

Planning Committee 10 October 2017
Report of the Head of Planning and Development

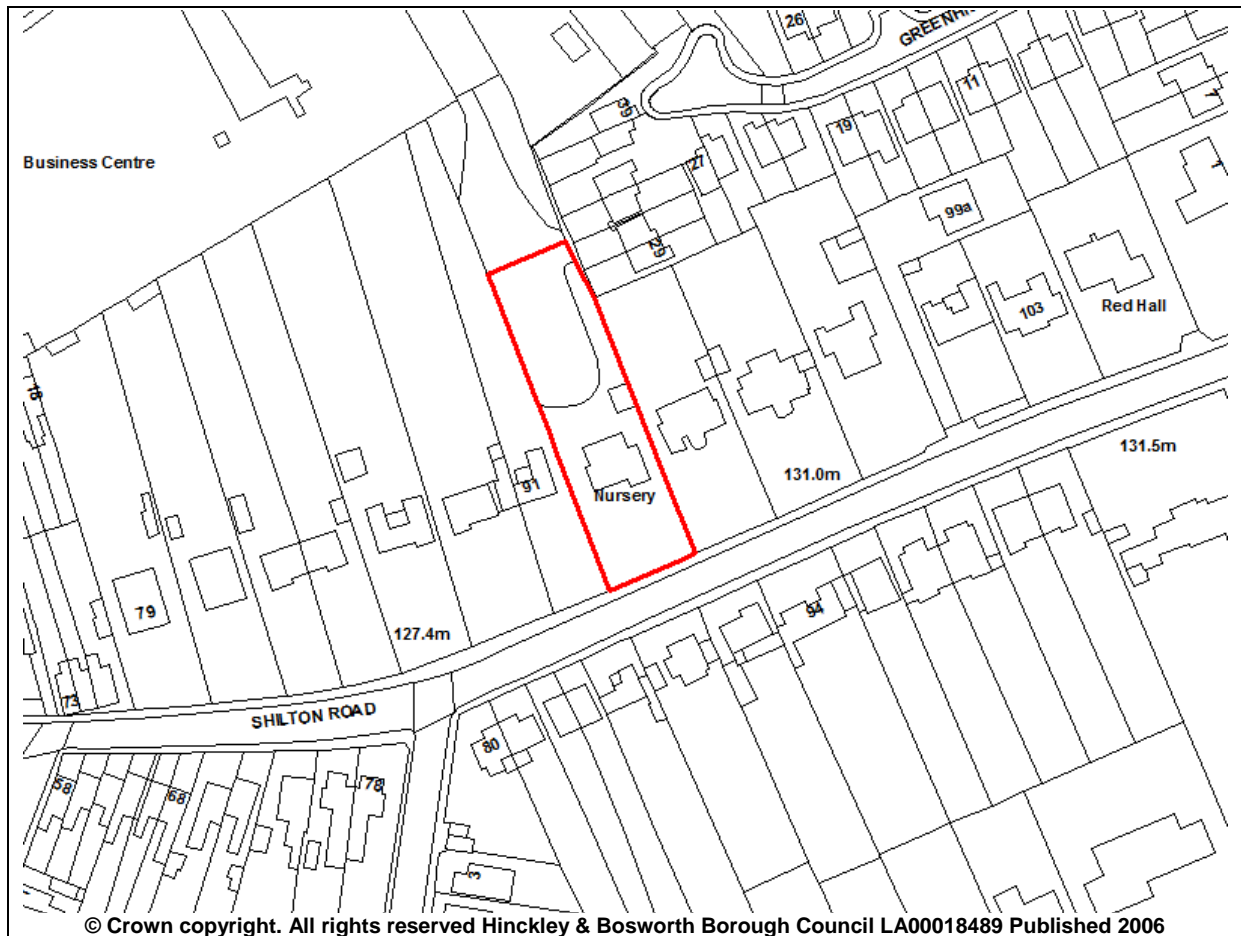


Hinckley & Bosworth
Borough Council

Planning Ref: 17/00606/CONDIT
Applicant: Mrs Victoria Stone
Ward: Barwell

Site: The Old Rectory Nursery 93 Shilton Road Barwell

Proposal: Variation of condition 3 of planning permission 15/00611/COU to increase the number of children permitted from 42 to 64



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions set out at the end of the report.

2. Planning Application Description

2.1. This application seeks to vary condition 3 of planning permission 15/00611/COU which states:

“The number of children attending the Nursery shall not exceed 42.”

- 2.2. The original application sought consent for change of use of the first floor from dwelling to nursery in conjunction with existing ground floor nursery use. The original application allowed the property to cater for 42 children (an increase of 14).
- 2.3. The reasons given for the inclusion of the condition on the 2015 approval were to prevent the use becoming a source of annoyance to nearby residents and to ensure there was no detrimental impact upon highway safety.
- 2.4. The nursery caters for a number of different age groups, ranging from babies (0-18 months), toddlers (18-30 months), pre preschool (30-36 months) and preschool (36-48 months). The current amendment proposed as part of this application is to increase the number of children permitted from 42 to 64.
- 2.5. An additional site plan and a noise management plan were received during the course of the application addressing officer concerns regarding the parking layout on the site and the amenity of neighbours.

3. Description of the Site and Surrounding Area

- 3.1. The site is within the settlement boundary of Barwell. The site is accessed from Shilton Road and currently has parking for approximately 6 vehicles. The property is a detached two storey property with a large rear grassed area. The street is mainly characterised by large detached dwellings set back into the plots with mature planting along the boundaries, however the boundaries have been eroded to provide access to the dwellings. The area is characterised by residential development.
- 3.2. The existing building has three rooms on the ground floor and three rooms on the first floor. A kitchen is located on the ground floor with a further office and a staffroom/children cooking area on the first floor.

4. Relevant Planning History

84/00612/4	Change of use from single dwelling to residential home for 9 elderly persons	Permission	21.08.1984
85/00758/4	Change of use to day nursery for 40 children	Refused	24.09.1985
85/01173/4	Change of use from residential to residential including a day nursery for 7 children and the erection of a toilet block extension	Permission	28.01.1986
86/01304/4	Increase use of existing nursery for child care from 7 to 10 children	Permission	27.01.1987
88/00526/4	Increase use of existing nursery for child care from 10 to 20 children	Permission	24.05.1988
02/01045/FUL	Erection of conservatory	Permission	25.10.2002
04/01133/COU	Change of use from nursery limited to twenty children to nursery limited to twenty eight children	Permission	10.11.2004
15/00063/COU	Change of use from first floor from dwelling use to nursery in	Withdrawn	29.04.2015

15/00611/COU	conjunction with existing ground floor nursery use. Change of use of first floor from dwelling to nursery in conjunction with existing ground floor nursery use.	Permission	25.11.2015
--------------	---	------------	------------

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. Two letters of objection have been received from one address raising the following concerns:
- 1) Highway safety
 - 2) On street parking problems
 - 3) Noise and disturbance impacts upon neighbouring properties
 - 4) There is another nursery located four properties along so there will be a cumulative noise impact with a large number of children in a residential area

6. **Consultation**

- 6.1. Barwell Parish Council object to the application on highway safety grounds and impacts upon neighbouring residential properties.
- 6.2. No objections from HBBC Environmental Health as a result of a submitted Noise Management Plan.
- 6.3. No objections from LCC Highways.

7. **Policy**

- 7.1. Core Strategy (2009)
- Policy 3: Development in Barwell
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - 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
 - Design and impact upon the character of the area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Conditions

Assessment against strategic planning policies

- 8.2. The original scheme has been assessed as being sustainable and in accordance with strategic planning Policies DM1 of the SADMP and Policy 3 of the Core

Strategy. The proposed amendments have no impact on the acceptability of the proposal in relation to these strategic planning policies of the Development Plan. The principle of a nursery within this location is therefore considered acceptable, subject to all material considerations being satisfied.

Design and impact upon the character of the area

- 8.3. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. It is contended that the development proposed by this application would meet the aims and requirements of the above for the reasons given below.
- 8.4. No changes are proposed to the existing building and as such there would be no impact upon the character of the property or the street scene. The increase of 22 children would therefore not significantly impact upon the character of the area.
- 8.5. Overall the proposal is considered to complement the character of the existing dwelling and street scene in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.6. Policy DM10 of the SADMP state that proposals should not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings including matters of lighting air quality noise vibration and visual intrusion
- 8.7. The nearest residential dwellings to the proposal are no. 91 (west) and no. 95 (east) Shilton Road.
- 8.8. Concerns have been raised in regards to the noise impacts of additional children on site to the neighbouring residents.
- 8.9. The proposal would result in more children on site and more children using the rear garden generating further noise. The use of outdoor space and access to outdoor play is also supported by the Early Years Foundation Stage.
- 8.10. Following officer concerns, an updated noise management plan has been submitted addressing the potential impact the increase in numbers could have on the surrounding properties. The applicant has stated within this document that the number of children allowed outside at any one time is limited, to ensure the noise disturbance to neighbours is limited, additionally to limit the number of accidents which may occur if they are all outside together.
- 8.11. The smaller age groups, babies and toddlers are generally only out half an hour in the morning and half an hour in the afternoon and usually only 10 at one time for the babies, and 20 for the toddlers.
- 8.12. The older age groups have free flow on the outdoors. However this means the older children are not all out at one time and flow between indoors and outdoors.
- 8.13. It is therefore considered that there would be limited noise impacts from the use of the outdoor garden as there would be limited numbers throughout the day.
- 8.14. The garden also extends approximately 45 metres in length, allowing children to play further towards the back of the garden, further away from the direct amenity space available to the neighbouring residential properties. The nursery backs on to a small industrial unit so there would be no noise impacts to the rear of the

application site. Hedging also bounds the site on both sides in addition to the existing boundary fences.

- 8.15. There is another other nursery located in close proximity to the application site only has permission for 18 children and is limited to a maximum of 12 children using the rear garden between the hours of 09:30am and 16:30 pm. As such it is considered that the cumulative impact of children numbers in the area would not detrimentally impact upon the residential amenity of the dwellings situated between the two nurseries.
- 8.16. Through discussions with Environmental Health and the submission of a noise management plan, it is considered that this noise disturbance would not be severe or detrimental to the amenity of residents. There have also been no recent noise complaints on the proposal.
- 8.17. Therefore it is not considered that by amending this condition which would increase the numbers of children at the property, the amenities of neighbouring residents would be significantly harmed so as to warrant refusal.
- 8.18. The proposal is considered to comply with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.19. 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.
- 8.20. Off street parking provision is provided to the front of the property and provides approximately 6 parking spaces.
- 8.21. Leicestershire County Council (Highways) initially objected to the proposal, due to the lack of parking and the potential impact for on street parking and resultant impact upon highway safety. However, following the submission of additional information and a revised layout for parking on site this objection was removed.
- 8.22. The amended parking layout provides provision for 11 spaces and 4 staff spaces. It is considered that the revised parking layout would allow vehicles to pull onto the site, park and manoeuvre without impacting upon highway safety. The applicant has confirmed it is not proposed to increase the number of staff numbers from existing, full time employees – 12 and part time employees – 4.
- 8.23. 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 off 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. Impacts experienced would be time specific and would not lead to constant congestion or parking problems, as such are not considered to be significantly harmful to lead to a detrimental impact upon highway safety. Further to this, the dropping off and picking up of children is very sporadic and differs within parents depending their own schedules. Parking is also available within the site for staff and users of the facility who wish to stay for a longer period of time.
- 8.24. 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 increase in numbers 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.

Conditions

- 8.25. Planning permission 15/00611/COU was subject to six conditions. Condition 1 (relating to time restriction) is no longer required as the scheme has commenced. Condition 2 (relating to the approved plans) is being amended by this application in line with the revised parking layout. Condition 3 (numbers of children permitted) is being amended as part of this permission. Condition 4 (use of the parking and turning facilities to be provided and marked out) is being amended in line with the revised parking layout. As the use has already commenced, it is considered necessary and reasonable to amend this condition for the revised parking spaces and layout to be marked out within one month of the date of this permission. Condition 5 (provision of pedestrian visibility splays) has been carried out and is being amended to ensure that the relevant splay is maintained in perpetuity. Condition 6 (provision of the one-way arrangement) is to be amended to ensure that the relevant one-way is maintained in perpetuity.

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 seeks to vary condition 3 of planning permission reference 15/00611/COU on an existing use. It is considered that the proposal to increase the numbers of children permitted by from 42 to 64 would not detrimentally affect the amenities of neighbouring residents nor highway safety. The proposal is considered to comply with Policies DM1, 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 Head of Planning and Development be given powers to determine the final detail of planning conditions.
- 11.3. **Conditions and Reasons**

1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, Dwg No 03 - Location Plan, Dwg No 04 - Block Plan, Dwg No 02 - Proposed Floor Plans received by the local planning authority on 29 May 2015 and Dwg No 11C – Existing and Proposed Site and Parking Plan received by the local planning authority on 06 September 2017.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1, DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

2. The number of children attending the Nursery at any one time shall not exceed 64.

Reason: To ensure that the development does not have a detrimental impact upon highway safety and existing residential amenity in accordance with Policies DM1, DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

3. The off-street car parking and turning facilities shown on Dwg No 11C – Existing and Proposed Site and Parking Plan received by the local planning authority on 06 September 2017 shall be surfaced and marked out within one month of the date of this permission, and shall thereafter be so maintained at all times.

Reason: To ensure the parking provision for the nursery is provided to ensure it will not have a detrimental impact upon highway safety, in accordance with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

4. Pedestrian visibility splays in accordance with the details shown on Dwg No 11C – Existing and Proposed Site and Parking Plan received by the local planning authority on 06 September 2017 shall be provided, maintained in perpetuity and nothing shall be erected or grown within those splays higher than 0.6 metres above ground level, in accordance with the current standards of the Highway Authority.

Reason: To ensure adequate pedestrian visibility splays are provided for the site in the interests of highways safety in accordance with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

5. The proposed one-way arrangement shall be implemented and shall remain in operation in perpetuity.

Reason: To ensure adequate vehicle visibility splays are provided for the site in the interests of highways safety with Policies DM17 and DM18 of the adopted 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.