

Planning Committee 3 January 2017
Report of the Chief Planning and Development Officer



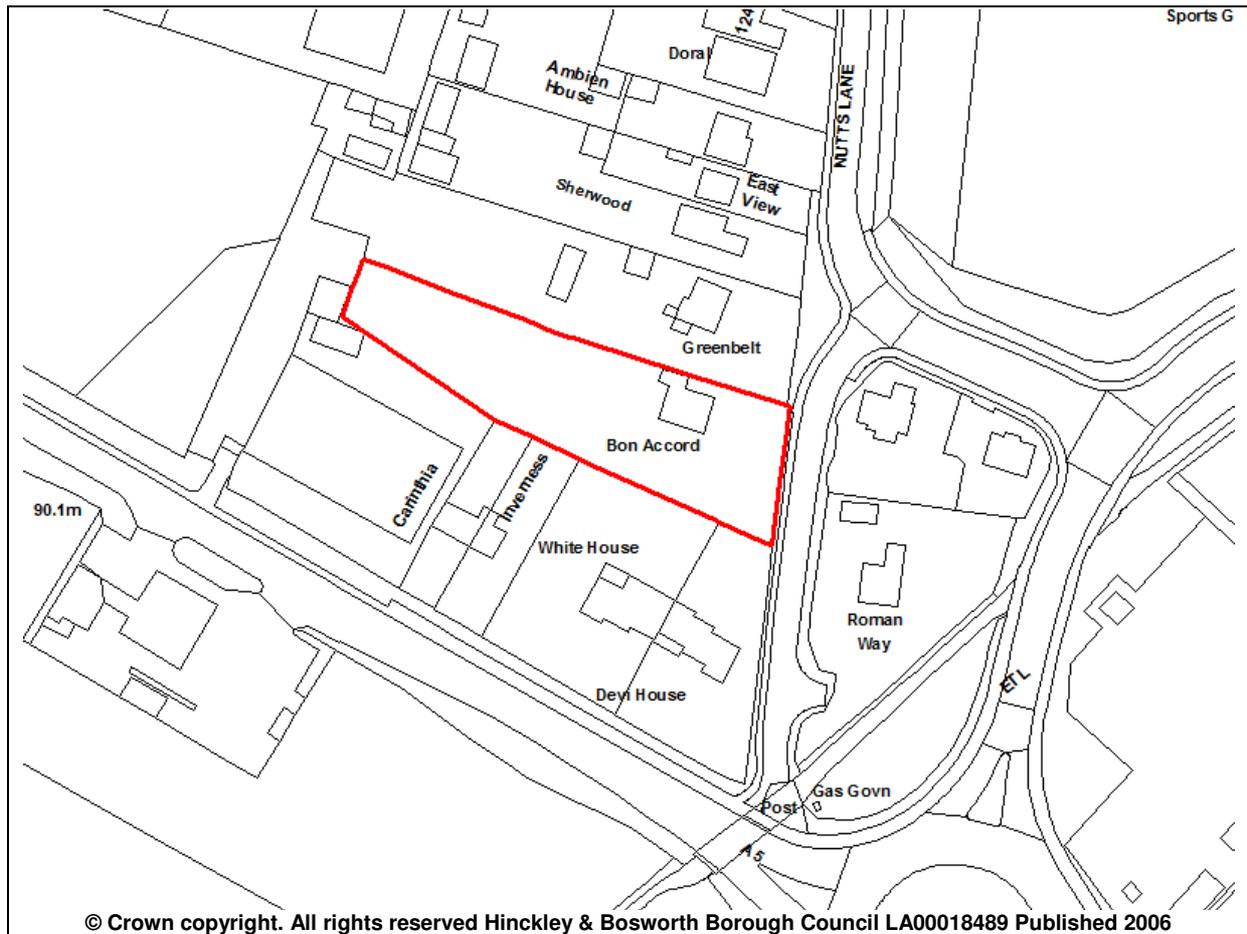
Hinckley & Bosworth
Borough Council

A Borough to be proud of

Planning Ref: 16/00922/FUL
Applicant: Mrs Sarah Payne
Ward: Hinckley Clarendon

Site: Bon Accord Nutts Lane Hinckley

Proposal: Change of use from dwelling to children's day care nursery including two storey side extension



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

2. Planning Application Description

2.1. This application seeks full planning permission for the change of use from the existing residential dwelling to a 70 place children's day care nursery including a

two storey side extension at Bon Accord, Nutts Lane. No residential accommodation is proposed to be retained.

- 2.2. Both the ground and first floor would be used for the nursery with 6 rooms available. The rear garden would also be used for out door play with acoustic fencing proposed on part of the border of the site. The proposal would utilise the two existing accesses to the site and would create 15 off street parking spaces.

3. Description of the Site and Surrounding Area

- 3.1. The application property is a two storey detached property located within the settlement boundary of Hinckley. The application site is set on the old part of Nutts Lane which used to connect to the A5 but got rerouted as part of the improvements to the A5. The application site therefore lies on a cul-de-sac with a hammerhead which provides space for the turning of vehicles located at the end of the road. Two storey residential properties surround the application site with the application site set a long distance back from Nutts Lane.

4. Relevant Planning History

03/01127/FUL	Extension and alterations to bungalow to form two storey dwelling	Permitted	31.12.2003
05/00213/FUL	Change of use from domestic garden to boarding kennels	Refused	15.06.2005

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

- 5.2. Seven letters of representation have been received from five addresses raising the following concerns:

- 1) Flooding
- 2) Impact upon the sewers and drains
- 3) Noise impact upon neighbouring properties
- 4) Impact upon highway safety, traffic congestion and lack of parking
- 5) Impact from delivery and waste lorries
- 6) Potential to extend opening hours and open at the weekend
- 7) Privatisation of the road
- 8) No transport connections
- 9) Existing anti-social behaviour within the vicinity of the area
- 10) Loss of value of the neighbouring properties and difficulties when selling
- 11) Impact upon health of neighbouring residents

- 5.3. A petition has also been received with 16 signatures raising the same concerns as above.

6. Consultation

- 6.1. No objection subject to conditions from:-
HBBC Environmental Health
LCC Highways
- 6.2. No objection from:-

Highways England
Environment Agency
HBBC Waste
HBBC Drainage
- 6.3. LCC Children's and Young Peoples Service support the application.

7. Policy

- 7.1. Core Strategy
- Policy 1: Development in Hinckley
- 7.2. Site Allocations and Development Management Policies DPD
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. Key Issues
- Assessment against strategic planning policies
 - Impact upon the character of the area
 - Impact upon neighbouring residential amenity
 - Impact upon the highway
 - Drainage and flooding
 - Other issues

Assessment against strategic planning policies

- 8.2. Paragraphs 11-13 of the National Planning Policy Framework (NPPF) state that the development plan is the starting point for decision making. The NPPF is a material consideration in determining applications. The development plan in this instance consists of the Site Allocations and Development Management Policies (SADMP) DPD (2016) and the Core Strategy (2009).
- 8.3. Policy DM1 of the adopted SADMP and paragraph 14 of the NPPF provide a presumption in favour of sustainable development with planning applications that

accord with the policies in the Local Plan should be approved unless material considerations indicate otherwise.

- 8.4. The application site is located within the settlement boundary of Hinckley. Policy 1 of the Core Strategy identifies Hinckley as a sub regional centre where development that provides employment opportunities are generally supported within the settlement boundary.
- 8.5. The NPPF in paragraph 14 provides a presumption in favour of sustainable development and 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.
- 8.6. The proposal constitutes the change of use of the existing dwelling to a childcare facility. The scheme would result in the incorporation commercial uses in a sustainable location within the settlement boundary. The proposed scheme would capitalise on the sites potential, resulting in economic, social and environmental benefits.
- 8.7. 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 further facility within the Hinckley area. Leicestershire County Council have been working with the nursery to look at possible growth due to the Government expansion of free childcare in September 2017 from 15 hours to 30 hours a week. The proposal has been assessed over a number of different sites. 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 change of use and extension of the dwelling to provide a childcare facility is not considered to conflict with the adopted planning policies.
- 8.8. The proposal is considered to be in accordance with Policies DM1 of the SADMP together with paragraph 14 of the NPPF and is therefore acceptable in principle, subject to all other planning matters being appropriately addressed.

Impact upon the character of the area

- 8.9. Policy DM10 requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features.
- 8.10. The built form in the surrounding area is predominately two storey residential properties set back from Nutts Lane. The proposal would involve a two storey side extension to the existing property with a single storey front extension with a mono pitch roof to the front and a single storey rear extension with a dual pitched roof. The proposed extension would match the existing dual pitched roof and mono pitched roof to the front of the property. The materials would also match as existing. It is therefore considered that due to the set back nature of the property within the site and the proposed side extension set off the boundary with the adjacent property, White House, by approximately 8 metres, the proposed extension would not impact upon the character of the existing property. There is dense screening of the property from Nutts Lane and therefore the property is not easily visible from the street and as such would have no impact upon the character of the street scene.

- 8.11. 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 and proposed floor space of the dwelling. Externally the existing rear garden to the west of the dwelling is proposed to be enclosed by way of a 1.8 metre high acoustic fencing and dense screening, for use in conjunction with the nursery.
- 8.12. 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. There is proposed to be large areas of hardstanding to the front of the property for parking and pick up and drop off, however there are a number of other properties in the area with a large amount of hardstanding and this is not something which is unusual in the area. The proposal would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact upon neighbouring residential amenity

- 8.13. Policy DM10 of the SADMP state that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.14. 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 concerns raised by the neighbouring residents have been carefully considered.
- 8.15. The application seeks to change the use of the dwelling from the existing dwelling to a children's nursery. The maximum number of children would be 70 and the operating hours would be between 0730hrs and 1830hrs Monday to Friday only and not at any time on Saturday or Sunday.
- 8.16. The application site is located on a cul-de-sac, adjacent to and opposite two storey detached properties. Located to the south of the site are two pairs of two storey semi-detached properties. The closest residential properties are located to the north and the south west of the property. To the north, Greenbelt, comprises a two storey detached dwelling situated approximately 10 metres from the north elevation and north boundary of the site. To the south, White House, whose rear boundary borders the site with the front of the application site and is situated perpendicular to the application site. Carinthia and Inverness, two storey semi-detached properties situated perpendicular to the application site and are located to the south west of the application property.
- 8.17. Further information has been provided by the applicant detailing specifics in regards to the operations on site and the use of the rear garden. 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 to the rear of the site would be split into two sections, one for a baby and toddler area and one for a pre-school age area. The areas proposed would enable children to partake in activities including water and sand play, painting and vegetable cultivation. The baby and toddler area would be located closest to the main property with the pre school play area located to the rear of the site. All of the garden area would be adjacent to the side boundary of Greenbelt and only the baby and toddler play area would be bounded by the rear boundary of Carinthia and Inverness.

- 8.18. A 1.8 metre high acoustic fence is proposed to border the baby and toddler play area, the area of the rear garden of the site which is immediately bounded by the residential properties to the south and the closest part of the rear garden to the property of Greenbelt. Therefore significant noise protection has been provided by the applicant to prevent any potential impact upon the neighbouring properties.
- 8.19. It is also proposed that the use of the garden shall be limited to the hours of between 0900hrs – 1130hrs and 1400hrs – 1600hrs and it is recommended to secure this by condition.
- 8.20. As a result of the recommended conditions, acoustic fencing protecting the properties to the south and part of the rear garden and main dwelling of Greenbelt and due to the large nature of the rear garden of Greenbelt, it is considered that the impact of noise from the rear garden of the application property would be minimal upon these properties. Further to this, there would be existing background noise due to the proximity of the A5 to the application site which would help alleviate any impacts upon neighbouring residential properties in respect of noise and disturbance. Environmental Health have considered the application and as a result of the further information submitted regarding hours of use and acoustic fencing, would have no objection subject to the recommended conditions.
- 8.21. The proposed two storey side extension would be sited approximately 8 metres from the boundary with the nearest residential property, White House. Due to the distance from the boundary and the siting of White House away from the application property, there would be no impact upon residential amenity in respect of overlooking, overbearing or loss of light.
- 8.22. Therefore subject to conditions the proposal is considered to comply with Policy DM10 of the SADMP.

Impact upon Highway Safety

- 8.23. Policy DM17 and DM18 of the SADMP states that proposals should ensure that there is adequate provision for on and off street parking for residents and visitors and there is no impact upon highway safety.
- 8.24. 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 Nutts 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 subject to conditions.
- 8.25. The application site proposes off road parking spaces for 15 vehicles. If the proposed use was at maximum capacity of 70 children at the site at anyone time, that would result in 17 full time members of staff and 4 part time members of staff. The existing site has two access points and it is proposed as part of this change of use to utilise the two access points, widening as appropriate, to allow for one entrance and one exit. Therefore the vehicles will be able to pull into the site, drop off their children and then exit the site without interfering with vehicles entering the site.
- 8.26. Further to this, the application site is located on the cul-de-sac part of Nutts Lane with no through traffic. Therefore the existing traffic flow on this part of Nutts Lane is

very small, with the road serving only the few adjacent residential properties. With the entrance to Nutts Lane from the north, and the two access points providing an in and an out, vehicles will be able to use a one way system with no vehicles crossing over each other when entering and exiting the site.

- 8.27. In addition, 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 and 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, as such are not considered to be significantly harmful in highway safety terms to lead to a detrimental impact upon highway safety. Parking is also available within the site for staff and users of the facility who wish to stay for a longer period of time.
- 8.28. In order to provide maximum pedestrian visibility, it will be necessary to reduce the roadside hedge in width but this need not affect the canopy of the trees. This is recommended to be secured by condition.
- 8.29. Concerns have arisen regarding delivery vehicles. There would be suitable access and parking arrangements within the site for delivery vehicles to ensure there would be no impact upon highway safety.
- 8.30. 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 DM17 and DM18 of the SADMP.

Drainage and flooding

- 8.31. Policy DM7 of the SADMP states that adverse impacts from pollution and flooding will be prevented by ensuring that the development does not create or exacerbate flooding. Paragraph 103 of the NPPF requires that development does not increase flood risk elsewhere.
- 8.32. The Flood Map for Planning was updated for the adjacent Sketchley Brook within the last two years. Therefore the application site falls within an area at risk of flooding from the Sketchley Brook. However this change of use application does not result in a more vulnerable class of development than its current use as a domestic dwelling, and therefore there would be no impact upon exacerbating flooding within the area. The large area of hardstanding proposed to the front of the property would need to have drainage to ensure there would be no impact upon flooding; this is recommended to be secured by condition.
- 8.33. Appropriate drainage would be provided within the existing drainage network and drainage channel. Severn Trent have also been consulted on the application in relation to impact on foul and surface water drainage. They raise no objections to the proposal.

Other issues

- 8.34. Concerns have arisen regarding the potential to extend opening hours and to open at the weekend. However this is not considered as part of the application.

- 8.35. Concerns have arisen regarding the privatisation of the road, existing anti-social behaviour within the vicinity of the site and decrease in value of neighbouring properties. However there are no known issues of anti social behaviour in the area and the privatisation of the road and decrease in neighbouring properties value are not material planning considerations in the determination of this application.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. This application is for the change of use of the existing residential dwelling for the purposes of a nursery with a two storey side extension. The application site is situated within a sustainable location within the settlement boundary of Hinckley, 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.

- 10.2. By virtue of the specific nature and level of the proposal, the siting of the property in relation to the adjacent properties, the proposed boundary treatments and the access arrangements and parking provision 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. The proposal is considered acceptable in accordance with Policies DM1, DM7, DM10, DM17 and DM18 of the SADMP and is therefore recommended for approval subject to conditions.

11. Recommendation

- 11.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

11.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

11.3. **Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Proposed Site Layout and Parking drg. no. Planning 02 (scale 1:200), Proposed Elevations and Plans drg. no. Planning 04 (scale 1:100 and 1:50), received by the Local Planning Authority on 5 October 2016 and Proposed Site Layout and Parking drg. no. Planning 05 (scale 1:200) received by the Local Planning Authority on 1 December 2016.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

3. The number of children attending the premises shall not exceed 70 at any one time.

Reason: To ensure that the development does not have a detrimental impact upon highway safety and existing residential amenity in accordance with Policy DM10, DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

4. The rear garden of the property as identified in the approved plan Proposed Site Layout and Parking drg. no. Planning 05 (scale 1:200) received by the Local Planning Authority on 01 December 2016 shall only be used for children's recreation between the hours of 09:00am - 11:30am and 2:00pm - 4:00pm.

Reason: To ensure that the proposed use does not become a source of annoyance to nearby residents in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

5. The use hereby approved shall not be in operation outside the hours of between 07:30am and 18:30pm Monday to Friday, and shall not operate at any time on Saturday or Sundays.

Reason: To ensure that the proposed use does not become a source of annoyance to nearby residents in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

6. Before first use of the development hereby permitted, the proposed acoustic fence as identified in the approved plan Proposed Site Layout and Parking drg. no. Planning 05 (scale 1:200) received by the Local Planning Authority on 01 December 2016 shall be constructed in accordance with the Acoustic

Fence Specification received by the Local Planning Authority on 13 December 2016. The proposed acoustic fence shall thereafter be permanently retained.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

7. If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as not to open outwards.

Reason: To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway in accordance with Policy DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

8. No walls, planting or fences shall be erected or allowed to grow on the highway boundary exceeding 0.6 metres in height above the level of the adjacent carriageway.

Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety in accordance with Policy DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

9. Before first use of the development hereby permitted, parking and turning facilities as shown on approved plan Proposed Site Layout and Parking drg. no. Planning 02 (scale 1:200) received by the Local Planning Authority on 05 October 2016 shall be provided and surfaced with a hard bound porous material (not loose aggregate) and be made available for use within the site. The turning area so provided shall not be obstructed and shall thereafter be permanently so maintained at all times.

Reason: To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users and in accordance with Policy DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document and to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. The comments from the Environment Agency received by the Local Planning Authority on 04 November 2016 should be considered prior to

development.