

Application No: 20/00564/FUL

Author: Will Laing

Date valid: 1 May 2020

☎: 0191 643 6320

Target decision date: 31 July 2020

Ward: Collingwood

Application type: full planning application

Location: Kids 1st Nursery, North Tyneside General Hospital, Rake Lane, North Shields, Tyne And Wear

Proposal: Variation of condition 4 (restriction on number of children) of planning approval 03/00587/FUL - to allow increase to 136 children to attend nursery at any one time

Applicant: Busy Bees Nurseries Ltd, St Matthews Shaftsbury Drive Burntwood Staffordshire WS7 9QP

Agent: ELG Planning, FAO Joe Smith Gateway House 55 Coniscliffe Road Darlington DL3 7EH

RECOMMENDATION: Application Permitted

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1. Main Issues

1.1 Members are advised that the main issues with this application are as follows:

- Principle of Development;
- Residential Amenity;
- Parking and Highway Safety;
- Other Issues

1.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Members need to consider whether this application accords with the development plan and also take into account any other material considerations in reaching their decision.

2. Description of the Site

2.1 This application refers to a single-storey 112 space nursery and creche on Rake Lane, North Shields. The site is located Rake Lane running along the northwest boundary, with the Redesdale Court care home to the southeast and the rear gardens of Cotswold Road to the east. The site adjoining the southwest boundary is currently vacant, however has an extant permission for a supermarket.

2.2 The site shares a vehicular access to the south with the Redesdale Court care home. The main building of the nursery has a play area to the northeast and a car parking area to the southwest.

3. Description of the Proposal

3.1 This application seeks a variation of condition 4 of planning approval 03/00587/FUL to allow 136 children to attend nursery at any one time. This would be an increase of 24No pupils.

3.2 The condition would allow an increase of 24No children and has been submitted in conjunction with application 20/00565/FUL.

4. Relevant Planning History

20/00565/FUL

Provision of a new modular garden building to serve the existing nursery
Pending consideration

03/00587/FUL

Erection of new 112 place Creche / Nursery (for public and hospital staff) with associated parking and landscaping. Construction of a new access including, realignment of existing internal access and provision of overflow car parking.
Permitted 18.08.2003

5. Development Plan

5.1 North Tyneside Local Plan 2017

6. Government Policy

National Planning Policy Framework (February 2019)
Planning Practice Guidance (As amended)

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in the determination of all applications. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

PLANNING OFFICERS REPORT

7. Main Issues

7.1 The main issues with this application are as follows:

- Principle of Development
- Residential Amenity
- Parking and Highway safety
- Other Issues

7.2 Consultations responses and representations received as a result of the publicity given to this application are set out in the appendix to this report.

8. Principle of Development

8.1 Paragraph 7 of NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development.

8.2 Paragraph 11 of NPPF introduces a presumption in favour of sustainable development, which amongst other matters states that decision makers should approve development proposals that accord with an up-to-date development plan without delay.

8.3 Paragraph 94 of the NPPF states it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this that will widen choice in education. They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

8.4 Policy S1.4 of the North Tyneside Local Plan 2017 sets out the general principles for development. The policy specifically sets out to ensure that development is acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

8.5 The proposed variation of condition would support the existing nursery business which has experienced a rise in demand for the service. It is the view of the officers that the proposal would comply with paragraph 94 of the NPPF to ensure there is adequate provision to meet the needs of existing and new communities within the surrounding area.

8.6 Members are to determine if the principle of the development is acceptable. Officers consider the proposal to be acceptable in principle and as such the proposal is deemed to comply with paragraph 94 of the NPPF and policy S1.4 of the North Tyneside Local Plan 2017.

9. Residential Amenity

9.1 NPPF paragraph 180 states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

9.2 Policy S1.4 states that proposals for development will be considered favourably where it can be demonstrated that they would accord with the strategic, development management or area specific policies of this Plan. Should the overall evidence based needs for development already be met, additional proposals will be considered positively in accordance with the principles for sustainable development. In accordance with the nature of development those

proposals should be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

9.3 Policy DM5.18 states that development proposals that may cause pollution either individually or cumulatively of water, air or soil through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, and other pollutants will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity. Development proposed where pollution levels are unacceptable will not be permitted unless it is possible for mitigation measures to be introduced to secure a satisfactory living or working environment.

9.4 Policy DM6.1 states that all development should ensure a good standard of amenity for existing and future residents and users of buildings and spaces.

9.5 This application has been submitted in conjunction with application 20/00565/FUL, which seeks consent for a modular building. This proposal would allow for an additional 24 pupils at the nursery (an increase of approximately 18%).

9.6 Three letters of objection have been received, with grounds of noise disturbance being the most common issue raised. Objectors have stipulated that they are currently subjected to unacceptable levels of noise from children using the outdoor play space at the nursery, leaving rear gardens and conservatories unusable during school hours.

9.7 As the nursery is an established use it would not be reasonable to refuse the application on the grounds of the existing noise, as such the key issues for members to consider will be whether the increase in students would result in an unacceptable increase in noise.

9.8 The Manager of Environmental Health does not object to the proposed development, however further conditions will be required to ensure that the increase in children would not lead to an unacceptable impact on residential amenity. These conditions include the upgrading of the existing boundary fence to an acoustic fence, restriction of the hours when the outdoor play space can be used and the submission of a noise scheme prior to the occupation of the proposed modular classroom.

9.9 With the requested noise scheme and details of the acoustic fencing, it is the opinion of the officers that the proposed modular building and the increase of 24 pupils would not lead to such a significant increase in noise as to warrant refusal of the application.

9.10 It is acknowledged that the application has been submitted in conjunction with 20/00565/FUL, from which several objections have been received on the physical impact of the building, which are addressed in the report for 20/00565/FUL.

9.11 It is further acknowledged that the Manager of Environmental Health has requested further conditions for plant prior to installation. This application does

not propose any additional plant and there is a condition restricting the installation of plant on the original application (03/00587/FUL) which shall be re-imposed with the proposed variation of condition.

9.12 Members need to determine whether the proposal would be acceptable in terms of residential amenity. Having regard to the above, it is officer opinion that the proposal would not have an unacceptable impact on residential amenity subject to the imposition of the conditions recommended by the Manager of Environmental Health (Pollution) relating to the noise survey and acoustic fencing and as such the proposal is deemed to comply with policies S1.4, DM5.18 and DM6.1 of the North Tyneside Local Plan 2017.

10. Parking and Highway Safety

10.1 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

10.2 Policy DM7.4 states that the Council and its partners will ensure that the transport requirements of new development, commensurate to the scale and type of development, are taken into account and seek to promote sustainable travel to minimise environmental impacts and support residents health and well-being.

10.3 The Highways Network Manager has been consulted and has no objection to the proposed plans on the basis that the existing car park has spare capacity at peak pick-up and drop-off times. As such, the Highways Network Manager has no objections subject to the relevant conditions from the original consent being reattached to this application should permission be granted.

10.4 Members are to determine whether the application would be acceptable in terms of parking and highway safety. Having regard to the above, it is the view of case officers that the proposal complies with policy DM7.4 of the Local Plan 2017 and would be acceptable in terms of parking and highway safety.

11. Local Financial Considerations

11.1 Local financial considerations are defined as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by the Minister of the Crown (such as New Homes Bonus payments) or sums that a relevant authority has received, or will or could receive in payment of the Community Infrastructure Levy. It is not considered that the proposal results in any local financial considerations.

12. Conclusion

12.1 The proposed variation of condition has been submitted in conjunction with an application for a modular building to serve as a classroom (application 20/00565/FUL).

12.2 Members need to consider whether the proposal would have an acceptable impact on the adjoining properties.

Reason: In the interest of residential amenity having regard to policies DM5.19 and DM6.1 of the North Tyneside Local Plan 2020.

9. Notwithstanding the submitted plans, no plant shall be installed at the site until a noise scheme has been submitted to and approved by the Local Planning Authority. The submitted noise scheme shall be carried out in accordance with BS4142 and shall identify the current background noise levels, and full details of mitigation measures required to ensure the rating level of the plant to be installed would not exceed the existing background noise level for daytime, evening and night time, in accordance with BS4142.

The approved mitigation measure shall be installed prior to the first use of the plant and maintained thereafter.

Reason: In the interest of residential amenity having regard to policy DM5.19 of the North Tyneside Local Plan 2017.

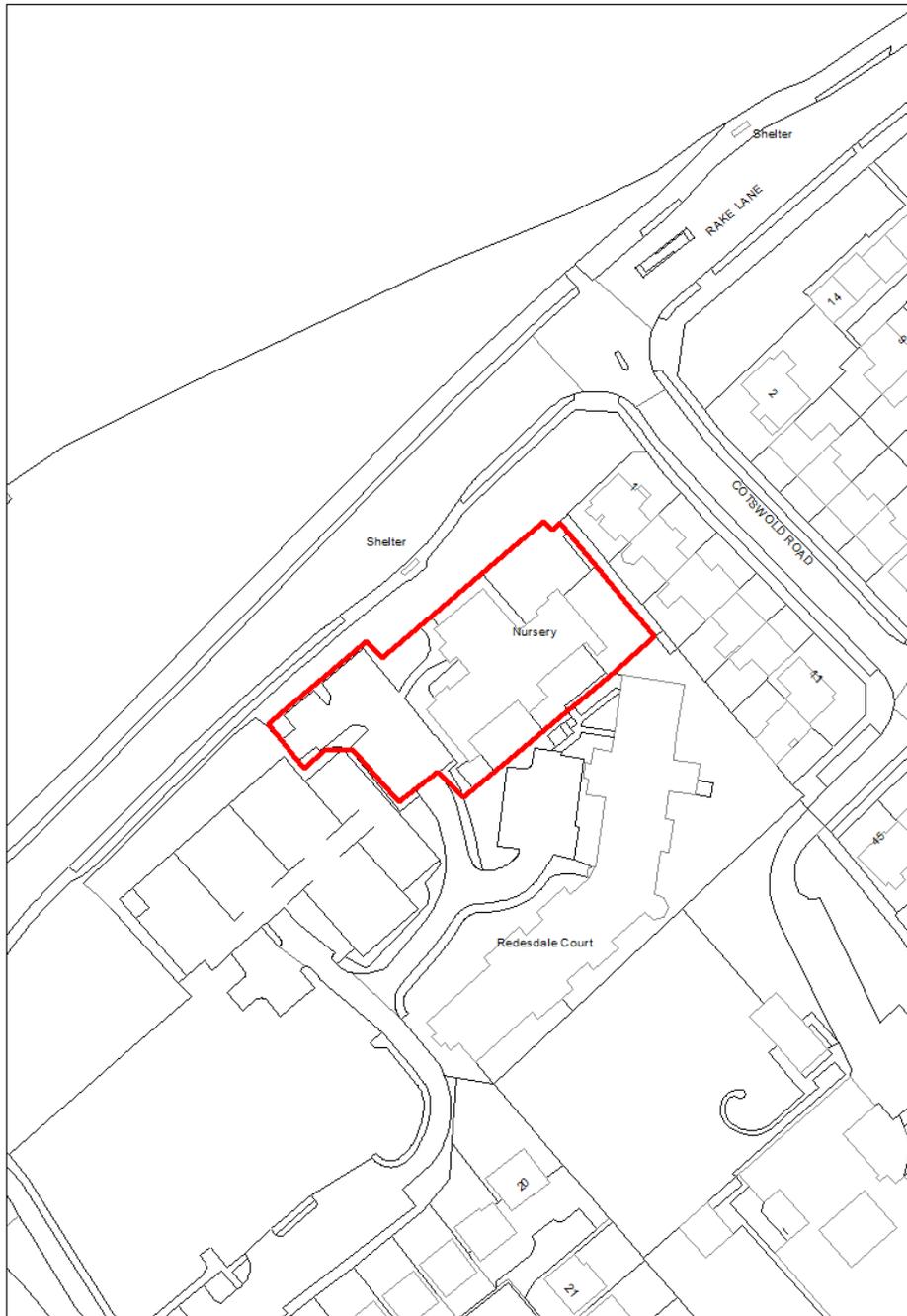
10. Flood Lighting Scheme Details LIG001 *

11. The outdoor play areas shall not be used outside the hours of 08:00 hours and 18:00 hours Monday to Saturdays.

Reason: In the interest of residential amenity having regard to policy DM5.19 of the North Tyneside Local Plan 2017.

Statement under Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015):

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirements in Paragraph 38 of the National Planning Policy Framework.



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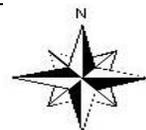
Location: Kids 1st Nursery, North Tyneside General Hospital, Rake Lane, North Shields

Proposal: Variation of condition 4 (restriction on number of children) of planning approval 03/00587/FUL - to allow increase to 136 children to attend nursery at any one time

Not to scale

Date: 17.09.2020

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**Appendix 1 – 20/00564/FUL
Item 5**

Consultations/representations

1 Councillor M Rankin

1.1 I am sure all Committee Members fully recognise the importance of good early years/ nursery provision and also the importance of businesses investing and expanding in such uncertain economic times.

1.2 However, having reviewed this application, I would have concerns as to its fundamentally negative impact on neighbouring properties.

1.3 The nursery was originally developed in 2003 from former Greenfield land. It clearly delivers a high standard of early years' child-care provision, with its most recent OFSTED report being 'Good' in all areas (February 2020). It was built adjacent to an established residential area, with a number of properties (Cotswold Road) being originally considered as 'at risk' of loss of amenity from the development and daily operations of the site.

1.4 Indeed, the effect of the development on the potential loss of amenity of neighbouring residential properties was fully recognised in the original Grant of Planning Permission (18th August 2003) within Clause 7 (restrictions on opening times) and Clause 10 (use of sound reproduction equipment audible outside the curtilage of the premises). These restrictions were imposed due to recognition of the potential for undue noise or other associated disturbance from the site which would affect resident's peaceful use of their properties/ rear gardens.

1.5 Clause 12 (a restriction on operation of the site until such time as all plans for screen and boundary walls /fences had been approved by planners) was also imposed due to concerns on loss of visual amenity/ privacy of the residential properties.

1.6 The current (combined) application is for an amendment to Clause 4 of the original Grant of Planning, to increase the current restriction on numbers of children from 112 to 136 and a new modular building to be developed in an existing garden area in order to cater for this increased capacity.

1.7 The modular building will be built in an area of the site immediately adjacent to the residential properties which were seen as at risk of loss of amenity at the time of the original planning application.

1.8 The Applicant states that 'there is an approximate 15m separation distance between the proposed modular building and the rear elevations of the nearest residential property' and that 'there are existing boundary fences and soft landscaping in the area lying between the proposed building and rear elevations of the neighbouring properties, which will act to screen the main bulk and mass of the proposed building when viewed from the rear of neighbouring properties'.

1.9 In relation to noise, the application states that 'the proposals relate to such activities already taking place' and that 'it is not considered that the limited

increase in children associated with the siting of the building would generate a material increase in noise'. A further mitigant is offered in that 'only a set number of children will be able to play in the garden area at any one time'.

I would ask that Planning Committee consider my views as follows:

1.11 The site is one which was readily accepted by previous committees as having a potential detrimental effect on amenity for some residential properties adjacent and it was on this basis that the number of children able to be on-site at any point in time was restricted (and the original design of the scheme approved in the first place). I would contend that had the original application have included the proposed new garden room then it would have been rejected/ amended due to its impact on the residential properties.

1.12 The location of the new modular building, is arguably just c. 10m from the rear elevations of some of the residential units, is only 3m from the boundary line. It is also just 6m from a conservatory of one of the houses and will unreasonably impact on resident's quiet enjoyment of their property. It must be remembered/ recognised that irrespective of its use as a nursery, this is a commercial building which will be operated on a commercial basis between the hours of 7.30 am - 7pm each working day.

1.13 I would also note that the sides of the building facing the residential units would be constructed of plastisol steel sheeting, which is not in keeping with any of the surrounding buildings and will negatively impact visually. It is incredibly difficult to see how residents will not suffer an overbearing impact from both proximity and design.

1.14 I note the intention to limit the numbers of children playing within the garden area (much of which will be lost to the development of the building), but a major design feature of the garden room is the provision of bi-folding doors, the intention of which would obviously be to utilise on days of appropriate good weather. It is inconceivable that this would not impact of noise levels generated from the operation of the site and unreasonably impact resident's quiet enjoyment of their properties and gardens.

1.15 In summary, I feel that the development as detailed in planning application **20/00565/FUL** unreasonably impacts residents living in the adjacent residential properties and so should therefore be rejected.

1.16 It naturally follows from this that if the Applicant cannot satisfy the Committee that they can absorb the additional children requested into their existing site (Application to amend **03/00587/FUL**) then this too should be rejected.

1.17 I would ask that, if practical during these difficult times, the Committee undertake a site visit to better understand the proximity of the new building to residents own properties and thus the impact this development will have.

1.18 And finally, I am aware that some residents have requested speaking rights for the Committee meeting and I would ask that consent is provided for same so

that Members are able to hear first-hand their concerns relating to this application.

2 Highways Network Manager

2.1 This application is for a variation of condition 4 (restriction on number of children) of planning approval 03/00587/FUL - to allow increase to 136 children to attend nursery at any one time. The site has been established for some time and is set well back from the adopted highway. The applicant has advised that there is enough spare capacity within the car park at peak drop off & pick up times. Approval is recommended with all other conditions & informatives applicable.

3 Manager of Environmental Health

3.1 I have concerns about potential noise arising from the variation of condition 4 to allow an increase of children to attend the nursery. Permitting additional children will result in an intensification of use of the outdoor play areas. It is not clear from the application what the existing boundary fencing is screening the play areas from the existing residential properties on Cotswold Road adjoining to the eastern boundary of the nursery.

3.2 The applicant advises that all outdoor play sessions are supervised. However, no information on the proposed number of children outside at any one times have been provided and this information should be provided as part of a noise mitigation scheme, e.g. maximum of 12 children in the outdoor play area at any one time will give rise to approximately 79 dB at 1 metre, this is based on a 15 minute average play time (Proceedings of Acoustics 2006). It is recommended that the existing boundary fencing between the play area and the residential properties of Cotswold Road is upgraded to acoustic fencing to mitigate noise from children playing. I would also recommend a condition to restrict the use of the play areas to ensure they are not used before 8am and no later than 6pm.

3.3 For the new modular building it is unclear if any new external plant is to be installed, such as air conditioning units, condensing units etc., if this was the case then a condition is recommended to require a noise scheme is provided to ensure the noise from the new plant is suitably mitigated.

3.4 If planning consent is to be given the following conditions are recommended.

3.5 NOI02

3.6 Outdoor play areas permitted for use between 08:00 hours and 18:00 hours Monday to Saturdays, no use of the outdoor areas on Sundays and Bank Holidays.

3.7 Prior to the acceptance of additional children at the site, submit for approval prior to implementation and use a noise scheme outlining the outdoor play activity management plan and details of a 2m high acoustic barrier to be fitted to the eastern boundary of the site screening the outdoor play area from Cotswold Road.

3.8 For any new external plant installed:

3.9 A noise scheme must be submitted, for any new external plant installed at the site, in accordance with BS4142 to determine the current background noise levels for the time when the plant and equipment is to be operated. The rating level for all plant must not exceed the existing background noise level for the daytime, evening and night time in accordance with BS4142.

3.10 NO104 this will include details of the noise levels expected to be created by the combined use of plant and equipment to ensure compliance with the noise rating level.

3.11 It will be necessary following installation of the plant and equipment that acoustic testing is undertaken to verify compliance with this condition within one month of its installation and submitted for written approval prior to the operation of the plant and thereafter maintain in working order.

3.12 HOU04

3.13 LIG01 (for any new external lighting)

4 Representations

4.1 3No letters of objection from three addresses have been received on the following grounds:

- Precedent will be set.
- Loss of residential amenity.
- Nuisance – disturbance.
- Nuisance – noise.
- Existing disturbance from children.
- Increase in pupil numbers and reduction in play area would exacerbate alleged already unacceptable noise levels, particularly with increased numbers and extended play periods.
- Loss of privacy.
- Impact on light to garden.
- Object to the applicant's statement that the proposal would not have a significant cumulative impact on the noise.
- Inappropriate design.
- Loss of visual amenity.
- Unsightly building.