



Appeal Decision

Site visit made on 14 February 2019

by **D Guiver LLB (Hons) Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2019

Appeal Ref: APP/F4410/W/18/3214837

86 Crookes Broom Lane, Hatfield, Doncaster DN7 6LD

- 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 Miss Charlotte Killgallon against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 18/01766/FUL, dated 19 July 2018, was refused by notice dated 11 September 2018.
 - The development proposed is change of use of part of dwelling house to childminding business, maximum number of 7 children at any one time (this is not all the time) and erection of 7ft high fencing for use of sound barrier in back garden.
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Decision

1. The appeal is dismissed insofar as it relates to change of use of part of the dwelling house. The appeal is allowed insofar as it relates to erection of fencing and planning permission is granted for erection of 7ft high fencing for use of sound barrier in back garden at 86 Crookes Broom Lane, Hatfield, Doncaster DN7 6LD in accordance with the terms of the application, Ref 18/01766/FUL, dated 19 July 2018, so far as relevant to that part of the development hereby permitted.

Preliminary Matter

2. The erection of the fence has been implemented and therefore this element of the appeal is to be determined retrospectively. The appeal site is used for a child-minding business but it is unclear whether the numbers involved are at the level requested in the application or are lower and within potentially permitted development. I have therefore determined this element of the appeal as if it had not yet been implemented. However, whether retrospective or not, this has not had any effect on my determination of this appeal.

Main Issues

3. The main issues are the effect of the proposed development on:
 - a) highway safety;
 - b) the living conditions of the occupiers of neighbouring dwellings; and
 - c) the character and appearance of the area.

Reasons

4. The appeal site comprises a semi-detached bungalow in a predominantly residential area. The proposed development is the change of use of the dwelling to allow for an additional use of part of the property for a childminding business for up to seven children and for the erection of a high fence in the rear garden as a sound barrier.

Highway Safety

5. The site fronts onto Crookes Broom Lane not far from the junction with Station Road to the north and close to the entrance to a busy parade of shops on the opposite side of the street. Crookes Broom Lane has no parking restriction and at the time of my visit there were some spaces available, though this represents only a snapshot and presumably the level of parking would differ outside normal working hours, including when children would likely be dropped off or collected.
6. The Appellant states that parents/guardians drop off or pick up children at staggered, pre-arranged times to avoid large numbers arriving or being present together. However, such arrangements would be dependent on no parent or guardian running late and arriving at the same time as others.
7. The boundary wall along the street has been removed and the front garden has been block-paved to provide parking space for a number of cars. The appellant states that this can be used by parents/guardians but has not yet proved to be necessary and that some people attending at the property arrive on foot.
8. However, there are no spaces marked out and the area is relatively restricted. There is no compelling evidence before me that, if the area was full, cars could manoeuvre to be able to leave in forward gear. I take a precautionary approach and cannot be satisfied that vehicles would always be able to enter the carriageway safely. Moreover, it may not always be the case that parents/guardians or members of staff arrive on foot and therefore to prevent an unacceptable impact on highway safety adequate off-street parking should be available. The shopping parade opposite is not within the appellant's control and cannot be relied upon to provide the required spaces.
9. Therefore, the development does not accord with Policy CS14 of the Doncaster Council Core Strategy 2012 (the Core Strategy) and Saved Policy PH12 of the Doncaster Unitary Development Plan 1998 (the UDP), which together seek to ensure that non-residential use developments do not have unacceptable negative effects upon the highway.

Living Conditions

10. The proposed business use will inevitably result in an increase in noise from the number of children at the property and using the garden/outdoor areas and from the noise of vehicles as children are dropped off or collected.
11. The appellant states that her opening hours are between 0730 and 1800 hours, which largely coincides with the early morning and late evening commuting times. The appellant states that the noise of vehicle doors slamming and engines starting is more likely to arise from the nearby parade of shops than from her business. However, the shops are some distance away and have their

own carpark on the opposite side of the road, so noise close to the appeal site is less likely to arise from shoppers.

12. Some noise in the early mornings and in the evening would undoubtedly arise from other residents leaving for or returning from work. However, there is likely to be an increase in noise from parents/guardians dropping off or collecting children, which could have a detrimental effect on the living conditions of neighbouring occupiers. In the absence of a noise survey, the overall level of additional noise would be difficult to quantify, and I therefore take a precautionary approach and consider that the detrimental impact is likely to be unacceptable.
13. The appellant states that the outside area is only used when the weather permits and by only a few children at a time and for restricted periods. The appellant states that typically use of the outside areas would be limited to between 0930 and 1100 hours or between 1330 and 1500 hours and limited to two or three children at a time.
14. While the overall numbers of children proposed is higher than normally expected in a domestic setting the small numbers that use the space at any one time are not unusual. Although the space is close to neighbouring gardens, children playing in a garden is normal noise associated with domestic use and the times specified by the appellant are a reasonable use of the space for children to play.
15. Therefore, insofar as it relates to noise from vehicle movements, the proposed change of use would not accord with Policy CS14 of the Core Strategy and Saved Policy PH12 of the UDP, which together seek to ensure that developments do not have unacceptable negative impacts upon the amenity of neighbouring land uses. However, with regard to the impact of the proposal in terms of noise from children playing, the proposal would accord with the Policies, but this would not overcome the negative impact from vehicle movements.

Character and Appearance

16. The area surrounding the appeal site is predominantly residential in character, though account must be taken of the nearby parade of shops and large car park. The removal of the boundary wall and laying of block paving has had an impact on the residential character and appearance of the area but as this has been completed the impact has already been realised. In its current condition the open car parking area to the front of the site is relatively domestic in scale and design.
17. However, to achieve an appropriate car parking area for a business associated with the proposed change of use would involve the marking of bays and the provision of appropriate space for vehicles to manoeuvre. Such markings would undoubtedly introduce a more commercial appearance to the residential space that would have an unacceptable detrimental impact on the character and appearance of the area.
18. Therefore, the proposed change of use would not accord with Policy CS14 of the Core Strategy which seeks to ensure that developments integrate well with their immediate and surrounding local areas.

19. The fence erected atop the wall in the rear garden appears to have been installed to address noise concerns but also to increase privacy for the children using the dwelling. In the absence of a noise survey the impact of the fence on noise attenuation cannot be gauged but clearly a higher barrier does reduce overlooking. The fence is a small addition to the substantial wall and would not cause significant harm to the outlook from neighbouring properties, nor would it have any unacceptable impact on the character and appearance of the area. I note that the Council reached a similar conclusion. Therefore, the installation of the fence would accord with Policy CS14 of the Core Strategy.

Other Matters

20. I have been referred to a previous appeal decision¹ in respect of a change of use for child-minding for up to ten children at the property. The appellant states that the Inspector told her that seven children would be acceptable but there is nothing in the decision that supports that statement. In any event Inspectors can only determine the appeals before them and not potential future applications and I therefore attach little weight to this argument.
21. The appellant refers to some children currently cared for as part of her child-minding service who have specific care needs. While the needs of children are a material consideration, those mentioned will be likely to move on to school and any planning permission is for the lifetime of the development. I therefore attach only moderate weight to the needs of the children referred to, which is not sufficient to overcome the concerns referred to above.
22. The Council points out that the existing use is more vulnerable in terms of flood risk and a flood evacuation plan should be prepared. However, the Council accepts that this was not raised as an issue in previous applications and the preparation and adoption of a flood evacuation plan could be imposed by way of a planning condition. Given my conclusions on the main issues it is unnecessary to further explore this matter.
23. The Council indicates that the property might be used to provide childminding for up to six children as permitted development. However, the exercise of permitted development rights is beyond the scope of any appeal pursuant to section 78 of the Town and Country Planning Act 1990. References to Ofsted reports are to a different regulatory regime and are not a proper planning consideration.

Conclusion

24. For the reasons given and taking account of all other material considerations, I conclude that the appeal should be dismissed insofar as it relates to change of use of part of dwelling house and allowed insofar as it relates to erection of fencing.

D Guiver

INSPECTOR

¹ APP/F4410/W/17/3186851