request to the Council during the application stage. Whether the number of children were to be capped at 85 or 82 would not be materially different.
4. Although the Council determined the original application based on 110 children, they indicate in their email to the appellant that they did consider a reduction to 82 children, as "the highways officer has considered this and even if we were to accept this as a condition it would not overcome the concerns." Furthermore, the Council has nonetheless taken the opportunity to rebut the appellant's 85-child transport assessment and maintains the scheme would still result in an unacceptable impact on highway safety due to parking demand and pedestrian conflict within Leighton Court. Moreover, the submitted plans, the proposed

parking provision and the description of the development would not be changed as a result of this reduction.

5. For these reasons, I am not persuaded that the reduction in the number of children would represent a substantial difference or fundamental change to the original scheme, nor that any party would be prejudiced by my consideration of this reduction in the number of children.

Main Issues

6. The main issues are the effect of the proposal on:
 - The character and appearance of the area;
 - The living conditions of occupiers of neighbouring properties, with particular regard to the potential for noise and disturbance; and
 - Highway safety.

Reasons

Character and appearance

7. The appeal site currently comprises a building formerly used as a care home and is in a residential area. The site has residential buildings on three sides, with a cemetery on the opposite side of West Street to the site. West Street is a busy main road leading to and from the town centre. Leighton Court, to the rear of the site, is a residential cul-de-sac which also includes an access to Ashton St Peter's Primary School.
8. Whilst the appellant states that the maximum number of children present on any given day is expected to be around 75% occupancy, it is possible that the nursery could operate at 100% occupancy and therefore the scheme should be assessed on its potential maximum occupation. Figures 4 and 5 of the appellant's Transport Statement, dated November 2024, show that vehicle movements at the site would increase from 87 per day for the care home to 192 per day for the proposed nursery with 110 children. Even if the nursery is restricted to 85 children, vehicle movements at the site would increase to 149 per day, as stated in the Transport Appeal Statement dated May 2025. In either case, this would be a significant increase in intensity of comings and goings based on the existing care home use, especially in Leighton Court. While the movements could be spread out over the day, it is conceivable that some or even all of the vehicles could arrive within a short time of each other.
9. It is unclear how these movements would be split between West Street and Leighton Court, however the submitted drawings show there would be twice as many parking spaces provided in Leighton Court which could suggest that a significant number of the vehicle movements would be expected in Leighton Court.
10. Given the busy nature of West Street, it is unlikely that the increase in vehicle movements would have a significant effect on the character and appearance of the area at the front of the site. However, the potential for a considerable increase in vehicle movements in Leighton Court would lead to a significant intensification of the use of the site which would detract from the quiet residential nature of the street.

11. The proposal would therefore conflict with Policy HQ1 of the Central Bedfordshire Local Plan 2015-2035 (2021) (LP), insofar as it requires development to respond positively to its context.

Living conditions

12. Leighton Court is a quiet residential cul-de-sac with dwellings in close proximity to the highway. For reasons similar to those above, the considerable increase in vehicle movements in Leighton Court would cause significant additional noise and disturbance to nearby residents. This would be exacerbated when combined with the vehicle movements associated with the start and end of the school day at Ashton St Peter's Primary School.
13. The Council accepts the findings of the Environmental Noise Impact Assessment Report, dated 18 November 2024, and concludes that the proposal would not have an unacceptable impact on the neighbouring properties in terms of noise from the children playing in the garden areas and the installation of mechanical equipment. Based on the evidence before me, I have no reason to disagree.
14. The external staircase that would provide access to the garden area for 3-5-year-olds would be used in conjunction with periods when children are playing in the garden areas. The staircase is adjacent to a grassed area, footpath and car parking at Henry Court, and these areas are already overlooked by the windows from the flats and the side windows at the appeal site. As such there is unlikely to be any significant additional noise or overlooking resulting from the use of this staircase.
15. However, the significant additional noise and disturbance from the increase in vehicle movements would result in unacceptable harm to the living conditions of neighbouring residents. The proposal would therefore conflict with LP Policy HQ1, insofar as it requires development to not have an unacceptable adverse impact upon nearby existing uses, including with regards to noise.

Highway safety

16. The Council states that nine car parking spaces are required for the proposed 110-child nursery for parent's parking. The proposed drawings show that a total of six parking spaces would be provided in West Street and Leighton Court. However, these parking spaces are not included in the description of development on the application form and fall outside of the red line boundary. It is therefore uncertain how these parking spaces would be secured without a legal agreement, should this appeal be allowed.
17. Notwithstanding this, whilst the car parking provision would fall short of the required amount, on-street parking is available in the vicinity of the site. However, at the time of my site visit there was very limited on-street parking available in West Street and Leighton Court. Although only a snapshot in time it demonstrates that, despite the findings of the appellant's parking surveys, there could be times when there is very little parking available for the dropping off and collecting of children. The parking demand could therefore exceed the amount of parking available in West Street and Leighton Court, including the six proposed spaces.
18. The four parking spaces in Leighton Court would involve the removal of an area of pavement. There would be no dedicated pavement from the parking spaces to the

side entrance of the nursery, which would result in people walking in the road to get to the side entrance. Even if a pedestrian margin is included, having vehicles manoeuvring in the same area as pedestrians, including young children, would inevitably increase the risk to the pedestrians. Given the potential for a significant number of moving vehicles and pedestrians to be in a relatively crowded space at the same time, this would have an unacceptable impact on highway safety.

19. Even if the nursery was restricted to 85 or 82 children, the degree of dropping off and picking up would still intensify substantially, even if there are some linked trips with the nearby primary school. As such the restriction to the number of children would not mitigate the unacceptable impact on highway safety.
20. Furthermore, even if a Traffic Regulation Order was granted to limit the proposed parking spaces to a maximum stay of ten minutes, it is unclear how this would be enforced throughout the day. There is also the potential for people who are dropping off or picking up children from the nearby school to use the parking spaces in Leighton Court. Should vehicles park in these spaces for more than ten minutes, or school traffic to use these spaces, this would increase the pressure on other parking spaces or nearby on-street parking, which is limited.
21. My attention has been drawn to several other nurseries in Dunstable and Luton which have limited off-street parking. However, no substantive details of these other sites have been provided, although some of these look after significantly fewer children and therefore would need to provide less parking. Overall, I cannot be certain that these examples have the same constraints as the appeal site or that they are directly comparable to the proposal.
22. For these reasons, and while the proposal may not have a significant impact on the wider highway network, it has not been demonstrated that the proposal would provide adequate car parking and therefore would cause harm to highway safety. The proposal would therefore conflict with LP Policies T2 and T3, insofar as they require development to not have a detrimental effect on highway safety, to provides safe and convenient access, and to have regard to car parking standards.

Planning Balance and Conclusion

23. LP Policy EMP3 states that proposals for employment generating uses will be supported where, amongst other things, the size and scale of the development proposed is appropriate to its location and that the location is appropriately accessible. LP Policy HQ3 states that proposals for new social and community facilities within the settlement envelope will be supported where they comply with other relevant policies with the LP. As the proposal would cause harm to the character and appearance of the area, the living conditions of neighbouring residents and to highway safety and thus conflict with LP Policies HQ1, T2 and T3 for the reasons given above, the proposal would also fail to accord with LP Policies EMP3 and HQ3.
24. The proposal would provide additional childcare services in the local area and the nursery would employ up to 33 staff. Given the scale of the proposal and the presence of other nurseries in the area, I afford these benefits moderate weight. However, this would not outweigh the harms identified above.

25. I conclude that the proposal conflicts with the development plan as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

D Ellis

INSPECTOR