

Tonbridge **558718 145995** **10 November 2014** **TM/14/03797/FL**
Judd

Proposal: Change of use to D1 to operate a children's day nursery
Location: 1 Waterloo Road Tonbridge Kent TN9 1SN
Applicant: Mr Graham Fuller

1. Description:

- 1.1 It is proposed to use this former shop unit as a children's day nursery. The applicant has confirmed that the facility would cater for up to 65 children per working day, and employ up to 20 members of staff. Three new windows would be installed within the north elevation of the building.
- 1.2 An outdoor play area would be created within the existing yard to the rear of the building. The existing dwarf wall is to be re-built with a close boarded fence on top of it. The overall height of this boundary treatment is to be 1.8m above ground level.
- 1.3 Since the submission of the original planning application, a detailed travel plan/planning statement has been submitted which refers to the presence of Council owned public car parks within walking distance of the application site. It also refers to the site's location in relation to public transport. The travel plan also highlights that prospective parents will be advised of the local travel options available to them and asked to agree to a 'Good Parking/Travel Charter'. It states that an information pack will be issued to all parents and staff which includes the following:
- A map of the locality indicating public car parks and parking charges. Any free periods of parking will be highlighted.
 - Information informing people that Waterloo Road is restricted by double yellow lines.
 - The provision of bus time tables and maps showing local bus stops.
 - That continued poor parking by parents could result in a child being asked to leave the nursery.
 - Information concerning safe cycle storage in the locality and the availability of the nursery's buggy park.
- 1.4 Demographic information has also been submitted by the applicant sourced from KCC (2014) that states that the number of children aged under 5 years that live within Judd Ward and the adjacent Wards of Vauxhall, Castle and Medway is over

1400. The applicant considers that, in order for KCC to meet its obligation under Section 7 of the Childcare Act 2006, it is important to create spaces for childcare across the County.

2. Reason for reporting to Committee:

- 2.1 At the request of Cllr Cure regarding the highway safety implications of the proposed development and the issue of air quality, given the intended use.

3. The Site:

- 3.1 The site is located within Tonbridge town centre on the south side of Waterloo Road, close to its junction with Quarry Hill Road. The building adjoins the Lidl supermarket to the north. On the north side of Waterloo Road is Tonbridge railway station. From the 1970s the site was a public house and it has also been used for retail purposes.

4. Planning History (relevant):

SW/4/70/54 grant with conditions 7 May 1970

Application for the erection of a supermarket, three shop units, offices, public house, and car parking.

TM/13/00825/FL Approved 14 May 2013

Change of use of vacant retail unit to use as a place of worship, community use and café

5. Consultees:

- 5.1 KCC (Highways): I note that use class D1 is already permissible at this site. It is considered that the proximity of this proposal to Tonbridge Rail Station will be an attraction for child care for commuters. It is further considered that the parking restraints and congestion readily experienced in this urban area will be a disincentive for parents to park locally to pick up and drop off children, particularly when children are of an age where escort to the nursery and thereby leaving a vehicle unattended is required. In accordance with the needs and tests within the NPPF I do not consider that this proposal has a clear, tangible element of road safety detriment and I write to confirm on behalf of the Highway Authority therefore that I have no objection to this proposal.

- 5.2 Private Reps: 24 + site notice/0X/0S/0R.

6. Determining Issues:

- 6.1 The site lies within the St Stephens Place frontage secondary retail area. Policy TCA 6 of the TCAAP applies and states that loss of retail use will be resisted. Changes from retail to non-retail activities will only be permitted if the use will not undermine the retail function of the area.
- 6.2 In this case, the unit is currently vacant and has been for some time. In 2013 the Council accepted that the property could acceptably be used as a place of worship through the grant of planning permission TM/13/00825/FL. The site is located to the rear of the Lidl supermarket and does not have a strong presence on Quarry Hill Road. The proposed change of use would bring a vacant building back into use and would not undermine the retail function of the wider St Stephens Place secondary shopping area. It is, of course, a key aim of current Government guidance contained within the NPPF to actively encourage the reuse of land and buildings, particularly in town centres, and the proposed development clearly accords with this national guidance.
- 6.3 Policy CP 1 of the TMBCS states that when determining applications residential amenity will be preserved. Policy CP 24 of the TMBCS states that development that would be detrimental to the amenity, functioning or character of a settlement will not be permitted. Policy SQ1 of the MDE DPD requires developments to protect and conserve the character and local distinctiveness of the area including its prevailing level of tranquillity.
- 6.4 The physical alterations to the building (the creation of the additional windows within the flank wall) and the enclosure of the external play area would not detract from the character of the site or wider locality and are considered to be acceptable.
- 6.5 There are two flats located above the premises. However the proposed use will require approval under the Building Regulations and this process will deal with the issue of potential air born noise transference between the proposed nursery and the flats above. I understand that a concrete floor separates the flats from the unit below which should also help to minimise noise transference between the building below (last used as a bed shop but capable of use, without needing planning permission from the Council, for a wide variety of retail use or residential use) and the flats. This was identified at the time the second floor of this building was being converted into flats. It is understood that when the flats were created on top of this building in 2007 additional acoustic insulation was installed within the floor between the flats and the building below. Therefore, it is the case that either insulation has already been installed between the application site and the flats or would have to be installed in order to comply with the Building Regulations. Either way, the issue of noise transference would be dealt with under the Building Regulations.
- 6.6 The site is located within the busy town centre close the railway station and Quarry Hill Road, where there is already a significant level of general and traffic noise.

Furthermore, the use of the nursery, as applied for, would be limited to weekdays only and then only between the hours of 07.00 and 19.30. In this context the use of the building as proposed is unlikely to generate such noise and disturbance that it would be out of keeping with the existing level of activity in this town centre location. I recommend the use of a condition limiting the opening hours applied for in order to safeguard the amenity of local residents.

- 6.7 The remaining issues relate to the potential impacts of the proposed use on highway safety and whether any conflicts exist between the proposed use and the nearby AQMA. Current Government guidance contained within the NPPF encourages uses that generate significant amounts of movements to be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised (paragraph 34). The site is located within the town centre and is conveniently located for access by public transport or on foot. This was obviously a factor in the historic use of the site as public house and the more recent permitted use as a place of worship. It must also be recognised that following the cessation of the public house use, the site became a retail shop. Both the historic uses of the site and the recently consented use as a place of worship and café are capable of generating a significant amount of traffic in their own right, albeit perhaps at different times of the day to the use currently proposed. Furthermore, it should be highlighted that the building could be used for a number of purposes for which planning permission would not be required from the LPA including a supermarket, retail warehousing or as an undertaker, all of which could represent their own challenges in terms of traffic generation and for which parking would not be provided on site.
- 6.8 In addition to the historic use rights of the building, and the consented (albeit unimplemented planning permission), both of which represent a clear basis on which decision making must start, I am satisfied that the use would be located within a sustainable location as far as transport choices are concerned. The applicant intends to highlight and explain these locational benefits to all prospective parents within their information packs. The sections of Quarry Hill and Waterloo Roads located close to the site contain parking restrictions that would discourage parents from simply stopping in these roads whilst dropping off their children. Although I appreciate there is concern about the potential for parents to make attempts to drop off and pick up along Waterloo Road the applicants have stressed that they would be seeking to ensure parents did not park in these areas, with reference made within the Travel Plan to parents who continually park in inappropriate ways to be penalised by having their children removed from the nursery, for example.
- 6.9 Public car parks are also available within walking distance of the site and the applicant has agreed through a Travel Plan to promote the different transport options available to prospective parents and staff alike and to sign up parents to a "Good Parking/Travel Charter". I would suggest that ongoing compliance with the Travel Plan be made a condition of any planning permission granted, along with a

requirement that the applicant enter into a regular monitoring regime, details of which can be required by planning condition. I understand that the operations of the applicant's current premises in Cranbrook is the subject of daily and weekly reviews by staff and management and this is a proactive process that should be commended. This arrangement can be adequately formalised through the condition as suggested. Through such a condition, it would be possible for the situation to be reviewed on an ongoing basis.

- 6.10 Whilst a good reputation for a nursery can bring in parents from further afield, many parents tend to choose a good nursery either close to where they live or close to their place of work for convenience. It is evident from the information submitted by the applicant that there are more children of nursery/pre-school age in this part of Tonbridge than there are places to serve them. It is a likely scenario that many of the places within the proposed nursery would be taken by children of local residents who could either walk to the site or who have to pass the site on their way to work either by car or public transport.
- 6.11 In light of these factors, particularly given the levels of control that could be afforded through the suggested planning condition, when balanced against what the building could be used for without any such controls being in place, I am satisfied that the proposed development would not cause any more harm to the safe or free flow of traffic than the historic or permitted uses of the site. Furthermore, it needs to be remembered that current Government guidance contained within paragraph 32 of the NPPF states that applications should only be refused on transport grounds where the impact of the development is **severe** (my emphasis). The highway authority has not objected to the proposed development, considering it to be acceptable in terms of highway safety impacts. Given the nature of the proposed use, the highly sustainable location of the site with the choice of travel options available to parents and staff alike, I concur with this assessment.
- 6.12 The site, whilst being located within Tonbridge town centre, does not lie within the AQMA. In comparison with the High Street, Waterloo Road does not experience the same volumes of traffic nor is it a street canyon. These factors result in the exceedance of nitrogen dioxide annual mean on the High Street but this is not reflected in the air quality of Waterloo Road and the nitrogen dioxide levels are indicated to be within the air quality objectives. There are currently parking restrictions on Waterloo Road which are intended to prevent idling cars waiting outside the proposed nursery entrance way. There is a taxi rank on the opposite side of the road to the development but taxi cabs are advised by the Council of the need to switch their engines off if stationary for more than one minute. This, combined with the separation distance to the proposed nursery entrance way, means exceedances are unlikely to be caused as a result of the taxis.
- 6.13 In respect of both highway safety and air quality, it is important to remember that the nursery will be required to meet the standards set by Ofsted and that these

standards are likely to be far more rigorous than any restrictions that can reasonably be achieved through the planning system. For example, The Early Years Foundation Stage (EYFS) defines the legal requirements and standards for promoting the care, learning and development of children from birth to five years in Ofsted registered childcare provision. The EYFS requirements include:

- The *Learning and Development Requirements* which shape the activities and experiences that childcare providers offer children.
- The *Assessment Requirements* which detail how childcare providers monitor and plan for children's progress.
- The *Safeguarding and Welfare Requirements* which ensure children are kept safe and have their welfare promoted

6.14 The Safeguarding and Welfare Requirements cover ten areas which relate to the safety and well-being of children: child protection; suitable people; staff qualifications, training, support and skills; key person; staff:child ratios; health; managing behaviour; **safety and suitability of premises, environment and equipment**; special educational needs; and information and records. Each area is supported by specific requirements and guidance to direct providers' policies, procedures and practices.

6.15 Having studied the nursery's previous Ofsted Report (dated October 2014); I can advise that they received an 'Outstanding' result from their last inspection. I appreciate that the setting of the existing facility is likely to be different to Waterloo Road but I am confident that the highly effective level of management displayed here would give Members assurance that the site would be operated in an acceptable manner.

6.16 Furthermore, it is worthwhile mentioning that a great deal of care appears to have been taken to make suitable use of the outside space, by creating a good quality outdoor play area that merges with the indoor play area. The floor in both cases is proposed to be finished with a material called 'as good as grass' with shock pad underlay. Again, this suggests a carefully considered operation and an attention to detail presumably predicated on the applicant's wish to obtain equally high Ofsted ratings as their Cranbrook facility.

6.17 In light of all of the above, the proposed development would not harm the functioning or amenity of the local area. It would also help to bring a vacant building back into a use that is considered to be compatible with its town centre location. Accordingly, the proposed development is considered to be acceptable in planning terms and complies with development plan policies CP1, CP 24, TCA 6 and SQ 1. Consequently, I recommend that planning permission be granted.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details:
Report update to Travel Plan received 12.03.2015, Design and Access Statement received 10.11.2014, Existing Plans and Elevations 1080-01 received 10.11.2014, Proposed Elevations 1080-03 received 10.11.2014, Proposed Floor Plans 1080-02 B received 18.02.2015, subject to the following:

Conditions:

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. The business shall not be carried on outside the hours of 07.00 to 19.30 Mondays to Fridays with no working on Saturdays, Sundays or Public and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance outside normal working hours to nearby residential properties.

3. The Travel Plan hereby approved shall be fully implemented to ensure strict compliance with the approved scheme and to ensure children are not dropped off/picked up along Waterloo Road. Thereafter, the Travel Plan shall be monitored to ensure ongoing compliance with the approved scheme.

Reason: In the interests of the proper management of traffic.

4. Within one month of the commencement of the use hereby approved, a scheme detailing the ongoing monitoring of the approved Travel Plan shall be submitted to the Local Planning Authority for approval. This should include full details of how the applicant will record instances of inconsiderate or irresponsible car parking together with the sanctions imposed by the applicant in response to such instances, and any measures subsequently put in place to prevent reoccurrences.

Reason: In the interests of the proper management of traffic.

Informatives:

1. The applicant is reminded that the proposed level of WC provision is considered to be inadequate for the numbers of children proposed. For 65 children, 7 WCs and wash hand basins should be provided. For 20 members of staff, 3 additional WCs and wash hand basins should be provided. For further advice concerning this matter and to food register this business the applicant is advised to contact the Borough Council's Food and Safety Team on 01732 876191. The kitchen also appears small for the intended use of the premises.
2. The applicant is advised that the duty holder should carry out an asbestos survey

before any changes are made to the fabric of the building or any changes are made, as required by the Control for Asbestos Regulations 2012. More details can be found at www.hse.gov.uk/asbestos.

- 3 In relation to conditions 3 and 4, the applicant is advised to adopt clear policies and guidance to issue to all staff and parents/carer's as to how they will be expected to behave whilst dropping off and picking up children. The Good Parking/Travel Charter should be adopted prior to the first use of the site and should include details of the penalties that would be imposed should the charter be breached by anyone who has agreed to its terms.
4. In relation to Condition 4, the applicant is strongly encouraged to establish a transport forum to discuss and consider the implications and monitoring of the travel plan. This should include staff/representatives of the nursery, the Local Planning Authority, the Local Highway Authority and parents).

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