

**4/01879/17/RET - CHANGE OF USE TO NURSERY D1 FROM C3 RESIDENTIAL
(PREVIOUSLY DEEMED ANCILLARY TO RESIDENTIAL USE).
21 CHURCH ROAD, FLAMSTEAD, ST ALBANS, AL3 8BN.
APPLICANT: Ms S Devoti.**

[Case Officer - Sally Robbins]

Summary

The application is recommended for approval.

Site Description

The application site is located at the end of Church Road in Flamstead, a small private cul-de-sac. The site comprises a single storey detached dwellinghouse with a single storey detached outbuilding. The property has undergone internal alterations, including the conversion of the loft space into habitable accommodation. The entire site is currently being used as a children's day nursery. To the front of the property are parking spaces for 12 vehicles.

The surrounding area is predominantly characterised by detached single storey dwellinghouses, although there are some two storey terraced dwellinghouses towards the junction of the main road with the private road.

Proposal

The application seeks full retrospective planning permission for the change of use from dwellinghouse (C3) to children's day nursery (D1). The nursery is open from 07:30-18:00 Monday to Friday except bank holidays. There are 69 children on the register and the nursery has a maximum capacity of 45 per day.

Referral to Committee

The application has been called in to Development Management Committee by Councillor Timmis owing to a number of local objections due to traffic congestion leading to road safety issues, exacerbated by an increase in the number of children at the nursery.

Planning History

An enforcement enquiry was raised on 02/09//2011 (ref. E/11/00365). It was determined that the use of the premises as a childminding operation was ancillary to the main use as residential. It was identified that there was no breach of planning control.

A further enforcement enquiry was raised on 24/04/2017 (ref. E/17/00165). It was determined that the use of the premises for childcare was no longer ancillary to residential. Applicant was advised that planning permission would be required for a change of use.

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)

Adopted Core Strategy

CS1 – Distribution of Development

CS5 – Green Belt

CS6 - Selected Small Villages in the Green Belt

CS8 – Sustainable Transport
CS12 - Quality of Site Design
CS17 - New Housing
CS23 – Social Infrastructure

Saved Policies of the Dacorum Borough Local Plan

Policy 15 - Retention of Housing
Appendix 5 – Parking Provision

Summary of Representations

Highway Authority

The site is located on a section of Church Road, Flamstead, which is unadopted by HCC and accessed from the Highways maintained section of Church Road. This access appears to operate without any problems.

Conclusion - HCC as highway authority has no reasons to object to the grant of approval

Flamstead Parish Council

The Parish Council is very aware that this is a contentious application with good arguments on both sides. It was noted that the nursery has grown into a substantial commercial business in a residential location and has attracted some of the extra traffic movements that that entails, whilst at the same time providing employment for eleven local residents. It was also noted that the boundary of one of the buildings overlaps the neighbouring property at number 19, bringing into question the status of that dwelling should permission be granted. We understand around a quarter of the nursery children are from within the village. The Parish council voted to 'not support' the application by a small majority in order that the matter would be presented to the planning committee. In 'not-supporting' the understanding was by half of those voting that the matter would be automatically referred to committee, but by the other half 'not-support' was understood to actually mean object. We have therefore asked our Ward Councillor (Jane Timmis) to request that the matter does get referred to committee given the potential ramifications of any decision made. We would also hope that if the planning committee sees fit to decline the application then the relevant departments will be lenient enough to enable time for the business to consider plans for re-location.

Strategic Planning and Regeneration

The application is seeking retrospective permission to use a house and outbuilding as a children's nursery within Flamstead. The business has been operating from the site for over 8 years and lies within a residential part of the village.

The site falls within a selected small village in the Green Belt wherein a variety of development opportunities are encouraged (Policy CS6). Policy CS6 makes no direct reference to a children's nursery, although the policy does support local facilities to meet the needs of the village. However, Policy CS5 does give general support to the reuse of buildings in the wider Green Belt (reflecting the national approach in the NPPF (para. 90)).

Our main concern is the loss of the dwelling. Both saved DBLP Policy 15 and CS17 seek to safeguard the loss of dwellings as part of maintaining the housing stock/supply. This is important in the case of Flamstead as it is a small village containing relatively few homes to begin with (and thus any loss of housing would have a greater proportionate impact locally). Therefore, you will need to assess the weight to be given to this approach against the aims of other policies in the Plan.

We would note the following:

- The business has been operating from the site for a considerable period of time.
- In reality, there would be few opportunities for this type of use within the village through purpose built accommodation.
- We would typically expect to see such facilities in residential areas (and in many instances they would have come forward through the conversion of a house).
- It could be argued that this does serve to meet a local need of the village and surrounding rural area. We note that this is the sole nursery in the village.
- There are existing links with the village school.
- We are mindful that we would generally not wish to see the loss of an established local business and associated jobs (14 staff).
- We are not aware of many (if any) recent losses of dwellings to non-residential uses in the village.
- As the proposal involves the reuse of existing buildings it is unlikely to impact on the openness of the Green Belt.

Given the above points, we consider that there is scope to be flexible over the loss of the dwelling. This would not override the need to consider the suitability of the use in this location (e.g. noise, disturbance, loss of privacy and parking, etc.) (Policy CS12c). However, we note from the applicant's planning statement that they do not consider that the nursery has adversely impacted on adjoining properties. We would also acknowledge that there appears to be reasonable levels of parking already available, the numbers of children attending will remain the same, and that drop offs/pick ups can be staggered across the day.

Environmental Health (Food, Health and Safety)

The premises is currently registered with Regulatory Services as child care centre for food, health and safety. As such no advice is required from our department in regards to retrospective approval.

Environmental Health (Noise Pollution and Housing)

From an Environmental Health standpoint this is a well-established local nursery and I have no particular concerns from that point of view. The transport and other off site concerns are not matters I can sensibly comment on. Taken together the public comments give a pretty fair impression of what is going on, namely a successful local nursery at the end of an otherwise reasonably quiet domestic street, although there are other businesses operating from some of those residences. I have no comment to make regarding this application on Environmental Health grounds.

Community Consultation

A total of 40 comments have been received, 27 in support and 13 in objection, along with a 41 signature petition in objection.

Many of the 27 comments in support are from parents of children that attend the nursery. Comments of support were received from College Close, Linnins Pond, Trowley Road, Home Farm, Pie Corner, White Hill, Trowley Bottom, Vicarage Close, Parsons Close.

The Head Teacher of Flamstead Village School commented in support of the application as follows:

"We are a small village school who has worked in partnership with Apple Trees Nursery since 2014 Apple Trees provide the wrap around care that we cannot provide as a school. This

allows working parents to use our Nursery in the morning and Apple Trees in the afternoon (if they so wish). If Apple Trees should not continue it would have a negative impact on some working parents of pupils of our school.”

41 signature petition in objection signed by residents of Singlets Lane, Church Road, Pie Corner and Pie Garden. Summary of objection:

- Increased traffic causes congestion at peak times - narrow roads, blind corners and lack of pavements in the area
- Nursery creates disturbance to a quiet residential area
- Insufficient parking creates overspill to surrounding roads
- Large commercial nursery is in excess of what the village needs
- The private road was not built for such heavy use – repair bills footed by residents
- Increased traffic to the A5 junction at peak times

13 letters of objection received from local residents of Church Road, Pie Corner, Singlets Lane and Delmer End Lane. A summary of the issues raised in objection is provided below:

- Highways safety
- Limited visibility at junctions
- Increased traffic, including service vehicles
- Lack of appropriate parking
- No site notices displayed, lack of consultation and advertising
- Excessive lighting at night
- Noise disturbance
- The high numbers of children attending
- The intention of further expansion of the nursery
- Discrepancy between number of staff on application form and Planning Statement
- Drainage problems, sewage blockage
- Outbuilding erected without planning consent
- Church Road is residential, not suitable for commercial premises
- Lack of detail in the application
- The land that the application relates to includes part of 19 Church Road
- Local provision already offered by Flamstead Village School Pre-School
- Lack of need as HCC register shows 23 childcare providers within less than 2.5 miles of 21 Church Road
- Nursery competing with pre-school and making it less viable
- Restriction in deeds - property must be in residential use
- Granting permission to number 21 Church Road would also grant commercial status to part of 19 Church Road
- The site plan lays claim to ownership of land beyond the entrance gates
- Staff members are regularly outside with children after 5pm
- No 19 & 21 do not contribute to upkeep of private road

A summary of responses from the Agent to the objections is provided below:

- There is going to be no expansion to the nursery
- There will be no physical change to the existing buildings
- Not aware that a wooden temporary structure required planning permission
- The planning application includes all space used by the nursery. It does not include the property at No 19
- Have operated at the same size for past three years

- There is a local need as HCC register shows nearest day nurseries as Redbourn (2.2 miles) and Harpenden
- It is not a large nursery, e.g. 45 spaces compared with Redbourn nursery (88 spaces) and Harpenden (86)
- 21 children from Flamstead attend and can walk to the setting
- Some sibling sets using same car
- Children arrive on foot from school runs, some children arrive in staff cars
- Staggered drop off and collection times are in place
- 6 children arriving from Markyate school daily in one vehicle
- 69 children on the register, 21 children (30%) are from Flamstead and 54 children (78%) are from this Ward
- Confirm there are 14 members of staff, due to recent staff changes
- After 5pm there were staff in the garden tidying it up and some children were being collected by parents
- Lights would be there regardless of the nursery for security and safety reasons
- Flamstead Village School preschool operates short days, term time only
- Sewage blockage nothing to do with nursery. Most children that attend are in nappies which are disposed of in a refuse bin
- The government is actively encouraging parents back to work by offering additional free childcare

Considerations

Policy and Principle

The application site falls within a residential area of a selected small village in the Green Belt wherein a variety of development opportunities are encouraged according to Core Strategy Policy CS6. Whilst there is no direct reference to children's nurseries, Policy CS6 supports local facilities to meet the needs of the village. Policy CS5 and the NPPF (para. 90) give general support to the reuse of buildings in the wider Green Belt. Policy CS1 states that development that supports the vitality and viability of local communities, causes no damage to the existing character of a village and/or surrounding area and is compatible with policies protecting and enhancing the Green Belt will be supported.

Hertfordshire County Council Children's Services has confirmed that there is an increasing need for this type of childcare provision due to a new extended entitlement of an additional 15 hours free childcare, in addition to an increasing population of young children in the county and the high number of working households in this area compared to other areas of the county.

The main issues to the consideration of this application relate to the impact of the scheme on visual amenity, residential amenity of neighbouring properties, car parking, highway safety and the loss of a dwelling weighed against the loss of social infrastructure.

Impact upon Visual Amenity

The property has undergone a number of internal and external changes, most notably the creation of enclosed outdoor play areas, the creation of a large block-paved parking area, the installation of an electric entrance gate and the erection of a detached outbuilding.

Most of these changes could have been carried out under Permitted Development, excluding the outbuilding due to its proximity to the boundary curtilage. As such, an assessment of the acceptability of the outbuilding is carried out below.

The outbuilding measures approximately 5m wide and 7m deep with an eaves height of 2.8m

and ridge height of 3m with a dual pitched roof. The building has glazed double doors on the front elevation and is finished in timber cladding. The modest scale and sympathetic design of the outbuilding is not considered to be visually intrusive. Given the existing use and layout of the site, the outbuilding is considered to be acceptable in terms of visual amenity.

Impact upon Residential Amenity

The rear elevation of the outbuilding is situated approximately 2m from the boundary with 14 Singlets Lane. As outlined above, the scale and height of the outbuilding are modest, and it will therefore not have a significant impact in terms of loss of privacy or light provision to residents of neighbouring properties.

Due to no other external alterations to the property, it is not considered that the scheme would result in loss of privacy or outlook to neighbouring properties.

Outdoor amenity space to serve the nursery is provided in two main areas, one in the southeast corner of the plot and one in the northwest corner of the plot, between the parent main building and outbuilding. These areas are considered sufficiently screened from neighbouring properties and large enough to host a small number of children at a time. The nursery would also need to adhere to Ofsted requirements in regards to indoor and outdoor amenity provision.

The nursery would continue to operate Monday to Friday from 07:30 to 18:00 all year round, except for bank holidays. It is considered that the noise generated from the nursery would be limited to within the working day, and therefore will not have a significant impact on neighbouring residential amenity. No objections have been raised by Environmental Health.

Objections have been raised by local residents in relation to excessive outdoor lighting at night. As mentioned above, the nursery operates during normal working hours and therefore the impact of the outdoor lights is not considered to be significant.

Impact upon Car Parking

Saved Appendix 5 of the Local Plan requires a maximum provision of 1 space per 4 pupils for nurseries. With a maximum pupil capacity of 45, the parking requirement equates to 11.25 spaces. The submitted plan shows 12 car parking spaces, which is considered acceptable.

Impact upon Highways Safety

Policies CS8 and CS12 of the Core Strategy seek to ensure highways safety and to provide a safe and satisfactory means of access for all users.

Objections have been raised by local residents regarding the impact of the development on traffic and highways safety.

The applicant has submitted a Traffic Schedule, which shows staggered drop off times between 07:30 and 09:30 with a maximum number of 8 drop offs at the busiest time on the busiest day (08:30 on Wednesdays). The pick-up times are similarly staggered, ranging from 13:00 to 18:00 with a maximum number of 6 pick-ups at 18:00 on Wednesdays and 17:30 on Thursdays. The applicant has confirmed that there are staggered drop-off and pick up times in order to mitigate congestion and the impact on highways safety.

It is acknowledged that there is an increase in traffic in relation to the nursery. However, the applicant has shown that there are measures in place to minimise the use of private motor car,

as indicated in the Planning Statement that the 8 members of staff that live in Flamstead walk to work. It is also indicated that other members of staff from surrounding areas car share.

The Highways Authority commented as follows, “The site is located on a section of Church Road, Flamstead, which is unadopted by HCC and accessed from the Highways maintained section of Church Road. This access appears to operate without any problems. HCC as highway authority has no reasons to object to the grant of approval.”

Taking all of the above factors into account, added to the fact that there is a large paved area to the front of the parking area, which allows cars to turn and exit the site in forward gear, it is not considered that the scheme has a significant impact on highways safety.

Loss of a Dwelling

Policy CS17 and Policy 15 of the Local Plan seek to safeguard the loss of dwellings as part of maintaining the housing stock. However, Policy 15 does allow some scope for the loss of housing in residential areas where essential small scale social or community facilities would be provided and suitable alternative non-residential properties are not available.

Strategic Planning and Regeneration have been consulted and stated that there is scope to be flexible over the loss of a dwelling. It was commented that there are no examples of recent losses of dwellings in Flamstead and in reality there would be limited opportunity for a nursery to be purpose built. This is particularly true for this Green Belt location whereby the construction of new buildings would be regarded as inappropriate development. Furthermore, nurseries are typically located in residential areas and in many cases are brought forward through the conversion of a house.

Loss of Social Infrastructure

Consideration must be given to the fact that the nursery has been operating for eight years. The provision of community buildings and facilities for childcare is identified as social infrastructure and its provision is encouraged and protected under Policy CS23 of the Core Strategy.

The nursery is considered to be an established local business and employs 14 members of staff (8 from Flamstead).

Out of the 69 children that attend the nursery, 21 are from Flamstead and 33 from Markyate. It is noted that there are no day nurseries within Flamstead or Markyate. The nearest day nurseries to the application site are 2.2 miles away in Redbourn and 3 miles away in Harpenden.

The nursery has links with Flamstead Village School and the application has the support of the Head Teacher, who commented that the nursery provides the wrap around care that the school cannot provide, allowing working parents to use the nursery in the afternoon. It was further commented that the loss of the nursery would have a negative impact on some working parents of pupils of the school.

Objections have been raised that the nursery competes with Flamstead Village School pre-school, making it less viable. As shown above, the application has the support of the school as a valued provider of wrap around care for working parents.

Hertfordshire County Council Children’s Services has confirmed that there is an increasing need for this type of childcare provision due to extended entitlement of free childcare, in addition to an increasing population of young children in the county and the high number of working households in this area compared to other areas of the county.

Taking all of the above into account, it is considered that the nursery meets a local need and that its loss would result in the loss of 14 jobs and an established business. The facility is demonstrably viable and in this planning balance, weight must be given to its protection.

Other Considerations

Some of the objections raised by local residents have been addressed above. The remaining issues are addressed as follows:

- No site notices displayed, lack of consultation and advertising
Consultation and neighbour notification was carried out in accordance with the Council's Statement of Community Involvement. Site notices were not required in this instance.
- Drainage and sewage
Not a material planning consideration.
- The intention of further expansion of the nursery
The applicant has stated that there is no intention of this. Nevertheless, the current application deals with the area outlined in red on the site plan and not number 19. Any change of use for number 19 would need its own separate planning application.
- Discrepancy between number of staff on application form and Planning Statement
Applicant has confirmed the current level of staffing as 14, due to recent staff changes.
- Church Road is residential, not suitable for commercial premises
There is an identified local need for this type of childcare, which is often found in residential areas.
- Lack of detail in the application
The initial application contained insufficient information. Further information was provided by the Agent when requested.
- The land that the application relates to includes part of 19 Church Road
The applicant owns both 19 and 21 Church Road. It is up to the applicant which area of land to include in the current application, and the application has been assessed accordingly. Any changes to Land Registry or title deeds are not a material planning consideration.
- Restriction in deeds to property that must be residential use
As mentioned above, restrictive covenants are not a material planning consideration and will not form part of this planning decision.
- Granting permission to number 21 Church Road would then also grant commercial status to part of 19 Church Road
Number 19 is not included in this planning application.
- The site plan lays claim to ownership of land beyond the entrance gates to 19 Church Road (which neither 19 or 21 Church Road owns)
The site plan has been amended accordingly.
- No 19 & 21 do not contribute to upkeep of private road
Not a material planning consideration. However, applicants have indicated that they contribute to the upkeep.

Conclusions

The retrospective application for change of use from C3 (dwellinghouse) to D1 (nursery) has been considered with regard to residential amenity, car parking, highways safety and the loss of a dwelling weighed against the loss of the existing established social infrastructure. The nursery operates within normal working hours and as such there is limited impact in terms of noise disturbance. It is considered that there is sufficient parking and turning space in order for vehicles to enter and exit the site safely. It is acknowledged that there is increased traffic, however the applicant has taken measures to mitigate this, including staggered drop-off and pick-up times and encouraging car-sharing and walking where possible. On balance, it is considered that a local need for a nursery in this location has been demonstrated and that the loss of a single dwelling is not sufficient justification for refusal. The proposal is therefore in accordance the relevant policies outlined above.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 **The premises shall only be operational as a nursery between 07:30 and 18:00 on Mondays to Fridays and for no other use thereafter.**

Reason: In the interests of the amenities of the occupants of neighbouring dwellings, in accordance with Policy CS12 of the Core Strategy (2013).

- 2 **The number of children using the nursery hereby approved shall be limited to 45 in total at any one time.**

Reason: In order to protect the amenities of adjoining occupiers, and to ensure adequate parking provision, in accordance with Policies CS8 and CS12 of the Core Strategy (2013) and Saved Appendix 5 of the Local Plan (2004).

- 3 **The development hereby permitted shall not be retained other than in accordance with the following approved plans/documents:**

Floor Plan
Planning Statement
Site Plan: Additional Parking Bays

Reason: For the avoidance of doubt and in the interests of proper planning, in accordance with Core Strategy (2013) Policy CS12.