

**4/02372/17/ROC - REMOVAL OF CONDITION 7 (RESIDENTIAL FLAT TO BE OCCUPIED BY MEMBER OF NURSERY STAFF) ATTACHED TO PLANNING PERMISSION 4/01719/13/FUL (GROUND FLOOR NURSERY WITH SINGLE STOREY SIDE AND REAR EXTENSION AND RESIDENTIAL USE OF FIRST FLOOR AS ONE BEDROOM FLAT). STEPHENSONS COTTAGE, 306 BELSWAINS LANE, HEMEL HEMPSTEAD, HP3 9XE. APPLICANT: MRS RUDRAKUMAR.**

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[Case Officer - Alison Young]

## **Summary**

The application is recommended for approval.

In 2009, as part of the approved redevelopment of the Sappi site, now known as Nash Mills Wharf, in Apsley, this cottage was one of only two buildings retained on site as an undesignated heritage asset, being the gatehouse to Nash Mills House. It was granted consent for a children's nursery, with 4 parking spaces and vehicular access from within the new residential development. In 2014 permission was granted for an extension to the property to allow for a maximum of 25 nursery places, with 6 parking spaces (5 within the parking area in Frances Mews and 1 tandem space within the curtilage of the property itself). The first floor of the building was proposed to be occupied by the nursery manager and the permission was granted subject to a condition (no. 7) restricting the occupancy of the first floor flat accordingly. The reason given for the occupancy condition related to the management needs of the nursery and the use of the sixth, tandem, parking space (which was felt to be most appropriately used by a staff member given its proximity to the nursery building and the potential for it to be 'boxed in' by other nursery spaces).

The nursery opened in April 2016 and, although an occupant for the flat was originally sought from one of the members of staff, it became apparent that staff employed at the nursery already had accommodation with parents or partners, and the flat remained empty. In July 2016 the flat was rented out to an individual unconnected with the nursery and has continued to be occupied in this way since then. It is now proposed to remove condition 7 to permit the continued occupancy of the flat by persons unconnected with the nursery on the ground floor. The creation of the sixth parking space within the grounds of the nursery was never necessary and the use has operated on the basis of sharing 5 allocated spaces in Frances Mews.

## **Site Description**

The application property lies on the south west side of Belswains Road, opposite the junction with Bunkers Lane. It is one of only two buildings retained on the former Sappi paper mill industrial site after its redevelopment under ref: 4/01382/09/MFA. As part of the approved scheme for 450 dwellings, Stephenson's Cottage was granted consent as a children's nursery to serve the new and existing local population.

It is a linear, relatively narrow building with a one bedroom flat in the roof space served by four small gabled dormers to the front, and a large open nursery area on the ground floor together with a staff room, toilets, kitchen and office. Five car parking spaces are allocated to the property and are located just to the west of the building alongside the residential parking area of Frances Mews.

The frontage (north east side) of the property fronts onto a grassed area and a play area for the nursery and is bounded by 1.5 m high black iron railings along Belswains Lane with a group of tall mature trees alongside the cottage. There is a secure automated pedestrian gate entry from Belswains Lane with a path leading up to the existing access door in the front elevation, with a buggy store area close-by.

Frances Mews, serving the new residential development, runs along the rear of the application site.

## **Proposal**

The current proposal seeks permission to remove condition 7 of permission 4/01719/13/FUL in order to permit the continued occupancy of the first floor flat by persons unconnected with the ground floor nursery.

The applicant explains that there is no longer a need for a manager to live at the site for management purposes as had been anticipated originally, and the occupation of the flat separately from the use of the nursery has not given rise to any residential amenity concerns. The occupant of the flat is able to park in any of the car parking spaces allocated to the nursery, and generally this is at times when the nursery is closed (evenings and weekend) when the 5 parking spaces are available to use.

## **Referral to Committee**

The application is referred to the Development Management Committee due to the contrary views of Nash Mills Parish Council.

## **Policies**

### National Policy Guidance

National Planning Policy Framework (NPPF)

### Adopted Core Strategy

CS4 – Towns and Villages  
CS12 - Quality of Site Design  
CS13 - Quality of Public Realm  
CS23 - Social Infrastructure  
CS27 - Quality of the Historic Environment

### Saved Policies of the Dacorum Borough Local Plan

Policies 10, 13  
Appendix 5

## **Representations**

### Nash Mills Parish Council

The Parish Council objects to the proposal and has commented as follows:-

“The Planning Committee met on the 9<sup>th</sup> October and considered the above application.

They discussed the removal of Condition 7 -‘Flat must be occupied by a member of the nursery staff’. Councillors pointed out that the previous application was wholly based on this being a ‘tied’ flat which the applicants stated that they needed. Councillors therefore object to this application.”

### Highway Authority

The Highway Authority does not wish to restrict the grant of permission. It states that the

proposal is not expected to be of significant highway impact, since it has been in operation for the last 4 years, and therefore HCC as Highway Authority would present no objection.

#### Landscape Officer

There are several mature Sycamore trees on this site with good amenity value but these will not be adversely affected by the proposed development.

#### Response to Neighbour Notification / Site Notice / Newspaper Advertisement

No third party comments have been received.

#### **Considerations**

The determining issue in this case relates to whether the occupancy of the first floor flat by persons unconnected with the ground floor nursery results in any significant adverse impact on the surrounding area and, therefore, whether there is any continuing planning requirement for condition 7 to remain in force.

The condition was originally imposed for the following reason:-

*“In line with the management requirements of the nursery and ensuring the use of the (6th) tandem parking space remains allocated to a person directly associated with the nursery and in compliance with Core Strategy policy CS12.”*

However, once the nursery use began, the management found that there was no requirement for a flat from any of the employees and that, in reality, there was not the need for the flat for management purposes as had previously been anticipated. The sixth parking space within the site itself, for the use by a manager, was not therefore created, the preference being to retain the open space around the building.

The flat therefore currently shares the 5 parking spaces allocated for the nursery (which operates between the hours of 7.30am to 6.30pm on weekdays only). The occupant of the flat is, therefore, able to park within any of the available nursery parking spaces and, given that this need is often likely to arise at times when the nursery is closed, there is sufficient capacity on site to accommodate both uses successfully, and without causing any significant parking congestion in the area. The dual use of these car parking spaces is therefore an efficient use of land in the urban area.

Whilst an objection has been raised by the Parish Council, the precise reason for the objection is not clear and it is important to note that no objections to the proposal have been received from either the Highway Authority or local residents although previously a significant number of concerns about potential parking problems were raised when the original permission was granted in 2014. It is sometimes the case that, as new uses become established, anticipated impacts from a development, such as parking congestion, do not materialise to the extent that was anticipated originally and it appears in this case that the nursery use hasn't resulted in any significant parking problems in the area and, furthermore, the use of the flat separately from the Nursery has also not resulted in any additional parking pressure in the area.

In view of the lack of evidence regarding any parking problems in the immediate area as a result of the use of the building; the lack of local objection to the proposal, and the lack of need for the flat for the successful management of the nursery, Officers do not consider that there is a continued need for condition 7 for the reasons that led to it being imposed originally.

The condition is therefore no longer necessary for planning purposes and it now fails to meet the relevant tests set out in the CIL Regulations. It would therefore be inappropriate to seek its

retention and removal of the condition is therefore recommended.

As the removal of the condition has the effect of re-issuing the planning permission approved previously under ref: 4/001719/13/FUL, some of the conditions imposed originally, and that have an on-going effect on the use of the site, are required to be re-imposed on this permission as set out below.

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

- 1. The premises hereby approved shall only operate as a day nursery between the hours of 7.30 am and 6.30 pm on Mondays to Fridays.**

Reason: In the interests of the amenities of the occupants of neighbouring dwellings by allowing the nursery parking spaces to be used for residents parking outside of these hours to relieve parking pressures in the vicinity and in compliance with Core Strategy policy CS12.

- 2. No more than 25 children registered to attend the day nursery hereby permitted shall be on the premises at any one time.**

Reason: To maintain control over the impact of this use on the residential amenities of the occupants of adjacent dwellings and by maintaining the number of nursery parking spaces in compliance with the saved DBLP Appendix 5.

- 3. The ground floor of the building shall be used solely as a day nursery. There shall be no other use of the ground floor premises including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by Statutory Instrument 2005/84), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.**

Reason: To maintain control over the impact of this use on the residential amenities of the occupants of adjacent dwellings and in compliance with Core Strategy policy CS12.