

MC/21/2226

Date Received: 26 July 2021
Location: 15 York Avenue Walderslade
Chatham Medway
Proposal: Change of use of part of dwelling to a children's nursery to extend
the current nursery and increase child spaces from 30 to 40.
Applicant Alphabets Nursery
Agent Mrs Sally-Ann Burgess
L Brown Associates Ltd
Mr Leslie Brown 34 Fallowfield
Chatham
ME5 0DX
Ward: Walderslade Ward
Case Officer: Madeline Mead
Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 8th December 2021.

Recommendation - Approval with Conditions

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers TAB/06/24 received 26 July 2021 and TAB/06/47.A received 30 July 2021.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The use hereby permitted shall only operate between the hours of 0730 to 1800 Mondays to Fridays and not at all on Saturdays, Sundays, and Public Holidays.

Reason: To ensure that the development does not prejudice the amenities of neighbouring property in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 The residential accommodation shown on the approved drawings shall only be occupied by the manager of, or a person employed within the children's day nursery at 15 York Avenue and their family and/or dependents.

Reason: To ensure that conflict between the two uses is minimised and in the interest of residential amenity, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 5 The use of the premises hereby permitted shall be restricted to Class E(f) (creche, day nursery or day centre) of the Schedule to the Town and Country Planning (Use Classes) 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To regulate and control the use in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 6 No development shall take place until a scheme for protecting the proposed development from noise that implements the measures described in the noise assessment reference P5192-R1-V1 dated 25th November 2021, has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: Required prior to development to ensure mitigation of noise from the nursery use, in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

The application proposes the change of use of part of the dwelling (Class C3) to a nursery (Class E), to increase the number of children that attend the current nursery from 30 to 40.

No external alterations are proposed to the building. Internal alterations would be carried out to increase the size of the existing nursery and reduce the size of the residential dwelling, from a 4-bedroom unit to a 1-bedroom unit.

Four full-time and six part-time staff currently work at the nursery and the application form states that this number of employees would not change.

Relevant Planning History

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| MC/07/1531 | Variation of condition 4 of planning consent MC2000/1727 (change of use from residential care home to day nursery for 30 children and private dwelling) to allow unrestricted occupation of the residential unit ancillary to day nursery
Decision: Approval with conditions
Decided: 23 November 2021 |
| MC/02/1890 | Variation of planning consent MC2000/1727 to increase the maximum number of children from 30 to 35
Decision: Refusal
Decided 13 November 2002
Appeal dismissed 21 May 2003 |
| MC/00/1727 | Change of use from residential care home to day nursery for 30 children and private dwelling
Decision: Approval with conditions
Decided: 29 March 2001 |

Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

Seven letters of objection have been received (two letters from the same person) with the following comments:

- Increased parking onto the highway.
- Noise disturbance during building works.
- Impact on access to roads and visibility due to cars parked on the highway.
- Excessive noise pollution from the additional children.

Twelve letters have been received in support of the application.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2021 and are considered to conform.

Planning Appraisal

Background

In 2002 planning permission was refused for the variation of planning permission MC2000/1727 to increase the maximum number of children from 30 to 35. This refusal was taken to appeal and subsequently dismissed.

The reason for refusal was as follows:

The proposal would further exacerbate concerns regarding noise and general disturbance from vehicle movement and children and would result in unacceptable harm to the amenities that residents within the vicinity of the nursery may reasonably expect to enjoy. The proposal is therefore contrary to provisions of Policies B19 of the Medway Towns Local Plan 1992 and BNE2 of the Medway Local Plan (Deposit Version) 1999.

In the appeal decision the Inspector concluded that the increase of children at the nursery would have an adverse effect on the living conditions of adjoining occupiers by reason of noise and disturbance.

Principle

The application site lies within the urban area of Chatham. The application proposes the change of use of part of the residential dwelling on site to be used as part of the existing nursery use, to facilitate the increase of children attending the nursery from 30 to 40. As the existing residential unit on the site would be reduced in size from a 4-bedroom unit to a 1-bedroom unit, Policy H2 of the Local Plan is relevant. This policy aims to resist development that would result in a net loss of existing residential accommodation. However, this policy does not restrict any reduction in size of an existing unit only the net loss. As the proposal would retain a residential unit on the site it is considered that the development would accord with Policy H2 of the Local Plan.

If the application were to be considered favourably a condition would be recommended to restrict the use of the building to Class E(f), to control the use of the building.

Design

Paragraphs 126 and 130 of the NPPF emphasises the importance of good design and Policy BNE1 of the Local Plan states that development should be satisfactory in terms of scale and mass and should respect the visual amenity of the surrounding area.

No alterations are proposed to the external elevations of the building and therefore, the proposal is considered to comply with Policy BNE1 of the Local Plan and the objectives of paragraphs 126 and 130 of the NPPF.

Amenity

Policy BNE2 of the Local Plan and paragraph 130f of the NPPF relate to the protection of neighbouring amenities and future occupier amenity.

Neighbouring amenity

The application proposes the change of use of part of the dwelling to increase the number of children's spaces at the existing nursery from 30 to 40. The existing nursery has been in operation for the past 20 years, with no noise complaints received from surrounding residents.

A noise assessment has been submitted with the application and it is considered that the report presents a true account of the noise environment at the site. Whilst it is clear that noise from children playing in the garden of the nursery will be perceptible to nearby residents, the proposed increase in placements is unlikely to have a significant effect on existing noise levels. In addition, the noise report recommends a number of mitigation measures to further reduce the noise intrusion, so that, while inaudibility is unlikely to be achieved, noise incursion from the nursery is further reduced. A condition is recommended to secure these noise mitigation measures.

Overall and with the suggested condition imposed, it is considered that the noise from the increase of children at the nursery using the rear garden play area or the comings and goings of the children being dropped off and picked up from the nursery, would not have a significantly detrimental impact on neighbouring amenity in terms of noise and disturbance.

Future occupier amenity

The application proposes the reduction of the existing residential unit from a 4-bedroom unit to a 1-bedroom 1 person unit (1B1P). The nationally described space standards require a gross internal floor area of 39m² for a 1B1P unit. A single bedroom should have a floor area of 7.5m² and be at least 2.15m wide. The reduced size unit would exceed these requirements.

The proposal is therefore considered to provide adequately sized living accommodation for the future occupant of the unit.

As the residential accommodation is integrated within the building that also occupies the nursery a condition is recommended to restrict the occupation of the unit (as is currently the case – MC/07/1531), to avoid conflict between the two uses.

Overall, it is considered that the proposal would be in accordance with Policy BNE2 of the Local Plan and paragraph 130(f) of the NPPF.

Highways

Paragraph 111 of the NPPF, provides a high threshold test when determining planning applications and its impact on the highway. It is considered that the additional 10 pupils would not have a significant impact on the function of the highway network above what is currently experienced and given the limited increase, it is unlikely to have a detrimental impact to highway safety that would be sufficient to meet the test paragraph 111 of the NPPF.

It should be noted that the NPPF has put sustainable development as a central core and paragraph 112e outlines that development should provide electric charging facilities, therefore a condition has been recommended to secure this.

With the above-mentioned condition imposed, the application is considered to conform with Policies T1 and T13 of the Local Plan and paragraphs 111 and 112e of the NPPF.

Conclusions and Reasons for approval

The scheme under this current proposal is acceptable and would comply with Policies BNE1, BNE2, H2, T1 and T13 of the Local Plan and the objectives of paragraphs 111, 112e, 126 and 130 of the NPPF.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received expressing a view contrary to officer's recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>