



 **Ashfield**
DISTRICT COUNCIL
MAP SCALE 1: 1250
CREATED DATE: 17/09/2021

COMMITTEE DATE 06/10/2021 **WARD** Kingsway

APP REF V/2021/0388

APPLICANT Mrs Laura Pall-Coates

PROPOSAL Change of Use from Residential to Residential and Childminding

LOCATION 54 Oxford Street, Kirkby in Ashfield, NG17 7ED.

WEB-LINK <https://www.google.com/maps/place/54+Oxford+St,+Kirkby+in+Ashfield,+Nottingham+NG17+7ED/@53.0954956,-1.2407102,101m/data=!3m1!1e3!4m5!3m4!1s0x487995bb066df617:0x14929b9825df1bb0!8m2!3d53.095579!4d-1.2405168>

BACKGROUND PAPERS A, B, C and D.

App Registered: 20/07/2021 Expiry Date: 13/09/2021

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee by Councillor Zadrozny to discuss the impact on neighbouring residents.

The Application:

This is an application for the change of use from residential to residential and childminding. The childminding business is already operational, and it is proposed to accommodate up to 10 children (these 10 children will be those who do not normally reside at the property) on site at any one time, operating between the hours of 7:30am to 5:30pm.

The application site is within a residential area, and bound by residential properties on all sides.

Consultations:

Individual notifications have been sent to surrounding residents.

The following responses have been received:

Resident comments:

No written representations have been submitted directly to the Council from local residents, however the applicant has submitted a number of letters/emails which

have been received from local residents which show their support for the proposal. This will be discussed further below in the section on amenity.

Nottinghamshire County Council Highways:

No objection. The proposal is considered not to have any detrimental impact on the highway.

No proposed changes to the dwelling or the access, and acknowledge the property has no off-street parking facilities. There are no restrictions to on-street parking.

Policy:

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

National Planning Policy Framework (NPPF):

Part 6: Building a strong, competitive economy.

Part 8: Promoting healthy and safe communities.

Part 12: Achieving well-designed places.

Ashfield Local Plan Review (ALPR) (2002):

ST1 – Development.

ST2 – Main urban area.

Relevant Planning History:

V/2021/0205 - Change of Use from Residential to Residential and Childminding - Withdrawn.

Comment:

Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, if regard is to be had to the development plan for any determination,

then that determination must be made in accordance with the plan, unless material considerations indicate otherwise. Therefore, the starting point for decision-making are the policies set out in the Ashfield Local Plan Review 2002 (ALPR)

The National Planning Policy Framework (NPPF) is a material consideration. The policies in the development plan must be considered in relation to their degree of consistency with the provisions of the NPPF (NPPF paragraph 219). This will depend on the specific terms of the policies and of the corresponding parts of the NPPF when both are read in their full context. An overall judgement must be formed as to whether development plan policies, taken as a whole, are to be regarded as out of date for the purpose of the decision.

Amenity:

This is a retrospective application for a childminding business to be run from a residential property, for up to 10 children between the hours of 7:30am to 5:30pm.

No external alterations are proposed as part of the application. There are therefore no visual amenity concerns.

The primary consideration is the impact upon the residential amenity of neighbouring properties.

At ground floor level is a lounge, playroom and kitchen-diner (from the front to the back of the property respectfully).

Access to the property is to the side, down a hard surfaced path. This is also the same 'shared' access space for the neighbouring property of No.56, it is understood that each property owns their respective half of the pathway. Although there is no boundary treatment between the two, there is a visible differentiation in ground levels/surfacing to reinforce this aspect. Across from No.54's access door, the neighbour at No.56 has an openable window in its ground floor side elevation. This is understood to serve a lounge area.

The applicant has stated that sound boards are installed on all shared walls to reduce sound levels, however the Council does not have any information/evidence of this acoustic detail. It is understood that the playroom, which is sited centrally within the dwelling, is where the children spend most of their time. A large wall unit covers the shared wall.

The applicant has also implemented additional measures in an attempt to reduce noise by restricting children from playing in the garden area before 10am. An outbuilding is present at the end of the garden, however this is ancillary to the main dwellinghouse and is understood not to be used in association with the childminding business.

Once the applicant was aware of the complaint received by the Council, they distributed letters to fifteen surrounding houses to apologies for any disruption and to welcome any comments on their operations. This generated 6 written letters, emails and messages of support which were sent directly to the applicant, copies of which have been provided to the Council. All written correspondence generated by the applicants letter, which show support for and/or no issues with the proposal, were from residents on Oxford Street.

Whilst the Council acknowledges these letters and offers them due weight accordingly, it should also be noted that the absence of objections against a planning application does not mean that there will not be a negative or harmful impacts upon nearby residents.

Permission is being sought to continue to operate the childminding business for up to 10 children (these 10 children will be those who do not normally reside at the property). It is acknowledged that other relevant legislation and Ofsted certificates may 'allow' more children to be on site relative to the number of registered childminders present, however the Council must assess the proposal before it on its merits.

Within the submitted planning statement it is highlighted that no issues were experienced until the pandemic, when children were playing outside more and windows were open. The pandemic was, and still is, a time when nearby residents would have been at home more for leisure and work (who would likely be utilising both internal and external spaces). Nearby residents are considered to be noise sensitive receptors. Due to the nature, scale and level of activity associated with the business, this generated a complaint from a nearby resident relating to noise and parking. On this basis, it is not unreasonable to assume that the level of activity and associated noise is having a harmful effect on the residential amenity of neighbouring properties.

Having reviewed the proposal in accordance with the submitted details, it is considered that the cumulative effect of up to 10 children on site associated with the childminding business would constitute harm to the amenity of nearby residents, primarily through the noise generated from the proposal (from internal and external play etc) and any associated activities, including the level of comings and goings from the property which will be discussed further below in the 'highways' section.

It should be noted that up to 6 children (these would be children who would not normally reside at the property) can be present at a site for childminding purposes without requiring planning permission. This is because up to six children would not constitute a change of use as all six children could be overseen by one childminder under the current Ofsted guidance. The presence of more than six children would require an additional staff helper, thus in planning terms the enterprise would constitute a business and a change of use would then be required.

Overall within the planning balance it is considered that the scale of the business in this location would have a harmful impact upon the residential amenity of nearby residents, causing detriment to their living conditions via noise and general disturbance generated from the proposed business and any associated activities.

Highways:

The Highway Authority have provided comments on the application, who consider that there is unlikely to be an unacceptable impact on the highway. They also confirm that there are no restrictions to on-street parking along Oxford Street.

Oxford Street is an adopted highway maintainable at public expense. The application property does not have any off-street parking provision, like many other properties along the street. However some properties to the east of the application site do have a driveway to accommodate some level of off-street parking, and therefore the levels of on-street parking in this area were witnessed to be lighter than was seen on other areas of the street.

At the time of the Council's visit to the property during the day, levels of on-street parking within the vicinity were somewhat heavy. It is acknowledged this only represents a 'snapshot', but the Council also appreciates that a number of vehicles would typically be absent as a result of people travelling to work via private car. It is therefore considered that the level of parking witnessed on site would typically be heavier in the mornings and evenings.

The submitted planning statement highlights that pick-up and drop-off times for the children varies, and is arranged on a day to day basis following liaison with parents. It is also stated that attempts are made where possible to stagger pick-up and drop-off times.

The Council understands the frustration some residents may feel if they are unable to park outside their own property etc, but as Oxford Street it is an adopted public highway which has no parking restrictions in place, the Local Planning Authority cannot insist where residents/visitors park. Nevertheless, the impact upon the capacity and safety of the highway network still requires consideration.

Due to the ad-hoc approach to pick-ups and drop-offs it would not be unreasonable to assume that there would be instances where multiple parents arrive to the property together/within a short space of time. Even if a parent does not physically go to the property to collect their child until a pre-arranged set time, it would not be unreasonable for them to arrive early and wait in their parked vehicle until their pre-arranged pick-up time. These circumstances only exacerbate concerns around parking and the impact upon the highway network.

Due to the number of children proposed, the comings and goings associated with the pick-up and drop-off of the children is considered to amount to harm to the

residential amenity of neighbours via the general disturbance associated with the business, such as from the running and manoeuvring of motor vehicles, with activity levels of this nature being over and above what may reasonably be expected from a residential dwelling. Additionally the level of traffic the business will generate comparative to likely available levels of on-street parking is considered to be of detriment to the capacity of the highway network.

It is also recognised that Oxford Street can also be utilised as a 'cut-through' between Diamond Avenue and Kingsway, adding further pressure to the highway network.

In accordance with the above, it is considered that the proposal will have a negative impact on the highway network and also cause harm to the amenity of nearby residents via the frequent ad-hoc comings and goings to the property associated with the pick-up and drop-off of children at the scale proposed.

Conclusion:

It is considered that the proposal would have a detrimental impact upon the amenity of nearby residents through noise and disturbance generated from the business use due to its nature, scale and associated levels of activity.

Furthermore the vehicular movements associated with the pick-up and drop-off of children is considered to cause harm to the living conditions of residents living within the vicinity of the site due to the scale of the comings and goings, which is also considered to negatively affect the capacity of the highway network.

It is therefore recommended this application be refused planning permission for the following reasons:

Recommendation: Refuse planning permission.

Reasons:

1. It is considered that the proposed development would have a detrimental impact upon the residential amenity of nearby residents due to harmful levels of noise and general disturbance being generated as a direct result of the nature, scale and level of activity associated with the business. The proposal is therefore considered to be contrary to Policy ST1 (b, and e) of the Ashfield Local Plan Review (2002) which seek to ensure a proposal does not adversely affect the character, quality or amenity of an area, and that a proposal would not conflict with an existing adjoining or nearby use. The proposal is also considered to conflict with Part 12 (achieving well-designed places) of the National Planning Policy Framework (2021) which seeks to

improve the overall quality of an area by creating environments which secure a high level of amenity for existing and future users.

2. The residual cumulative impact of the reliance on on-street parking in addition to the ad-hoc comings and goings associated with the pick-up and drop-off of children is considered to be of detriment to the capacity of the highway network. By virtue of these comings and goings, this level of vehicular activity would be over and above what may reasonably be expected from a residential dwelling, thus having a detrimental impact upon the amenity of nearby residents. The proposal is therefore considered contrary to policy ST1 (b, c and e) of the Ashfield Local Plan Review (2002), and Paragraph 111 of the National Planning Policy Framework (2021).