Planning Inspectorate

Appeal Decision

Site visit made on 23 December 2025

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2026

Appeal Ref: APP/Z4718/W/25/3373077
42 Birmingham Lane, Meltham, Holmfirth HD9 5LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mrs Maxine Taylor against the decision of Kirklees Metropolitan Council.
- The application Ref 2025/62/90116/W was approved on 11 September 2025 and planning permission was granted subject to conditions.
- The development permitted is change of use from Class C3 (dwellinghouse) to mixed use dwellinghouse and Class E (F) (childminders), and single storey rear extension and raised decking.
- The condition in dispute is No 4 which states that: *The capacity of the childminders is restricted to a maximum of 9 children at any one time*.
- The reason given for the condition is: *To prevent undue noise and disturbance to neighbouring occupants and to ensure the safe and efficient flow of traffic on Birmingham Lane, in accordance with LP24, LP21 & LP22 of the Kirklees Local Plan.*

Decision

1. The appeal is dismissed.

Background

2. Planning permission has previously been granted at the appeal site. This appeal concerns the imposition of condition 4 of that permission, in particular, the stipulation that the maximum capacity allowed is nine children at any one time. The appeal seeks to vary this condition to allow the capacity to fifteen children at any one time.

Main Issues

3. The main issues are:

   - whether condition 4 is necessary to prevent undue noise and disturbance to neighbouring occupants; and,

   - whether condition 4 is necessary to ensure the safe and efficient flow of traffic along Birmingham Lane.

Reasons

Noise and disturbance

4. 42 Birmingham Lane is a semi-detached property adjoining 44 Birmingham Lane. The site includes a standard driveway appropriate for a building of this scale, along with an angled rear garden. It is situated directly opposite the entrance to Meltham Moor Primary School.

5. An initial review indicates that increasing the maximum number of children permitted on the premises, from nine to fifteen, represents a notable intensification for a semi-detached property in what is a predominantly residential location. However, both parties have referred to two noise assessments that have been undertaken and have submitted these for consideration.

6. My attention is first drawn to a sound test undertaken by Kirklees Council over a one-week period in 2024. The report outlines the types of noise generated at the appeal site during this timeframe and records when these noises occurred. However, the level of detail provided is limited. It does not specify how many children were present during the monitoring period, nor does it include quantifiable data that would allow an assessment of the noise levels recorded. As such, the conclusions which can be drawn from this test are limited.

7. I shall now turn to the Noise Assessment conducted by RP Acoustics Ltd (dated 14th May 2025). The assessment records that eight children were present at the appeal site during the monitoring period and provides corresponding noise measurements generated by this group. It also references World Health Organisation (WHO), which states that internal living-room noise levels should not exceed 35dB. My attention is particularly drawn to the effect of the proposed variation to condition 4 upon this neighbouring living room due to its use as a location were relaxation is typically intrinsic to its use.

8. Following the installation of internal insulation and sound-proofing measures, as outlined in the assessment, paragraph 5.3.8 concludes that the predicted noise level generated by eight children, as experienced within No. 44, would be 10dB. This general level of noise is not particularly harmful.

9. Yet, the assessment also recorded the maxima noise level produced by the eight children during the sound test, noting that noise within the appeal site reached 83dB. This measurement was taken during a period of active play. When adjusted to reflect the effect of the internal sound-proofing, this is estimated to reduce to approximately 33dB within No. 44. This is close to, but does not hit the threshold established by the WHO.

10. However, the assessment also identifies additional maxima noise levels generated by the same group of children, including readings of 75dB and 73dB. Although lower than the peak previously referenced, these figures are notable and indicate that elevated noise levels occur at various times and are not confined to a single activity or an isolated event.

11. The proposed variation seeks to increase the number of children permitted on the site to fifteen. It is therefore reasonable to conclude that increasing the number of children from the previously conditioned nine to fifteen would, during periods of heightened activity, result in noise levels exceeding the WHO guideline within No. 44. Furthermore, a higher number of children would naturally create more frequent opportunities for interaction and energetic play, thereby increasing the likelihood and frequency of maxima noise events, as well as the overall volume during these periods. Given the close proximity of the appeal site to No. 44, this intensification would exacerbate noise impacts on neighbouring occupiers. This would be to the detriment of the living conditions of neighbouring occupiers throughout the facility's permitted operating hours, which extend from 07:30 to 17:30, Monday to Friday.

12. Therefore, I conclude that condition 4 is indeed necessary to prevent undue noise and disturbance to neighbouring occupiers. The proposed variation would be contrary to Policy LP24 of the Kirklees Local Plan 2019 (LP). This policy seeks for proposals to provide a high standard of amenity for neighbouring occupiers, amongst other things.

Highways

13. The appeal site is situated directly opposite Meltham Moor Primary School. It is therefore reasonable to assume that Birmingham Lane experiences periods of congestion and increased parking demand during school drop-off and pick-up times. During my site visit, I observed that Birmingham Lane is largely unrestricted in terms of parking, aside from designated no-stopping zones in operation at specific times along the school entrance gate frontage.

14. The proposed variation would permit up to fifteen children to attend the childminding facility at any one time between 07:30 and 17:30. This has the potential to generate up to fifteen individual trips, most of which are likely to be made by private vehicle. This is not, in my mind, a significantly large number when the surrounding parking availability along Birmingham Lane is considered. However, it is also plausible in this location that some parents or carers may walk to the appeal site or share drop-off and collection responsibilities, which would reduce the total number of vehicle movements across the day.

15. I am also mindful that these interactions would be time-limited. Parents and carers would typically arrive, leave their vehicle to drop off or collect their child, who may engage in a brief conversation, and then depart. Any vehicles associated with the permitted use would therefore be present only for short periods. In addition, the business would operate between 07:30 and 17:30, enabling vehicle movements to be distributed throughout the day. While some overlap is likely during peak periods, particularly when the nearby school opens and closes, the varying working patterns of parents and carers along with the later opening time of the childminders to the school would result in a natural staggering of visits to the property and Birmingham Lane overall.

16. Overall, I find that when these factors are collectively considered, I am not convinced that up to fifteen separate vehicular trips, in an area where congestion and parking demand is expected, would be perceptible or have an unacceptable effect itself upon highway safety or the free flow of traffic.

17. To conclude, condition 4 is not necessary insofar as it relates to matters concerning highway safety or operational efficiency. As such, the proposed variation would not conflict with Policies LP21 and LP22 of the LP. Collectively, these policies seek for proposals to ensure the safe and efficient flow of traffic on the surrounding highway network, amongst other things.

Other Matters

18. It is asserted that there is a shortage of childcare places within the locality. However, I am not persuaded that this particular enterprise, in this specific location where the proposed variation to condition 4 would adversely affect the living conditions of No. 44, represents the only viable means of addressing that shortfall.

19. It is also noted that the doorbell volume of the appeal property has been reduced to minimise disturbance. However, this measure does not address the core concern arising from the proposed variation to condition 4.

20. It is further argued that the business operates in accordance with Ofsted requirements. While such requirements relate to standards of childcare provision, they do not in themselves justify varying the condition in question, which has been imposed to safeguard the living conditions of neighbouring occupiers in respect of noise and disturbance.

21. On a related point, it is argued that it is not within the remit or expertise of the planning system to override Ofsted regulations. However, decision-makers in planning matters are fully entitled to impose conditions where these are considered necessary. While Ofsted has its own regulatory framework, planning authorities and decision-makers likewise operate within their own statutory responsibilities, which include safeguarding the living conditions of neighbouring occupiers. The evidence before me leads me to the conclusion that such a condition is indeed necessary.

22. It is commented that this business is a source of local employment, with training available to younger members of staff. This is noted. However, this decision would not refuse planning permission for the business to operate at this location, but to limit the number of children able to attend it.

Conclusion

23. For the reasons given above the appeal should be dismissed.

J Smith

INSPECTOR