

BOROUGH OF KETTERING

Committee	Full Planning Committee - 22/09/2015	Item No: 5.3
Report Originator	Louise Jelley Senior Development Officer	Application No: KET/2015/0610
Wards Affected	Pipers Hill	
Location	113 London Road, Kettering	
Proposal	s.73 Application: Variation of condition 3 of KE/02/0191, in relation to the number of children	
Applicant	Mrs L Walker-Hall Angels Nursery Ltd,	

1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED subject to the following Condition(s):-

1. The maximum number of children in the nursery at any one time shall not exceed 55.
REASON: In the interests of residential amenity and highway safety in accordance with Policy 13 (l) and (n) of the North Northamptonshire Core Spatial Strategy.
2. The use hereby permitted shall not be carried out before 07:30hrs or after 18:30hrs on Monday to Friday, nor at any time on Saturdays, Sundays or any recognised bank holidays.
REASON: In the interests of residential amenity in accordance with Policy 13 (l) of the North Northamptonshire Core Spatial Strategy.

Officers Report for KET/2015/0610

This application is reported for Committee decision because there are unresolved, material objections to the proposal.

3.0 Information

Relevant Planning History

KET/2003/0853 – Change of use from garage to residential and extension at the front of the garage - APPROVED

KE/2002/0191 – Nursery extension to side of existing house – APPROVED

KE/2001/0107 – Change of use of existing dwelling to pre-school nursery -APPROVED

Site Description

Officer's site inspection was carried out on 6th August 2015.

This application site comprises a large detached building (previously a dwellinghouse) now used for the purposes of nursery care. It commands a corner position with its principal elevation facing onto London Road with vehicular access and car parking facilities situated to side of the site (off Pipers Hill Road). The surrounding area is largely residential in nature and to the north (within a short walking distance) lies Kettering town centre. The property faces onto the main southern link into the centre of Kettering and there are a number of bus routes along London Road.

Proposed Development

This application has been submitted for the variation of planning condition 3 attached to the original planning permission KE/2002/0191 for the nursery extension (please see planning history above). The wording of the existing condition states that the number of children on site shall not exceed 24 at any one time.

This application seeks to vary the wording of Condition 3 of KE/2002/0191 to the following:

'The number of children shall not exceed 55 at any one time'.

Planning conditions help to regulate and control the proposed development or use of the land and require the submission of additional details or information for the carrying out of works to the land and/or any necessary off-site requirements.

This application is made pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended) which allows applications to be made for permission without complying with conditions previously imposed on a planning permission.

An application made under Section 73 results in a new permission (if approved) and the local planning authority can decide to grant a new planning permission unconditionally, grant a new permission subject to new/different conditions or they can refuse the application. The expiry date for any new permission remains as per the original planning permission and so time limits cannot be extended as part of a Section 73 application.

Planning conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission. The objectives of planning however are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. Paragraph 203 of the National Planning Policy Framework (NPPF) states that local planning authorities should consider whether otherwise unacceptable development could be made to be acceptable through the use of conditions. Paragraph 206 of the NPPF states that planning conditions should only be imposed where they are necessary, relevant

to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (the six tests).

Any Constraints Affecting The Site

A Road

4.0 Consultation and Customer Impact

Northamptonshire Highways

Response received 25th August 2015.

We will need to see a parking review of Pipers Hill Road from the junction with London Rd along to the junction with Caswell Close. The review should include both sides of the road and be carried out over 2 days, firstly a Tuesday from 07:00 until 19:00 and again on a Thursday. The review should state the number of spaces available and the number of occupied spaces at hourly intervals.

Updated response received 11th September 2015.

No objections to the submitted parking review.

Environmental Health

Response received 13th August 2015. No comments or objections.

Neighbours/Third Parties

Response received 12th August 2015. Support.

Angels is a well managed nursery receiving excellent Ofsted reports. It makes an important contribution to the Kettering community. Where parents and carers drop off and collect their children in the morning or afternoon, this is under good control with staggered timings in both cases. Car parking is provided within the grounds of the nursery. The recently added double yellow lines surrounding the facility means that vehicle users and pedestrians are assured of reasonable safety.

Response received 18th August 2015. Object.

Noise from the nursery particularly in the summer months when the children are outside is already a disturbance to us and often prevents us from using our garden as much as we would like. We fully accept that when the weather is nice the children want to play outside but we did not chose to live next door to a school playground. We like peace and quiet. The screaming, shouting and squealing can go on for hours. More children will lead to a completely unacceptable level of noise from early in the morning till early evening.

5.0 Planning Policy

National Planning Policy Framework

Policy 1 – Building a strong, competitive economy

Policy 4 – Promoting Sustainable transport

Policy 8 – Promoting healthy communities

Development Plan Policies

North Northamptonshire Core Spatial Strategy

Policy 1 – Strengthening the network of settlements

Policy 8 – Delivering economic prosperity

Policy 9 – Distribution and location of development

Policy 13 – General sustainable development principles

Emerging Policies (Local Development Framework)

North Northamptonshire Joint Core Spatial Strategy 2011- 2031

6.0 Financial/Resource Implications

None.

7.0 Planning Considerations

The key issues for consideration in this application are:-

1. Principle of development
2. Access and Highway safety
3. Amenity

1. Principle of development

In considering a Section 73 application, a local planning authority may only consider the 'question of the conditions'. In terms of decision making, a Section 73 application should be treated in the same way as any other application with due regard paid to the Development Plan and other material considerations. Given that if approved, a new planning permission would be issued, it is therefore appropriate to consider any new planning issues which have arisen since the granting of the original permission. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the Development Plan unless material considerations indicate otherwise. Therefore, it is necessary to consider this application in light of the most up to date Development Plan in accordance with Paragraph 216 of the NPPF.

The overarching principle of the National Planning Policy Framework (NPPF) is the presumption in favour of sustainable development. In order to deliver sustainable development, policies in the NPPF establish that new development should seek to deliver community facilities and services to meet local needs by securing high quality design, taking into account the character of the area, providing a good standard of amenity for all existing and future occupiers of land and buildings, where possible reuse existing buildings and land, use renewable resources and make fullest use of public transport, walking and cycling, focusing development in locations which are, or can be made, sustainable.

The principle of development for a nursery at this site is already established by virtue of the grant and implementation of planning permission for the nursery and extensions under KET/2001/0107 and KET/2002/0191. The nursery has been in operation since that time and therefore the primary issue in this case is the proposal to allow an increased number of children at the nursery from 24 to 55.

The application site is located within the town boundary of Kettering, as defined by saved policy 35 of the Local Plan for Kettering. Policy 1 of the North Northamptonshire Core Spatial Strategy states that development will be principally directed towards the urban core, focused on the three Growth Towns of Corby, Kettering and Wellingborough. Policy 9 of the North Northamptonshire Core Spatial Strategy requires that development will be distributed to strengthen the existing network of settlements and preference will be given to locations that are accessible by a choice of means on transport. Given the sites location within the town boundary, in a location which is accessible by a choice of means of transport and close to its catchment area, it is considered the scheme is in accordance with policies 1 and 9 of the North Northamptonshire Core Spatial Strategy as well as policies set out within the NPPF.

Saved policy 58 of the Local Plan for Kettering Borough permits proposals for commercial

development within existing areas of the Borough's towns where the area is already predominantly commercial in character. In residential areas, planning permission will normally be granted where the proposal is for an extension to, redevelopment of, or a reorganisation of, existing commercial operations provided there are no significant effects on amenity, the environment or the surrounding area and there would be operational, amenity or environmental benefits. Whilst the scheme is a commercial development, it is not an industrial use and is a use that could operate within a residential area, for which it would in part serve, without detrimentally affecting the character of the area. Whilst such a use is not fully compliant with policy 58, it is considered the site is a sustainable location for a nursery and is supported by policies in the NPPF which sets a presumption in favour of sustainable development.

In conclusion, given the sites sustainable location, the use as a nursery in this location represents sustainable development which is generally in accordance with the NPPF and the North Northamptonshire Core Spatial Strategy.

2. Access and Highway Safety

CSS policy 13 parts (d), (e), (k) and (n) requires that developments have a satisfactory access and parking, increase modal shift away from the private car, allow travel to school on foot, by cycle and by bus, and do not have an adverse impact on the highways network or prejudice highway safety.

Paragraph 32 of the NPPF states that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

A parking review has been requested by Northamptonshire highways. The scheme provides in total for 10 car parking spaces for both staff and parents. The review was carried out in the first week of September. The results of the review reveal that on street parking spaces are occupied in that area of Kettering throughout the day but the vast majority remain available between 7am and 7pm.

Supporting information supplied as part of the application submission states that 25% of parents dropping their children off to nursery are within walking distance of the site, therefore approximately a quarter of drop offs are made on foot as opposed to the car. Northamptonshire highways have assessed the parking review and accompanying information and do not object to the proposal on highway safety grounds.

3. Amenity

Policy 13 (l) of the North Northamptonshire Core Spatial Strategy requires that developments do not result in an unacceptable impact on the amenities of neighbouring properties or the wider area, by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking.

The surrounding area is primarily residential in character with residential properties situated to the north west, south east and west. Parts of St. Marys Hospital are located directly north of the application site. The use of the site as a nursery for up to 55 children at any one time will represent an intensification of use in comparison to the permitted number of 24.

One of the main impacts that the nursery will have on the amenity of the occupants of nearby dwellings is in respect of noise and disturbance from children and staff arriving/ leaving the nursery and noise from children playing outside. However, the nursery is situated along London Road (Classified A road) and the residential properties located to the west of the site are separated by this road. The nursery building comprises a detached property with grounds which surround the entirety of the site. The property to the south east is also separated from the site by a road and the neighbouring property to the north west is a large, detached property set within a large plot and is at least 10 metres from the nearest boundary to the application site.

Environmental Health has raised no objections to the proposed intensification of the existing use with respect to increased numbers of children and has also confirmed that since the nursery use has been in operation there have been no complaints received about the nursery in terms of noise.

Taking all the above factors into account, it is considered that amenity levels currently experienced by existing residential properties will not be so adversely affected by the proposals to warrant refusal of this application. Therefore, subject to conditions, the proposal is considered to accord with Policy 13 of the North Northamptonshire Core Spatial Strategy.

Conclusion

In summary, this proposal to increase numbers of children at the nursery is considered to be acceptable both in terms of highway safety and residential amenity. It is considered to comply with development plan policy and subject to the imposition of conditions this application is recommended to Members for approval.

Background Papers

Title of Document:

Date:

Contact Officer:

Louise Jelley, Senior Development Officer on 01536 534316

Previous Reports/Minutes

Ref:

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