

Reference: 15/00186/COU
Applicant: Mrs Andrea Bailey
Location: 40D Ratby Lane Markfield
Proposal: Part change of use of dwelling to nursery/childcare

RECOMMENDATION:- Grant subject to conditions.

Introduction:-

This application is to be considered at Planning Committee in accordance with the scheme of Delegation, as the application has attracted interests from the occupiers of five or more addresses, the views of which are contrary to the officer's recommendation.

Members will recall that this application was deferred at the Planning Committee meeting on 25 August 2015 to enable further information and discussion to be undertaken between the applicant and officers with a view of submitting a traffic forecasting of the use of part of the dwelling for a childcare/nursery facility, outlining the vehicular movements associated with the proposed use.

The additional submitted information identifies that children would be dropped off at 10 -15 minute intervals to stagger arrivals and departures. The information also highlights when occupants of the dwelling leave for work in the morning and arrive back home in the evening. Staff employed with the use would also be encouraged to arrive on foot or bicycle, with an emphasis on employed staff members being local people.

In addition to concerns raised by Members over the proposed number of children to be cared for on site at any one time, the applicant has amended the proposal to apply to care for a maximum of 9 children at the property which has been reduced from the 12 children previously proposed. The applicant has stated that less than 9 children would result in the proposal being financially unviable.

Application Proposal

This application seeks full planning permission for the part change of use of 40D Ratby Lane Markfield to a children's nursery, for a maximum of 9 children. The proposed use would be confined to a ground floor area within the western side of the dwelling. This accommodation historically comprised of an integral garage and was granted planning permission (ref number 13/00592/HOU) for its conversion to living accommodation in 2013. This currently serves as a 'playroom' and has an area of approximately 43.5 square metres.

Access to the proposed nursery would be via the existing side door within the western elevation of the dwelling. An area of outdoor space situated between the west facing side elevation and the application sites western boundary would be sectioned off from the remaining residential garden by way of a 6 foot fence. This area would provide an outdoor recreational space for children over two years old, between the hours of 0900 and 1700.

The application proposes to provide care predominately for children between the ages of 0 and 4 years and would employ a maximum of three assistants. The number of assistants on site at any one time would be proportionate to the number of children. Seven off street parking spaces are situated to the front of the dwelling. These would serve the dwelling and the proposed use.

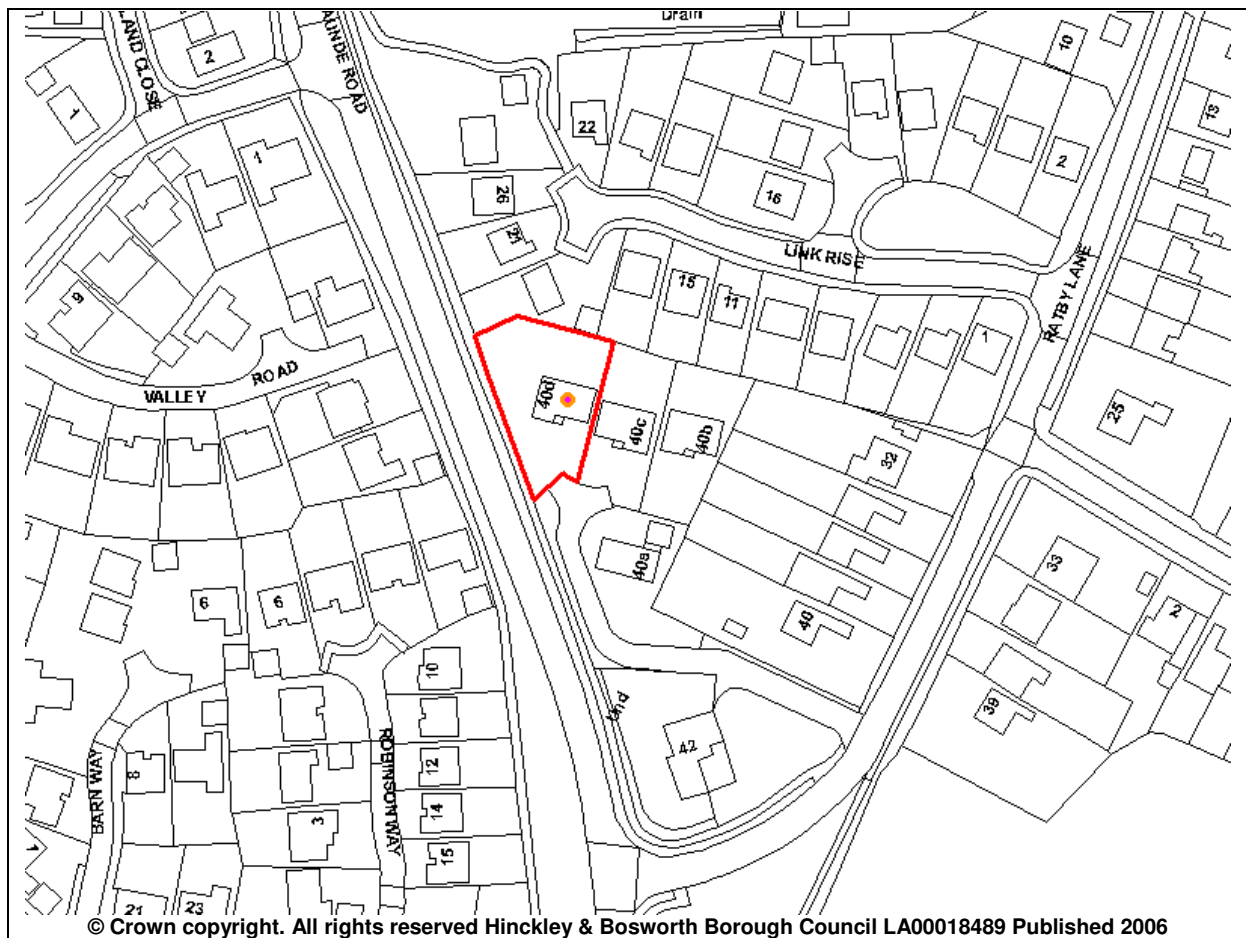
The Site and Surrounding Area

The application site is within the settlement boundary of Markfield and Field Head, and is situated towards eastern edge of the village. The immediate area is predominately residential in character, comprising of a modern housing development and post war detached dwellings of varying design along Ratby Lane.

The application property is a modern two storey detached dwelling, accessed via a private driveway leading from Ratby Lane and positioned in-between numbers 40 and 42 Ratby Lane. The private drive serves four detached dwellings forming a parcel of back-land development. A mature laurel hedge runs adjacent to Launde Road, along the western boundary of the parcel of development. To all remaining boundaries, the parcel of development is bound by dwellings. The application site is flat and level, however the properties positioned to the north of the site are situated in an elevated position to that of the application dwelling.

Relevant Planning History:-

04/00311/FUL	Extensions and alterations to dwelling	Granted	21.05.04
13/00592/HOU	Extensions and alterations to dwelling	Granted	13.09.13



Consultations:-

No objections have been received from:-

Environmental Health (Drainage)
Environmental Health (Pollution)

No objections subject to conditions have been received from Leicestershire County Council (Highways).

In response of neighbour consultation, 18 representations have been received, fourteen which raise objections to the proposal and 3 which are in support.

Objections have been received on the following ground:-

- a) there is already adequate childcare provision within Markfield
- b) potential noise pollution and disturbance to surrounding residential properties
- c) the application site is accessed via a shared drive which is narrow and lacks adequate visibility
- d) inadequate parking will be provided within the site to serve the dwellinghouse and the proposed nursery. The use will exacerbate existing on street parking problems in the area
- e) the area already suffers from excess noise from multiple dogs, and children on site will exacerbate barking to an unacceptable level
- f) the proposal would have an adverse impact upon on the amenity of the surrounding properties
- g) the proposal would result in an unacceptable loss of privacy
- h) the existing proposed rear gardens already lack depth, and a play area would be located within two metres of living areas of the adjacent dwellings
- i) children on site could be in excess of 17.

Following additional consultation on the submitted information the following objections and comments have been received:-

- a) the information submitted suggests that no more than 6 children would be at the premises at anyone time, and therefore would not require planning permission
- b) the forecast traffic movements are based on the present use, when the business is in its early stages and would not have no meaning for an established business
- c) the application has an emphasis on part time care and therefore the traffic movements would be likely to be increase
- d) what adverse weather conditions prevent walking to school to drop children off
- e) the private driveway is unlit and dangerous for pedestrians
- f) how would the site be monitored for a year.

Support has been received on the following grounds:-

- a) childcare setting within a home environment, would offer a high standard of high standard of childcare and education
- b) Markfield is a growing village and good quality childcare can only benefit families and communities.

Policy:-

National Policy Guidance

National Planning Policy Framework (NPPF) 2012
National Planning Practice Guidance (NPPG) 2014

Hinckley & Bosworth Core Strategy 2009

Policy 7: Key Rural Centres
Policy 8: Key Rural Centres Relating to Leicester
Policy 21: National Forest
Policy 22: Charnwood Forest

Hinckley & Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development
Policy T5: Highway Design & Vehicle Parking Standards

Appraisal:-

The main considerations in determination of this application are:-

- Principle of Development
- Impact on the Character of the Area
- Residential Amenity
- Highway Safety
- Other Issues

Principle of Development

Objections have been raised in respect of the site being situated in an unsuitable location and that there is a lack of commercial demand for the facility, given the existing provision of childcare/nursery facilities within the surrounding area.

The application site is located within the settlement boundary of Markfield and Field Head as defined on the adopted Hinckley and Bosworth Local Plan proposals Map. Policies 7 and 8 of the Core Strategy are supportive of development in Markfield that provide employment opportunities, including homeworking.

The NPPF in paragraph 14 provides a presumption in favour of sustainable development and in Paragraphs 17 and 20 supports sustainable economic development to provide for the future business and community needs of an area Paragraphs 21 and 70 of the NPPF encourage flexibility and the integration of residential and commercial uses within the same unit, to enhance the sustainability of communities and residential environments.

The proposal constitutes the change of use of part of the ground floor of the existing dwelling to a childcare facility for predominately pre-school children with no children over the age of 8 to be expected on site for childcare. The scheme would result in the incorporation of residential and commercial uses in a sustainable location within the settlement boundary. The proposed mixed use scheme would capitalise on the sites potential, resulting in economic, social and environmental benefits.

In respect of concerns raised over the need for the facility; commercial demand is a private matter and does not constitute a material planning consideration; however, notwithstanding this the applicant has identified a need for a dedicated facility which offers bespoke flexible home based childcare within the area. Therefore notwithstanding the objections received, which have been carefully considered, by virtue of the sustainable location of the site and the social, environmental and economic benefits, the partial change of use of the dwelling to provide a childcare facility is not considered to conflict with the adopted planning policies. It is therefore considered that the use is acceptable in principle, subject to all other planning matters being satisfactorily addressed.

Impact on the Character of the Area

Policy BE1 (criteria a) of the Local Plan requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

There are no external alterations proposed to 40D Ratby Lane, Markfield, however as the application seeks to introduce a commercial use to an area predominantly residential in character, there would be an impact in this respect. The scheme seeks to contain the proposed use within the existing ground floor space of the dwelling. Externally a section of the existing garden to the west of the dwelling is proposed to be enclosed by way of a 6 foot fence, for use in conjunction with the nursery. Despite the enclosure of this parcel of garden land, adequate amenity space would be retained for use by the dwelling and a 7.5 metre separation distance would be maintained between the rear elevation of the application property and the northern boundary of the site. Furthermore, there would be additional vehicle trips associated with the use, however these are not considered to be of a level that would materially impact upon the residential characteristics of the area.

As the change of use would not result in any physical alterations to the external fabric of the building, its residential appearance would be retained. As such it is not considered that the proposal would have an adverse impact upon the character of the area in accordance with Policy BE1 (criteria a) of the Local Plan.

Relationship to Neighbouring Properties

Policy BE1 (criterion i) of the adopted Local Plan requires that development does not adversely affect the amenities of the occupiers of neighbouring properties, this is further supported by paragraph 17 of the NPPF which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings. Given the high degree of consistency between the local plan and national planning policy, Policy BE1 can be attributed full weight in the determination of this application.

Objections have been received on grounds that the proposal would result in an adverse impact on the amenities of neighbouring properties from noise and disturbance generated from the general use of the premises, additional traffic movements and increased on-street parking.

The application seeks to change the use of part of the ground floor of the existing dwelling to a childcare facility. Following the deferral of the application at 28 August 2015 planning committee, the applicant has confirmed that they would be willing to propose the maximum number of the children would be 9, which is a reduction of 3 children from that previously proposed. The operating hours would be between 0700hrs and 1800hrs Monday to Friday and two full time members of staff would be on site at any one time.

The application site comprises an end plot, which is bound to two sides by the highway. The closest dwellings are those situated to the north and east. To the east, 40C Ratby Lane, comprises a two storey detached dwelling situated approximately 2 metres from the east elevation of the application site. To the north of the application site is 19 Link Rise, whose rear boundary is approximately 8 metres from the rear elevation of the application dwelling. In addition, the private access drive, by which the use would be served is sited in between numbers 40 and 42 Ratby Lane and runs along the frontage of number 40a Ratby Lane.

Given the proximity of these dwellings to the site and its access, impacts in terms of noise and disturbance generated from the general use of the site and from vehicle movements must be considered.

Further information has been provided by the applicant detailing specifics in regards to the operations on site. This information has enabled further consideration in regards to the likely impact of noise and an informed conclusion to be drawn in relation to this matter. It has been stated that the outdoor area would be used by small supervised groups of children over 2 years in age between the hours of 0900 and 1700. The garden area, which would be adjacent to Launde Road, would be sectioned off from the remainder of the garden by a 6 foot high fence. This would enable the children to partake in activities including water and sand play, painting, vegetable cultivation and a mud kitchen. A member of staff would be outside with children at all times to engaging with the children, thereby reducing external noise.

As a result of the siting of the proposed external space, there would be no boundaries with adjacent residential properties and a distance of approximately 7.5 Metres would be retained between the external play space and the nearest dwelling (19 Link Rise). Furthermore as the children would be in the garden for short periods of time, within daytime working hours, and would not use 'noisy' toys, the level of noise and disturbance generated from the use of the external space would be limited and as such is not considered to result in any significant adverse impacts on the amenity of surrounding residents that would outweigh the benefits associated with the scheme.

In respect of noise and disturbance associated with vehicle movements, whilst there may be increased disturbance during 'peak' drop off and collection times, as the site is within a built up area and adjacent to a highway, the associated disturbance is not considered to result in a material increase over and above the existing background noise, that would result in the application being unacceptable. Furthermore, given that the site is within the village the applicant would encourage staff and parents to arrive on foot and will further reduce vehicle trips by collecting the children from the local school on foot. The applicant has also further reduced the proposed number children to 9, which would further reduce any associated drop off and pick up movements compared to the previously proposed number of 12 children.

Objections have been received in relation to whether a noise impact assessment has been received. A noise impact assessment is not a validation requirement for this application. The application has been subject to consultation with Environmental Health who has raised no objection to the proposal. Therefore given the limited number of children, it is considered unlikely that the application would give rise to such serious noise and disturbance to warrant refusal on this basis. However, it is acknowledged that there is the potential for such disturbance to occur; therefore it is considered necessary for a temporary permission for 12 months would be appropriate in order to enable a thorough assessment of the impact to be made prior a permanent permission is considered.

Based on the submitted information, Environmental Health (Pollution) raises no objection to the proposal in terms of noise and disturbance caused to surrounding residents. Accordingly, based on the above, the grant of temporary consent is considered appropriate

in this instance, as such the proposal is considered acceptable and in accordance with Policy BE1 (criterion i) of the Local Plan and the overarching principles of the NPPF.

Highway Safety

Neighbour concerns have been raised that the parking provision proposed is not adequate for peak drop off and collection times, that the existing access is not sufficient to cater for the use and that the proposal would lead to additional congestion along Ratby Lane. Notwithstanding these comments Leicestershire County Council (Highways) has considered the proposal in detail and raises no objection to the scheme on highway safety grounds.

Following the deferral of the application from planning committee on the 28 August 2015 the applicant has provided a traffic forecast of the use. The forecast identifies that drop off times are managed in such a way that they are staggered between 10 to 15 minute intervals. Furthermore given ongoing negotiations between Borough Council and the applicant, the proposed number of children has been reduced from 12 to 9, thereby further reducing any pick up and drop off movements further.

The application site provides off road parking provision for approximately seven cars. A children's nursery requires 1 parking space per member of staff. If the proposed use was at maximum capacity of 9 children being at the setting at anyone time, that would be 2 full time members of staff, therefore effectively reducing the number of parking spaces available to 5. Due to the staggered collection and pick up times, it would be unlikely that the remaining 5 spaces would be utilised at the site at any one time. In addition, as mentioned above, the use of alternative means of transport to the site would be encouraged. In relation to potential delays and congestion, given that the drop of a collection of the children would be a relatively quick activity, associated impacts would not be sustained and would not justify refusal of the application. Impact experienced would be time specific and would not lead to constant congestion or parking problems, and therefore overall the issues are finely balanced from a highway perspective and as such are not considered to be significantly harmful in highway safety terms to lead to a detrimental impact upon highway safety.

Concerns have been raised in respect of pedestrian safety of those walking up the driveway which serves the dwelling, however given the single track nature and the limited distance a vehicle travels along this stretch where vehicle speeds are generally low it is not considered that sufficient conflict would occur to lead to the proposal being unacceptable.

The objections and concerns of neighbouring residents in respect of parking and traffic movements have been carefully considered along with the formal comments from Leicestershire County Council (Highways). Based upon this, it is considered that the proposed use would not result in any demonstrable or significant impacts in terms of highway safety and as such the proposal is considered to be in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

Other Issues

Objections have been received in relation applicant's dogs barking, this is not a material planning consideration and therefore cannot be taken into account in the determination of this application.

Representations have been received stating that the use of the premises have detrimentally affected privacy. As there is no additional built form that would result in additional overlooking, and as the proposed outdoor play space is located away from surrounding residential properties, there are considered to be no material impacts on the privacy of surrounding residents.

Concerns have been raised in how the use would be monitored over the period of the year. The applicant colour codes each child so their attendance can be monitored through the year. In addition to this the applicant would be required to carry out record keeping for the purposes of Ofsted.

Representations have been made in respect that the application should be withdrawn as the operation identified within the traffic forecasting is for no more than 6 children being cared for, and therefore this level of use could be considered as a permitted level of use, which would not necessarily require planning consent. Whilst it is acknowledged that a level of use would be permitted from the dwelling without requiring planning permission, the applicant seeks to have the option of allowing more than 6 children at the dwelling at any one time and therefore the application is to be considered for up to 9 children, which is 3 above the acknowledged permitted level of children to be cared for on site without planning permission.

Conclusion

The application is for the part change of use of the ground floor of a residential dwelling for the purposes of a nursery. The application site is situated within a sustainable location within the settlement boundary Markfield and Field Head, in a predominately residential area. Both the Core Strategy and the NPPF seek to encourage economic development and enterprise through the use of existing premises to provide employment opportunities, including homeworking.

By virtue of the specific nature and level of the proposal, it is not considered that the development would result in any materially adverse impacts on the residential amenity of surrounding dwellings, either by way of noise and disturbance associated with vehicle movements or the children cared for, nor would the proposal result in any severe harm in terms of highway safety, however the notion of a temporary planning permission has been carefully considered and in this case it is considered that limiting this permission for a period of 1 year will allow for a fully informed opinion to be made at the end of the year to ascertain the true impact upon residential amenity. Therefore the proposal is considered acceptable in accordance with Policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan, Policy 8 of the Core Strategy and the overarching principles of the NPPF and therefore recommended for a grant of temporary approval subject to conditions.

RECOMMENDATION:- Grant subject to conditions.

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Conditions:-

- 1 The use hereby permitted shall be discontinued on or before 21 October 2016. Immediately on the expiry of that period the use hereby permitted shall be ceased.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site location plan (scale 1:1250) Floorplan Drawing No. M288/13/03A (scale 1:50) received on the 2 March 2015 and Garden Plan drawing received by the Local Planning Authority on 24 April 2015.
- 3 The use hereby permitted shall operate for the benefit of the occupier of 40D Ratby Lane, Markfield and the use shall not be run independently from the dwelling.

- 4 The day nursery hereby approved shall be limited to the ground floor area as identified on submitted plan M288/13/03A on the 2 March 2015 and Garden Plan Drawing received on 24 April 2015 and not more than 9 children shall be cared for within the site known as 40D Ratby Lane Markfield at any time.
- 5 The use hereby approved shall not be in operation outside the hours of 07:00am and 18:00pm Monday to Friday, and the use shall not operate at any time on Saturday or Sundays.
- 6 The rear garden area as identified in Garden Plan drawing received on the 24 April 2015 shall be used in connection with the approved nursery and shall not be in use outside the hours of 09:00am and 17:00pm Monday to Friday.

Reasons:-

- 1 In order that the effect of the development upon the amenities' enjoyed by neighbouring properties can be assessed during this period and that any further application can be decided having regard to this assessment in accordance with Policy BE1 (criterion i) of the Hinckley & Bosworth Local Plan 2001.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure the use is compatible with the existing residential dwelling, to protect the amenities of the existing occupiers and the neighbouring residents, to comply Policy BE1 (criterion i) of the adopted Hinckley & Bosworth Local Plan 2001.
- 4 To protect the amenities of neighbouring residents and to ensure adequate off street parking is provided in accordance with Policies BE1 and T5 of the adopted Hinckley & Bosworth Local Plans.
- 5&6 To ensure that the proposed use does not become a source of annoyance to nearby residents in accordance with Policy BE1 (criterion i) of the adopted Hinckley & Bosworth Local Plan 2001.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

Contact Officer:- Jenny Brader Ext 5620