

## Planning Report for 2019/0553

1:1,250

10 Cavendish Avenue Gedling



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## Report to Planning Committee

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| <b>Application Number:</b> | <b>2019/0553</b>  |
| <b>Location:</b>           | <b>10 Cavendish Avenue Gedling NG4 4FZ</b>  |
| <b>Proposal:</b>           | <b>Change of use of existing garage from residential to residential and childcare business (retrospective).</b> |
| <b>Applicant:</b>          | <b>Mr &amp; Mrs Peters</b>  |
| <b>Agent:</b>              | <b>JLK Architectural Design LLP</b>   |
| <b>Case Officer:</b>       | <b>Alison Jackson</b>   |

**This application has been referred to Planning Committee by the Planning Delegation Panel to allow Members to consider the impact of the operation of the child care business on neighbouring properties and the area in general.**

### **1.0 Site Description**

1.1 10, Cavendish Avenue, Gedling is predominately a bungalow but with a two storey element to the side elevation. The ground floor to the two storey element was previously used as a garage, with this having now been converted to a habitable room which is used as part of the residential dwelling and in connection with an unauthorised child care business which is currently being operated from the site. There is a parking area to the frontage of the site. There is a patio area to the rear of the dwelling with the garden area set at a lower level. The properties to the rear are set at a lower level than the application site.

### **2.0 Relevant Planning History**

2.1 A Planning and Building Regulations Questionnaire form was submitted in 2018, reference EQ/0165/2018, relating to the proposed conversion of the existing garage at the property and the operation of a child care business from the converted garage. The owner of the property was advised that planning permission and building regulations approval was required for the works. A planning application was not submitted following this enquiry but the works to convert the garage were undertaken and the child care business commenced operating from the garage.

2.2 A planning application was submitted in March 2019, reference 2019/0174, for the proposed conversion of loft space including the addition of front and rear dormer windows and the change of use of converted garage space to

accommodate a child care business and family use (Retrospective). This application was subsequently withdrawn.

- 2.3 Planning permission was granted in August 2019, reference 2019/0569, for a proposed loft conversion to the property which included the insertion of two dormers to the front elevation roof slope and one large dormer to the rear elevation roof slope of the dwelling.

### **3.0 Proposed Development**

- 3.1 Permission is sought retrospectively for the change of use of the garage to accommodate a child day care business. The converted garage is also used as part of the family home.
- 3.2 The existing patio area to the rear of the dwelling is used as outdoor space serving the day care business and this area is also used as part of the family home.
- 3.3 It is proposed that up to 12 children would be looked after at the premises by two full time members of staff at any time between the hours of 7.30am to 17.30pm. The applicant has advised that the business has been operating at the site since 2013 with up to 16 children. One member of staff resides at the property and the other member of staff is an employee and does not reside at the property.
- 3.4 There are approximately four off road car parking spaces to the frontage of the site.
- 3.5 The applicant's agent has advised that designated drop off and pick up times could be arranged in order to alleviate any concerns in respect to parking. The agent has also stated that the business is a valued resource to the community.

### **4.0. Consultations**

- 4.1 Nottinghamshire County Council Highways – the application is retrospective, with the garage already having been converted and parking spaces provided on the frontage of the site. Therefore no objections are raised.
- 4.2 Adjoining neighbours have been notified and a Site Notice has been posted at the site - 1 letter of objection has been received from a neighbouring occupier and concerns were raised with regards to:
- Loss of privacy.
  - Overlooking impact.
  - Impact on the value of neighbouring properties.
  - Could trees be planted at the site to reduce the overlooking impact and mitigate against noise.

### **5.0. Assessment of Planning Considerations**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that ‘if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise’.
- 5.2 The most relevant national planning policy guidance in the determination of this application is contained within the National Planning Policy Framework 2019 (NPPF) and the additional guidance provided in the National Planning Practice Guidance (NPPG).

## **6.0. Development Plan Policies**

6.1 The following policies are relevant to the application:

### 6.2 Greater Nottingham Aligned Core Strategy Part 1 Local Plan

Policy 12: Local Services and Healthy Lifestyles – states that new community facilities should be located in designated centres or be in locations accessible by a range of sustainable transport modes and where possible located alongside or shared with other local community facilities.

### 6.3 Local Planning Document (Part 2 Local Plan)

The Local Planning Authority adopted the Local Planning Document (LPD) on the 18th July 2018. The relevant policies to the determination of this application are as follows:

LPD 32: Amenity – states that planning permission will be granted for proposals that do not have a significant adverse impact on the amenity of nearby residents or occupiers.

LPD 41: Live Work Units – states that planning permission will be granted for live work units provided the development is in an appropriate location, does not cause an adverse impact on the amenity of nearby residents or highway safety and appropriate provision of parking is made.

LPD 57: Parking Standards – sets out the requirements for parking.

LPD 61: Highway Safety – states that planning permission will be granted for developments that do not have a detrimental impact upon highway safety, movement and access needs.

## **7.0 Planning Considerations**

### Principle of development

- 7.1 The NPPF emphasises the need to support sustainable economic growth. Both the NPPF and the ACS (Policy 6) seek to apply the sequential approach to steer main town centre uses to locations within centres before more peripheral locations are considered. However, nurseries are not defined as a main town centre use within the glossary of the National Planning Policy

Framework or in the ACS glossary and therefore are not subject to the sequential approach. ACS Policy 12 however, seeks to locate such uses within town and local centres where appropriate as these tend to be inherently accessible or alternatively this policy directs such community facilities to locations accessible by a range of sustainable transport modes.

- 7.2 The use of the property can also be considered as a live to work unit as the child care business is operated from the converted garage but this area together with the rest of the property is also used as part of the residential dwelling when the child care business is not in operation.
- 7.3 The site is located within a residential area which is accessible for local residents by walking, cycling and the site is in close proximity to a bus route. The operation of the child care business from this residential property can be reasonably described as a live work unit, given that when the child care business is not in operation the entire property is used for residential purposes. The operation of the child care business in principle therefore accords with the objectives of policy 12 of the Aligned Core Strategy and policy LPD 41 of the Local Planning Document.

#### Impact upon Residential Amenity and the Area in General

- 7.4 Whilst therefore a child care business could be operated from a residential property in a location such as this, this has to be weighed against the impact of the use on neighbouring residents, the area in general and whether there are any highway safety implications arising.
- 7.5 The numbers of children being cared for at the property, in terms of the intensity of the use has to be assessed in accordance with criteria (d) and (e) of Policy LPD41, as the numbers of children being cared for at the property can result in adverse impact on the amenity of neighbouring properties in terms of both noise and activity associated with the number of children being present at the property together with the comings and goings to and from the site in connection with the business.
- 7.6 In my opinion, I consider that the proposed maximum number of children (12) that could be cared for at the premises, would result in an adverse impact on the amenity of neighbouring properties and the area in general given the noise and activity associated with such a use.
- 7.7 The property is located within a residential area and close to neighbouring residents and an outdoor amenity space can also be used in association with the child care business. I consider therefore, that as up to 12 children could be cared for at the property at any one time and the outdoor amenity space could be utilised by the children and staff, this would result in a detrimental impact on the amenity of neighbouring residents, in terms of noise and activity associated with the operation of the business.
- 7.8 I do not consider that any measures could be put in place to mitigate against the noise and disturbance caused to neighbouring properties as a result of the operation of the child care business.

- 7.9 I also consider that when children are being taken to the property to be looked after, together with the collection of children from the property, the potential noise from the children, their parents/carers and vehicles when arriving at and leaving the property, would be detrimental to the amenity currently afforded to neighbouring properties in terms of noise and activity associated with the operation of the child care business.
- 7.10 I am also mindful that the property operates between the hours of 7.30 am and 5.30 pm and consider it reasonable to expect that the majority of comings and goings to and from the site would be at the start and the end of these periods, which would concentrate the comings and goings to and from the site at the beginning and the end of the day, which in my opinion results in an adverse impact on neighbouring properties and the area in general.
- 7.11 I note that the applicant's agent has stated that designated drop off and pick up times could be arranged, however I do not consider that this would be enforceable. It is likely that cars visiting the property when collecting and dropping off children would park at the side of the road for convenience, which in my opinion adversely affects the area in terms of noise and activity and results in inconvenience for neighbouring residents.
- 7.12 The operation of the child care business therefore fails to accord with policy LPD 41 and LPD 32 of the Local Planning Document 2018 in that the operation of the business results in a significant adverse impact on the amenity of neighbouring residents and the area in general.

#### Highway Safety/Car Parking

- 7.13 Policy LPD57 requires car parking for non-residential development to be provided in accordance with the standards set out in Appendix D of the Local planning Document, or as otherwise agreed by the Local planning Authority. The requirement is one space per member of staff, plus one additional space for shift changes. There are approximately 4 spaces at the property and therefore this requirement is met.
- 7.14 I note that the Highway Authority has raised no objections to the operation of the child care business or car parking provision. I am therefore satisfied that the proposal would not have an adverse impact upon highway safety and therefore the proposal is in conformity with policy LPD61.

### **8. Conclusion**

- 8.1 Having regard to the above considerations, the operation of the child care business results in a significantly detrimental impact on neighbouring residents and the area in general owing to the level of activity associated with the use of the site for a commercial child care business of the scale proposed.

**Recommendation: REFUSE PLANNING PERMISSION**

## **Reasons**

1. The use of the property for the operation of a commercial child care business would result in an adverse impact upon residential amenity given the commercial activity associated with the business. The operation of the commercial child care business therefore fails to meet with the objectives Policies LPD 32 and LPD 41 of the Local Planning Document (2018).

## **Notes to Applicant**

Planning Statement - The Borough Council has worked positively and proactively with the applicant in accordance with paragraph 38 of the National Planning Policy Framework (2019). However, the operation of the commercial child care business of the scale proposed, is considered to be unacceptable, for the reason set out.