

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 30 July 2008

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APPLICATION REF. NO: 08/00445/FUL

STATUTORY DECISION DATE: 16 July 2008

WARD/PARISH: MIDDLETON ST GEORGE

LOCATION: Day Nursery, West View, 4 Middleton Lane,
MIDDLETON ST GEORGE, DARLINGTON, DL2
1BW,

DESCRIPTION: Variation of condition 4 of planning permission
reference number 07/00537/CU dated 30 August
2007 (The number of children within the site at any
one time shall not exceed the upper limit of 38
without the prior written permission of the local
planning authority) to permit an upper limit of 60
children

APPLICANT: West View Nursery

APPLICATION AND SITE DESCRIPTION

The application site is situated at the junction of Middleton Lane and Chapel Street and comprises a two storey detached building within the Middleton One Row Conservation Area. The building is currently in use as a day nursery. The most recent application, granted in August 2008, related to the change of use of the first floor accommodation, then in residential use, to use as a day nursery to provide additional space for the existing use carried out at ground floor.

Planning permission was granted subject to a number of conditions. Condition 4 limits the number of children within the site at any one time, to 38. This planning condition was attached to protect residential amenity and in the interests of highway safety. This was on the basis that the purpose of the application submitted was to provide extra space for existing children. A number of objections were received in respect of highway and amenity issues and members resolved to include an upper limit so that any significant increase in children, could then be assessed by requiring a further application for planning permission.

This is an application under Section 73 of the Town and Country Planning Act 1990 (As amended) to modify the condition to allow a maximum of 60 children on the site at any one time. It should be noted that the maximum figure of children is also governed by Ofsted Regulations.

PLANNING HISTORY

8/98/483/DM – In November 1998 planning permission was granted for the erection of a single storey side extension to provide garage and family room together with the erection of a boundary wall and entrance gates.

01/00169/FUL - In April 2001 planning permission was granted for the demolition of an outbuilding and erection of a single storey extension to provide a living room and garage to the rear.

04/01014/CU – In October 2004 planning permission was granted to the change of use of the ground floor of the property to a day care nursery.

05/00467/ADV – In July 2005 advertisement consent was refused for the display of a non-illuminated fascia sign to the front elevation and rear drop-off points. This was subsequently dismissed at appeal.

07/00537/CU – In August 2007 planning permission was granted for the change of use of the first floor of the building to a day nursery.

PLANNING POLICY BACKGROUND

The following policies in the Borough of Darlington Local Plan are relevant:-

H15 - The Amenity of Residential Areas

T13 – New Development - Standards

T24 – Parking and Servicing Requirements for New Development

RESULTS OF CONSULTATION AND PUBLICITY

Four letters of objection have been received from local residents raising the following concerns:

- *Chapel Street is a one way in and out street and the increase in children would bring even more traffic to a very busy street causing even more problems for both residents and parents taking children to the nursery; Traffic arrangements at the junction of Chapel Street and Middleton Lane are already chaotic due to cars parking close to the junction (I believe these to be cars belonging to the staff of the nursery); The problem is made worse by additional cars being parked in Chapel Street so that parents can deliver children to the Primary School nearby; There is a very real danger of accidents close to the junction – and for obvious reasons such accidents would be highly likely to involve children; Some of the parents using the nursery at the moment show a total disregard for the Council tax paying residents of Chapel Street by blindly reversing out onto the road after dropping their children off – this is usually as the resident children of Chapel Street are being taken to school and have to cross the drop-off area and to the mayhem that ensues – we would suggest that the planning committee make their site visit to the area from 8am to 9am any morning Monday to Friday;*
- *The extra staffing would add to the already severe congestion at the top of the street;*
- *On a number of occasions the refuse and recycling wagons have been unable to enter the street because of the parked cars – the Council have had to send a smaller vehicle to collect the rubbish / recycling adding costs to the refuse department, as well as an invitation to vermin when the bins are not collected.*

The Council's Environmental Health Officer has been consulted and has raised no objections to the proposed development. He has indicated that there may be an increase in traffic activity however it would be difficult to ascertain this additional local impact.

The Council's Highways Officer has been consulted and has recommended that the application is refused on highway safety grounds.

Middleton St George Parish Council has been consulted and has objected to the application on the following grounds:

If the upper limit is raised to 60 children this would cause even greater traffic congestion to an area already suffering from this problem. There is no suitable parking for 'drop off' point'. The safety of the children is a major concern.

PLANNING ISSUES

The main issues to be considered in the determination of this application are: -

- Planning Policy
- Residential Amenity
- Highway Matters
- Section 17 of the Crime and Disorder Act 1998

Planning Policy

Policy H15 (The Amenity Of Residential Areas) seeks to control the effect of non-residential uses, which are situated within or close to residential areas, and can have a harmful effect, for example by reason of noise, smell, traffic and parking.

Policy R25 (Provision of Community Facilities and Services) of the Borough of Darlington Local Plan encourages the development of buildings for community purposes. The policy goes on to state that regard must be had to the need to safeguard residential amenity, the character and appearance of the surroundings and highway safety.

These issues will be considered in more detail in the following sections of this report.

Residential Amenity

Policy H15 (The Amenity of Residential Areas) states that permission will not be granted for the establishment, enlargement or material intensification of non-residential uses which would unacceptably conflict with the amenities of existing predominantly residential areas or the quiet enjoyment of dwellings and gardens in particular.

The application involves a significant increase in the number of children, and consequently the number of traffic movements, noise and disturbance in this quiet residential area. It is considered that this intensity of activity is likely to have a harmful impact on the amenities currently enjoyed by existing residences within the locality, thereby conflicting with the above policy.

Highway Matters

The Council's Highways Officer has been consulted and commissioned an independent survey of arrivals / departures and on-street parking. Having considered the results of this survey together with the matters raised by objection, he has made the following comments:

In light of the significant objection to this development and the evidence produced by the objectors I am persuaded that this proposal would be likely to create a road safety problem and a highway objection could be substantiated. In particular there are significant concerns in regard to increased congestion at the junction of Chapel Street with Middleton Lane, obstruction of the footways on Chapel Street and obstruction of carriageway by parked vehicles on Chapel Street with the consequent difficulties of access for refuse vehicles. The latter would of course mean that if access is obstructed for refuse vehicles, emergency service vehicles may not be able to access properties in Chapel Street. There would also be concerns about increased parking on Middleton Lane. My previous comments in regard to the acceptability of on-street parking would only apply where this parking does not interfere with the free flow of vehicles. Notwithstanding the information obtained from the survey it would appear that inappropriate parking already occurs, with consequent obstructions for vehicles and pedestrians, and this is likely to be exacerbated by an increased capacity at the nursery. I would therefore recommend refusal of the application.

Given these concerns and the matters raised by objection, it is considered that the proposal would be likely to generate further highway safety issues to the extent that it would be justified to refuse planning permission on these grounds.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION

The additional traffic that would be generated by the proposed addition to the number of children and staff would be likely to increase the conflict of traffic movements close to an existing junction resulting in additional hazard and inconvenience to all users of the road. The proposed development would be likely to encourage the increase of parking of vehicles on the public highway, which would interrupt the free flow of traffic and prejudice the safety of all road users. The proposed increase in the number of children on the premises would be likely to result in an increase in noise and disturbance in the vicinity of the development, with a consequent adverse impact on the amenities of existing residences and gardens. For these reasons, the proposal would be contrary to Policy T12 (New Development – Road Capacity), Policy T24 (Parking and Servicing Requirements for New Development) and Policy H15 (The Amenity Of Residential Areas) of the Borough of Darlington Local Plan 1997.

RECOMMENDATION

THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASONS:

- 1) The additional traffic that would be generated by the proposed addition to the number of children and staff would be likely to increase the conflict of traffic movements close to an existing junction resulting in additional hazard and inconvenience to all users of the road. The proposed development would be likely to encourage the increase of parking of vehicles on the public highway, which would interrupt the free flow of traffic and prejudice the safety of all road users.
- 2) The proposed increase in the number of children on the premises would be likely to result in an increase in noise and disturbance in the vicinity of the development, with a consequent adverse impact on the amenities of existing residences and gardens.
- 3) For the above reasons, the proposal would be contrary to Policy T12 (New Development – Road Capacity), Policy T24 (Parking and Servicing Requirements for New Development) and Policy H15 (The Amenity Of Residential Areas) of the Borough of Darlington Local Plan 1997.