

APPLICATION NO	PA/2022/1451
APPLICANT	Mrs Siobhan Webb
DEVELOPMENT	Planning permission for partial change of use of dwelling from residential to childminding
LOCATION	Keedale, Westoby Lane, Barrow upon Humber, DN19 7DJ
PARISH	Barrow upon Humber
WARD	Ferry
CASE OFFICER	Jennifer Ashworth
SUMMARY RECOMMENDATION	Refuse permission
REASONS FOR REFERENCE TO COMMITTEE	Member 'call in' (Cllr Richard Hannigan – significant public interest) Support by Barrow upon Humber Parish Council

POLICIES

National Planning Policy Framework: Paragraphs 111, 185 and 187

North Lincolnshire Local Plan:

DS1 (General Requirements)

DS4 (Changes of Use in Residential Areas)

C4 (Children's Day Centre)

T1 (Location of Development)

T2 (Access to Development)

T19 (Car Parking Provision and Standards)

North Lincolnshire Core Strategy:

CS1 (Spatial Strategy for North Lincolnshire)

CS2 (Delivering More Sustainable Development)

CS3 (Development Limits)

CS5 (Delivering Quality Design in North Lincolnshire)

CS22 (Community Facilities and Services)

Housing and Employment Land Allocations DPD: The site is unallocated and is within the development limits of Barrow upon Humber as shown on Proposals Map.

New North Lincolnshire Local Plan Submission: The new North Lincolnshire Local Plan was submitted for public examination by the Planning Inspectorate on 11 November, 2022. Examination of the Plan has therefore commenced, although public hearing sessions are not anticipated until early in 2023.

SS1: Presumption in Favour of Sustainable Development

SS2: A Spatial Strategy for North Lincolnshire

SS3: Development Principles

SS11: Development Limits

CSC8: Education Facilities

CSC10: Community Facilities and Services (The provision of new facilities should be focused in the following locations: i.e. In residential areas where there is no adverse effect on the amenities of neighbouring properties.)

CONSULTATIONS

Highways: No objections – adequate parking provision.

LLFA Drainage: No objections or comments.

Environmental Protection: Objection. The proposed change of use has the potential to introduce an adverse noise impact to local residents. This includes noise from the comings and goings of parents/staff and noise from children on site. Furthermore, there is no legislation to investigate and control noise from children.

Standards and Effectiveness - Early Years: The childcare offer in Barrow upon Humber is limited: there is a pre-school on the same site as the school which offers funded early education and childcare places for children from two years until they commence school, on a term-time only basis during school hours. This is not accessible for working parents or younger children. Childminders play a vital role in the provision of childcare by providing home-based and flexible childcare. There are no other childcare or early education options for 0 to 2 year olds in Barrow upon Humber meaning families have to travel out of their community to access care and early education.

PARISH COUNCIL

Appreciates the need for childcare in the village. Has some reservations about additional noise and the issue of traffic in the lane but broadly supports this application.

PUBLICITY

A site notice has been displayed. Forty-three letters of support have been received which are summarised below:

- a much needed service within the area

- excellent small setting
- support small business
- safe environment for children
- sufficient onsite parking and staggered drop-off and pick-up times
- often park away from the setting and walk to be mindful of neighbours
- important community resource
- the benefit to the community overall outweighs any inconvenience due to noise and potential road impact
- limited opening times and not operating extended hours
- if closed this would be a loss to parents, children and staff
- childcare is in limited supply
- do not consider the setting is noisy or would impact neighbours
- the staff are considerate to neighbouring properties putting in place parking policy and providing letters about the business and how it will operate
- in terms of traffic volumes, Westoby Lane has always been used as a rat run between the A1077 and B1206 and the small number of additional vehicles this business creates is insignificant in context and in light of the driveway being used to its full extent would ask that the local authority considers traffic-calming measures on the lane
- the children enjoy playing in the garden but it is very private and not overlooked, so the noise of playing is relatively muffled.

Six letters of objection have also been received, which are summarised below:

- only one main room and one shared toilet – is this adequate for staff and children?
- is the main space adequate?
- highways department comments are incorrect – the business has not been in this location for three years, only six months
- Westoby Lane is narrow and dangerous for pedestrians, pushbikes and other users
- farm vehicles use the lane
- noise from children throughout the day
- no footpath on south-western edge in front of the site
- residential location

- effect of the proposal on living conditions at neighbouring dwellings – most users arrive by private car; the use will spill into the garden area; the change of use is just for the room, 10 children is intensification of use when considering normal living arrangements; noise and disturbance from children and during drop-off and collection, very close to existing residential properties and as such would conflict with policies DS1, DS4 and C4(v), CS5, CS22 and paragraphs 130(f) and 185(a) of the NPPF
- impact on character and appearance – the proposed education use would result in an increase in vehicle movements in a residential rural area, the harm would be inappropriate and as such would conflict with policies DS1, DS4 and C4(v), CS5, CS22 and paragraph 130 of the NPPF
- impact on highway safety – three spaces for existing use and three for proposed use: considered below the parking requirement of Appendix 2 parking guidelines; given the constraints of the narrow lane, no footpath on the application site side and need for increased on-street parking then the proposal would be unsafe; the proposals would have a detrimental impact on highway safety and would conflict with policies CS5, DS4 and C4(iii)
- nothing to suggest the proposal is meeting a local need
- no mention of sustainable travel
- appeal reference PA/2008/1333 – intensity of childcare business becomes harmful and therefore unacceptable (based on 10 children)
- limited access/parking at the site results in hold ups on the lane; some clients park further away and walk while others have doors open for a while onto the main highway; risks of accidents
- noise from car engines and children
- meet and greet is close to neighbouring property and can overhear often private conversations
- the number of children attending is more akin to a nursery
- concerned that, if granted, further expansion would be possible.

ASSESSMENT

This application was deferred at a previous planning committee to allow members to visit the site before making a decision.

Planning history

7/1988/0705: Erect a garage extension and canopy – approved 26/08/1988

7/1976/0456: Erect a single-storey rear extension – approved 09/06/1976

7/1975/0870: Erect a single-storey rear extension – approved 14/11/1975.

The site is within the development limits of Barrow upon Humber.

The site/proposal

The site is within a primarily residential area to the southeast of Westoby Lane. The host property is a detached dwelling with a good-sized garden to the rear and space for parking to the front. To the north, northwest and southeast are detached residential properties and bungalows. Westoby Lane is narrow, but does allow for two cars to pass at slow speed. The northern side has a public footpath, but there is no footpath on the southern side of the lane.

The proposal seeks the partial change of use of a dwelling from residential to childminding. The ground floor plan suggests that the lounge area to the rear of the property and downstairs cloakroom and WC is to be used for the change of use during weekdays 8am to 4pm. The change of use is also for term-time only and the application supporting documents suggest the use will employ two staff, one full-time (5 days) and one part-time (3 days). It is understood that the applicant will also work at the provision creating two full-time jobs and one part-time. It is evident that the rear garden space is also to be used for the proposed use during these times; this is not referenced on the plans but it is noted the change of use would also apply to this area during the stated times. In effect the change of use would apply to the whole planning unit as it would be difficult to enforce otherwise.

The application is made retrospectively and the proposed use has been in operation since 26 June 2022. The case officer has visited the site and seen the provision in operation. There is no doubt that the level of provision provided is of an extremely high quality and children within the applicant's care are happy and well cared for with a range of activities on hand to help aid development and enjoyment. This application is, however, to consider whether the change of use in this location is acceptable in planning terms.

'Little Learners' has been in operation for three years with only the last six months at the current site.

Principle of development

The proposal is for the partial change of use of a dwelling from residential to childminding. The applicant suggests that the proposal is to allow a maximum of up to 10 children during any one day (planning statement). This can vary from day to day; however, 10 appears to be the maximum number sought.

The opening hours are 8am to 4pm Monday to Friday during term-time with two full-time and one part-time members of staff. The children are currently dropped off at staggered times to take account of parking restrictions/noise impacts on the site. This is managed by the owner and staff.

A parking plan and images have been provided which shows parking for up to six vehicles: this includes resident, staff and parent cars including access for getting children in and out of their vehicles safely.

The accompanying planning statement states that access to the setting is via the rear door which is accessed down the side of the property. This is where the children are mostly to be cared for during the day with access to a rear garden providing open space for outdoor play and learning. The rear of the property is fully secured and all boundaries are fenced; gates within the rear garden are all locked/closed and can only be accessed by a staff member.

No changes are proposed to the existing property as a result of the proposal. The staff and children will use the downstairs WC. There is no suggestion that lunch is provided and the supporting statement suggests packed lunches are brought onto site. The Ofsted report does suggest that parents provide packed lunches (page 7). For the purposes of this assessment it is assumed that all activities related to the proposed use include the rear lounge and the downstairs cloakroom/WC, and the rear garden. It is, however, considered that other parts of the house could be accessed during these times by members of staff or the children and this would be difficult/unreasonable to control. The use should therefore relate to the full planning unit.

In terms of advice given in the NPPF, the site is a brownfield site and whilst located on the edge of the settlement it is 7 minutes' walk from a bus stop and close to the centre of Barrow upon Humber. There are opportunities for cycling and walking to the site.

In terms of the Core Strategy, the site is within the development boundary of Barrow upon Humber and within a sustainable location for this type of development.

Policy C4 of the local plan is relevant and relates to children's day care provision. The policy requires the conversion of properties to children's day nurseries to be within an area which provides a safe environment; have adequate facilities for outdoor play separate to car parking and service areas; provide on-site provision for staff and resident cars, including satisfactory access and turning facilities with the layout designed to maximise the safety of children; have adequate space on the highway or within the site for dropping off without causing a hazard to other users; and not detrimentally alter the character of the area by way of visual impact or undue disturbance to neighbours. Where a proposal is within or adjacent to a residential area, conditions will be imposed restricting hours of operation to those of the working day (8am to 6pm) Monday to Saturday inclusive, and may also limit the number of children being cared for at any one time.

Policy DS4 is also relevant and states that within residential areas favourable consideration will be given to proposals for a change of use from residential to other uses, provided that the development will not adversely affect the appearance and character of a residential area or residential amenity by virtue of noise, vibration, traffic generation, reduction in road safety, odorous emissions (by way of dust, smell, fumes, smoke, soot, ash or grit) or other adverse environmental conditions.

Comments received from the council's Early Years department confirm that there is a need for childcare provision within Barrow upon Humber with families having to travel out of their community to access care and early education. The department are concerned that the closure of the setting would be a loss to the community and this would have a significant impact on the families who have been using the service. If the application is refused it is suggested that this could result in the withdrawal of a maximum of 10 early education and childcare places in an area where there is no other option for working families of 0 to 2 year olds and demand for places in the nearby town of Barton upon Humber is high; families may struggle to find appropriate care to meet their needs. Whilst this comment is noted, the setting could still operate providing up to six places which would not amount to a material change in use based on most recent planning case law.

Whilst the principle of the use (childminding) is considered acceptable in this location, further assessment in relation to the impact such a use of this size and scale would have in relation to highway safety and residential amenity concerns needs to be undertaken.

Residential amenity

As mentioned earlier the site is within a primarily residential area and much support has been raised through responses for the proposed change of use in this location. There is a clear need for child-care provision in the local area as set out by the comments received from the council's Early Years department. The submitted Ofsted report confirms that the level of provision is 'good'.

Whilst significant support has been shown for the application from people using the existing childminding service, several objections have been received from neighbouring residents who raise concerns in relation to amenity impacts such as noise, highway impacts and general disturbance.

The site is close to existing residential properties. Paragraph 187 of the NPPF is clear in that 'Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or "agent of change") should be required to provide suitable mitigation before the development has been completed' (paragraph 187, NPPF).

Paragraph 185 of the NPPF is clear that development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Policy CS5 is also clear in that development proposals should not lead to unacceptable loss of amenity to neighbouring land uses.

Policy DS1 relates to residential amenity and states there should be no unacceptable loss of amenity to neighbouring land uses in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing.

In relation to policy C4 it is considered that a safe environment can be provided for the children and that there are adequate facilities for outdoor play which are separate from car parking and service areas. The site has a good-sized garden with boundary treatments and a gated access which is only accessible by members of staff.

Concern has been raised by local residents in relation to the increased noise impacts of the proposed development. This has also been raised by Environmental Protection who have recommended the scheme be refused. The department considers that the proposed use is a considerable intensification of the existing use as a residential property which would make it no longer compatible with the existing residential area in which it is located. The proposed change of use has the potential to introduce an adverse noise impact to local residents. This includes noise from the comings and goings of parents/staff and noise from children on site. Furthermore, there is no legislation to investigate and control noise from children.

Whilst the applicant is seeking to restrict the hours of operation to 8am to 4pm the numbers of children at the setting is considered to be high. The addition of 10 children and three working members of staff on the site will inevitably increase noise levels and movements experienced at the site; this will also lead to an increase in vehicle movements to and from the site.

Letters of objection have been received in relation to all these elements.

It is considered that within existing residential areas residents in those areas should be able to have certain expectations about what is around them in terms of amenity. The introduction of a business into a residential area which requires such detailed drop-off and collection policies suggests that without it there could be significant impacts. For example:

- the drop-off and collection safety policy talks about reversing into a parking space – this would be very difficult to control and enforce from a planning enforcement point of view
- pull onto the grass verge when no spaces are available – this suggests there are likely to be times when sufficient parking is not available
- please do not block the road or neighbours' drives in the pinch point/be mindful of parking (the road is narrow) – this suggests this is an existing problem and the introduction of a business on the site would impact this further
- the policy suggests there is parking for five vehicles but if full to find somewhere safe to park and walk – again suggestive that parking can be an issue.

Further information has been provided by the applicant to set out a schedule of how a typical day is undertaken. Whilst we accept the current owner has plans in place this would be very difficult to enforce going forward.

The applicant refers to planning application PA/2020/361 (planning permission to retain change of use from residential (Use Class C3) to mixed use of dwelling and childminding). The site is at 27 Main Street, Horkstow. This application is for seven children with two members of staff. This includes lower numbers than is being proposed at this site. The comings and goings associated with drop-off and pick-up times of this application were noted to have the potential to cause some disturbance through vehicle engine noise, doors closing and conversations but as these were largely during daytime hours they were assessed as unlikely to be so significant or prolonged as to cause significant harm to residential amenity. This site is significantly different to the application site in that the main highway allows for the easy passage of two vehicles, there are clear footpaths/grass verges on both sides of the highway and overall properties in the wider area are set within much larger plots. The impact would therefore be assessed differently.

An inspector's decision in 2009 (APP/Y2003/A/08/2092632) at 2 Maple Tree Close, Scunthorpe concluded that any intensification of the childminding business (from upwards of six) would be detrimental to living conditions at number 1. Despite only being between the hours of 7.30am and 6.30pm it was considered that the noise from people and cars would have a detrimental effect on local living conditions. The inspector did, however, consider that noise from the children themselves would be unlikely to have a detrimental effect or be so loud that it would be harmful. This is difficult to assess as set out by the Environmental Protection team in their comments.

It is considered in relation to this application site that the introduction of a change of use for up to 10 children and three staff members would alter the character and nature of the site and the primary function of the property would no longer be that of a residential property.

For these reasons it is considered the proposed development would be contrary to policies C4, CS5 and DS1, and paragraphs 185 and 187 of the NPPF.

Highways

Policy T2 of the North Lincolnshire Local Plan states that all development should be served by satisfactory access. Policy T19 is concerned with parking provision as well as general highway safety.

The applicant has confirmed that there will be capacity for six car parking spaces at the site. The North Lincolnshire Council's parking guidelines document does not specifically refer to childminders but does refer to parking for nursery schools and playgroups which would be a similar use. The guidance recommends one space per four staff plus one space per three pupils, plus a travel plan. The applicant has confirmed there are enough spaces for six vehicles to park on the site at any one time. In theory, seven spaces should be allocated to take account of the existing property and the need for five spaces for the proposed use.

The Highways team have assessed the scheme and consider that adequate parking facilities have been provided in accordance with the drop-off information. The team also commented that the site has been in operation for three years without any issues; however, this is incorrect and will be disregarded as part of this assessment.

There is no provision within the site for the turning of vehicles. Whilst the plan does show six cars can be accommodated on the site, when full this results in five cars being blocked in. No turning facility is provided within the site. The applicant has advised that a parking policy is in place to minimise impact and disturbance and this includes the need for clients to reverse into parking spaces.

Whilst the applicant has confirmed the drop-off and collection times for the children are staggered to ensure parking is not an issue at the site, there is always the potential for people to arrive at the same time should there be a change in circumstance or emergency. The applicant has shown that the drop-off times are staggered both in the morning and afternoon. Westoby Lane is sufficiently wide enough to allow for safe passing of vehicles if parents' cars are waiting along the grass verge outside the property, or on the footpath on the other side of the road. It is noted from comments received that the road is narrow, but does allow for two cars to pass at slow speed. This shows the lane is wide enough for a car to pass should another be parked on the edge at any time, but would prevent two cars passing in the opposite direction. The nature and design of the road in this area encourages slow speeds. The Highways team considers that there is sufficient on-street availability and space for short-term waiting commensurate with the numbers of children being dropped off and picked up from the premises at any one time.

It is understood from the applicant that the three spaces to the side on the grassed area are for staff and the paved area is for collection and drop-off. Concern has been raised that there is no additional space for family members. However, the owner of the property currently works at the property and as such the parking ratio is considered appropriate. A typical family house would generally require two parking spaces.

Whilst the proposal is considered acceptable by the Highways team concerns are raised in relation to highway safety and general disturbance/disruption at collection and drop-off times. Whilst this would be limited to an hour (8am to 9am) every morning and between the hours of 2.30pm to 4pm Monday to Friday this would be for every day of the week during term time. Although the supporting statement does state, 'We are usually only open term time and if we do open in the school holidays numbers are reduced to ensure ratios are met.'

An inspector's decision in 2009 (APP/Y2003/A/08/2092632) at 2 Maple Tree Close, Scunthorpe concluded that any intensification of the childminding business (from upwards of six) would be detrimental to highway safety as a result of parking pressures in the cul-de-sac and that it would also be harmful to living conditions at number 1. The applicant was seeking to increase numbers from 6 to 10 children. The inspector concluded that whilst off-street parking was provided for five cars this would result in tandem parking, which, because of its inconvenience, would encourage parents to park on grass verges. Comments received from residents suggested this was already happening. This appears to be a similar concern for this application site, whereby residents raise similar concerns. This could also lead to damage of grass verges. It was assessed that given the restricted size of the cul-de-sac, despite all the dwellings having a driveway, any intensification would be likely to exacerbate the situation and create a dangerous situation for car users and pedestrians.

Whilst this has not been raised as an issue by the highways team as part of this current application a very similar situation exists. Similarly, the applicant notes that some children walk and have staggered times and considerate parking by parents is requested; this is very difficult to control.

The comings and goings associated with drop-off and pick-up times could have the potential to cause some disturbance through vehicle engine noise, doors closing and conversations, as well as potentially blocking neighbouring driveways and causing general disruption to neighbours.

It is therefore considered that the proposal would conflict with policies C4, CS5, DS1 and DS4 and paragraphs 111, 185 and 187 of the NPPF in relation to disturbance to neighbours and potential highway safety concerns.

Conclusion

Whilst in principle the proposed change of use is acceptable, it is considered that this would be a considerable intensification of the existing use as a residential property. The development would introduce a commercial use into a residential area and a use which would no longer make the property compatible with the existing residential area, having the potential to introduce an adverse noise and disturbance impact to local residents. The primary use of the property as a residential dwelling would no longer exist.

Whilst the planning department accepts that there is a need for early years childcare provision within Barrow upon Humber, an assessment of site suitability and the impact on residential amenity does need to be taken into account. No assessment of alternative sites has been undertaken by either the applicant or the Early Years department to assess whether there are opportunities for vacant/existing buildings within more suitable locations to be used to offer this service going forward.

It is therefore considered that the proposed development is contrary to policies DS1, DS4 and C4(v) of the local plan, CS5 and CS22 of the Core Strategy, and paragraphs 111, 185(a) and 187 of the NPPF.

RECOMMENDATION Refuse permission for the following reasons:

1.

It is considered that the proposed development is unacceptable as it will introduce an intensification of a commercial use into an area of Barrow upon Humber that is

characterised by residential properties. This intensification in use as a commercial operation is inappropriate within this residential location due to the level of activity that would be generated by the business. The development would result in the loss of residential amenity through noise and general disturbance. The proposals are considered contrary to policies C4, DS1 and DS4 of the North Lincolnshire Local Plan, CS5 and CS22 of the Core Strategy, and paragraphs 111, 185(a) and 187 of the National Planning Policy Framework.

2.

Westoby Lane has a limited amount of space available to serve the existing parking requirements for residential properties. It is considered that the introduction of a commercial use into this residential area is likely to result in disturbance and congestion during the pick-up and drop-off times to the detriment of vehicle and pedestrian safety. The proposal is therefore considered contrary to policies C4, DS1 and DS4 of the North Lincolnshire Local Plan, CS5 of the Core Strategy, and paragraphs 111 and 187 of the National Planning Policy Framework.

Informative

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

PA/2022/1451 Parking provision (not to scale)



Additional 3 parking spaces

5m

Space 1

Space 2

6.4m

Space 3

9.2m



DRWG/PA/2022/1451/02

