

Sequential Test at: Corner of Fore Street and High Road,

Client:

Corner of Fore Street and High Road

Eastcote, Pinner, HA5 2ET

The proposal includes the development of the site to erect a single storey nursery, the site is partially located within Flood Zone 3.

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CIL | Enforcement | Land Promotion | Planning | Sequential Tests | Viability

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1. Disclaimer

- 1.1 The findings presented in this report are based on a desktop study of information supplied by third parties. The purpose of this report is to provide the London Borough of Hillingdon with an opinion on the flood risk at Corner of Fore Street and High Road, Eastcote, Pinner, HA5 2ET, compared with other available sites in district.
- 1.2 For clarity, this report is an amended report which has been drafted for the purpose of a planning appeal, following the refusal of the London Borough of Hillingdon in response to Application 73450/APP/2023/431.
- 1.3 This document has been prepared for this specific reason and should not be used for any other purpose without the prior written authority of ET Planning. Whilst we assume that all information is representative of past and present conditions, we accept no responsibility or liability for the consequences of this document being used for a purpose other than for which it was commissioned.

2. Executive Summary

- 2.1 A sequential test is required for this site as the proposal is not considered a minor development in flood risk terms; the nursery will provide childcare and education for up to 80 children, with a daily maximum of 64 children at any given time, between 8am and 6pm, Monday to Friday. The proposal also includes associated access, a garden area, and landscaping. The site is located within Flood Zone 1, 2 and 3; thus, a sequential test is required as per London Borough of Hillingdon Local Policy as well as National Policy.
- 2.2 This Sequential Test has been produced in line with the The London Borough of Hillingdon 5-year supply of deliverable housing sites (2022), Local Plan Part 1 (2012), Local Plan Part 2 (2020), London Strategic Housing Land Availability Assessment (2017), and The London Borough of Hillingdon Brownfield Land Register (2021).

- 2.3 Data has been collected and analysed by GeoSmart in which Geosmart have assessed the above documents in full to produce a list of suitable sites. Some of these sites have been discounted due to inadequate size and some which have been discounted due to a flood risk which is more severe than the proposed site. Please see the accompanying appendices for further details in regard to the wider search.
- 2.4 A Flood Risk Assessment has also been provided with consideration of national/local planning policy and guidance. This data has been used to rule out sites on flooding grounds in comparison to the application site, with the remaining sites being assessed within this sequential test.
- 2.5 A sequential Test undertaken for the search area, covering the entire Council-wide area of London Borough of Hillingdon, indicates there are no alternative suitable sites which could accommodate the development at the proposed site which are at a lower risk of flooding and are considered to be available, deliverable, and developable as per the requirements of policy.
- 2.6 There are a number of potential development locations, which are at a lower flood risk than the subject site, however, these are not deemed suitable for a variety of reasons, which are discussed in more detail at section 5.

3. Site Description and Proposal

- 3.1 The site is vacant, situated on the corner of Fore Street and High Road, Eastcote. It lies behind a small area of public open space and is bound by the River Pinn to the northwest and the petrol station at Eastcote to the northeast. The site contains multiple TPO trees and vegetation which screen the site from public view. The site is private land and has never been in public use. The surrounding area is predominantly residential in character, with the exception of a small local shopping parade located approximately 150m northeast along the High Road, a petrol station and the Black Horse Public House (Grade II Listed).

- 3.2 The site is designated part of the Eastcote Village Conservation Area and the Eastcote Village Archaeological Priority Area. The site is bounded to the north by the River Pinn and lies within Flood Zone 1, predominantly in Zone 2 with a very small area in the northwest corner within Zone 3 along the river bank. The site is covered by 17 Tree Preservation Orders (TPO) and the Eastcote Village Air Quality Focus Area. The land on the opposite side of the river to the north is designated within a Green Chain.
- 3.3 The Environment Agency's Risk of Flooding from Rivers and Sea Map identifies the site as having a 'Very Low - Medium risk of flooding from Rivers and the Sea

4. Policy Background

National Planning Policy

- 4.1 National Planning Policy Framework (NPPF) paragraph 167 promotes a sequential, risk-based approach to the location of development. Paragraph 167 states that all sources of flood risk should be assessed alongside current and future impacts of climate change. Therefore, this Sequential Test has assessed sites currently in relation to all potential future impacts alongside all different sources of flooding.
- 4.2 Paragraph 168 explains that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. It states that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
- 4.3 The policy is clear in which the aim of the sequential test is to "steer" development. If the sequential test is used as a "barrier" or to "stop" development this goes against the purpose of the test, and the policy stated within the Framework. In conjunction with this the aim of the test is not to

assess the flooding impact on site, questioning whether this is suitable. This is the requirement of the exception test. The only requirement of the sequential test is to assess whether there are alternate sites that could be utilised instead of the subject site, with less flooding impact.

- 4.4 Within the officer report of application 73450/APP/2023/431, Hillingdon Borough Council question the submitted feasibility study which was submitted alongside the application. They question the accuracy of this data with Hillingdon using this information to question the validity of the sequential test. Demand, supply, and feasibility are not relevant to the sequential test. Policy does not dictate that the sequential test should assess whether the proposal is required or not, simply that the proposal should be located at the subject site or elsewhere (if a suitable location is found).

National Planning Guidance

- 4.5 National Planning Policy Guidance (NPPG) provides detailed guidance on when a sequential test is required. This states that if the site is located within Flood Zones 2 or 3 and a sequential test has not previously been carried out in relation to the same form of development, or as part of a larger local council document resulting in allocation, then a sequential test is required to justify development in these locations.
- 4.6 The guidance also provides an indication of which sources to use when looking for alternative sites:

First, check your adopted or draft local plan for sites that have already been allocated for development and could be suitable for the development you're proposing.

Also look at sites that haven't been allocated in the local plan, but that have been granted planning permission for a development that's the same or similar to the development you're proposing. Your local planning authority will have details of sites with planning permission.

Finally, check with your local planning authority whether there are any 'windfall sites' in your search area. Windfall sites are sites that aren't allocated in the local plan and don't have planning permission, but that could be available for development.

- 4.7 The guidance further states that a check should be carried out regarding the approximate capacity of each potential alternative site and if the local planning authority has a density policy, then this should be considered when estimating capacity. If the local planning authority does not have a density policy, then the average density at which houses have been built in the area should be considered.
- 4.8 The guidance is referring to housing proposal in this instance, however, the same is akin to the provision of a nursery. If the housing density in an area is too high and, thus, erecting more housing would be conflicting with density policy, this is a suitable reason to discount a site. Similarly, if an alternate site is in a location which is currently served by an overprovision of nurseries, then the density of education facilities is too high and that alternative site can be discounted. Furthermore, if an individual nursery itself is at maximum capacity it may not be suitable to increase the number of children attending (due to staff commitments, noise implications, transport and parking considerations), this is another reason as to why a site can be considered to not be a suitable alternative site.
- 4.9 The Flood Risk Vulnerability and Flood Zone Compatibility table in the technical guidance of NPPF (as shown below), and also shown within the Environment Agency's Flood Map for Planning Purposes, highlights when a proposal must be subject to an exception test alongside a sequential assessment.
- 4.10 The proposed development is considered to a More Vulnerable use in flooding terms. As shown on the table below, development of a more vulnerable use is considered to require an exception test within Flood Zone 3.

Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	Exception Test required	✓	✓	✓
Zone 3a †	Exception Test required †	✗	Exception Test required	✓	✓
Zone 3b *	Exception Test required *	✗	✗	✗	✓*

Key:

✓ Development is appropriate

✗ Development should not be permitted.

4.11 Based on the Flood Risk Vulnerability and Flood Zone Compatibility table in the technical guidance of NPPF (as shown above) and the Environment Agency's Flood Map for Planning Purposes, the proposed nursery use is considered to be More Vulnerable. More Vulnerable development is considered to be acceptable within Flood Zone 3a but is not considered acceptable within Flood Zone 3b. It is confirmed within the submitted Flood Risk Assessment (FRA) that the site is only partially located within Flood Zone 3a and, as such, is a suitable alternative subject to a sequential and exception test.

Determining if Alternative Sites are "Reasonably Available" and Undertaking the Sequential and Exception Tests

4.12 A development proposal will only fail to pass the Sequential Test if alternative sites are identified within the search area that are at lower risk of flooding whilst these sites would also be appropriate for the proposed

development and are 'reasonably available' for development, as per national policy.

- 4.13 It is strongly argued that a site can only be considered to be '**reasonably available**' if it is both '**deliverable**' and '**developable**' as defined by the NPPF. This is due to the similarities within the definitions of these terms, and the fact that these terms cross over within national policy (The Framework and the NPPG).
- 4.14 Crucially, Hillingdon Borough Council stated on page 23 of the officer report, in relation to the application subject to this appeal, that "**The applicant has outlined a number of requirements which would be considered to make a site reasonably available, which includes being deliverable and developable. The council does not dispute these definitions**". Therefore, the Council accepts that these definitions and valid and the assessment of sites must be in relation to these terms, as specified within national and local policy.
- 4.15 The definition for reasonably available within the NPPG states "*in a suitable location for the type of development proposed with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development*".
- 4.16 In comparison, when you look at the definition of "developable" within the NPPF it reads; "*To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be **viably** developed at the point envisaged.*".
- 4.17 As can be seen, this definition is extremely similar to the reasonably available definition, but it states that the site must be viable for it to actually be developed in practice.
- 4.18 Therefore, a site can be reasonably available but for the site to actually be developed in reality, it must be developable (as shown by the use of "developed" within the definition of reasonably available). Thus, as per the developable definition, **viability is then a consideration which must be considered when assessing alternate sites.**

- 4.19 If it is not viable to develop an alternate site when compared to the subject site, there is no realistic prospect that the alternate site will be developed in reality, and it must not be viewed as a suitable alternative.
- 4.20 This coincides with the aim of the sequential test, which is to steer development to lower risk areas not to stop development altogether. If the alternate sites are not developable in practice, then no development will take place. **The aim of the test is to steer development and not stop development, thus, viability must be a consideration**. If viability is not considered within the assessment and sequential testing was simply utilised as a barrier to development.
- 4.21 In addition, the reasonably available definition states that a site must be “*available to be developed at the **point in time envisaged for the development**”*. The phrase, at the point in time envisaged, is extremely vague as this could be defined as multiple timeframes. The reasonably available definition and the NPPG provides no further guidance on this time frame.
- 4.22 Therefore, it is worth assessing the definition a “deliverable” site within the NPPF, which provides clarity with this again being a similar definition in which the term “reasonably available” has derived from. The “deliverable” definition states the following:
- 4.23 “*To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within **five years***. In particular:
- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years."

- 4.24 Therefore, for a site to be deliverable in reality, and subsequently "reasonably available" it should be available now or be achievable within the next five years. Sites with planning permission should be viewed as deliverable/available unless there is evidence that the proposal will not be delivered in the next five years.
- 4.25 If a site is allocated, has outline planning, or is on the brownfield register the site should also be considered as deliverable/available unless there is evidence that the proposal will not be delivered in the next five years.
- 4.26 These definitions in practice go hand in hand and have been written in relation to each other. If a site is **"reasonably available"**, it must be **"developable"** to come into practice. If a site is **"developable"**, it must be **"reasonably available"** for development to be possible in reality.
- 4.27 For a site to be **"reasonably available"**, it must be available to be developed at the point of time envisaged for the development. To be available the site must be "deliverable" by definition, and available within the next five years.

An alternate site must be suitable for the type of development proposed.

- 4.28 Finally, it is crucial to refer back to the local guidance, as discussed in paragraph 168 of the NPPF in which it states that,
- "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites **appropriate for the proposed development** in areas with a lower risk of flooding."*
- 4.29 The crucial wording here being highlighted above in bold, that reasonably available sites must be appropriate for the proposed development.

Therefore, the sequential test must relate to the specific development that is being proposed.

- 4.30 Finally, the “**reasonably available**” definition states that a site can only be “**reasonably available**” in regard to the “**type of development proposed**”. Therefore, it is important to consider what is the proposed development on site.
- 4.31 In this instance the proposal is for a nursery building which can accommodate 64 children at any given time. 25 Staff members will also be hired in regard to the use whilst 9 parking spaces are proposed. Specifically, the unique selling point of the proposed nursery is that the proposal includes biodiversity enhancement, which seeks to combine a nursery education facility with trees and biodiversity improvements. Therefore, any alternate site must be able to provide a similar scheme to that proposed.
- 4.32 For example, it would not be possible to erect a single storey green roof biodiversity nursery in the middle of a high street or an urban area.
- 4.33 As this is a proposed nursery it would not be suitable to assess multiple alternate sites and, for example, claim that there is space for 10 children at alternate space 1 and 10 at alternate space 2.
- 4.34 This appellant is a separate provider who would not be able to run a functional nursery by extending or utilising multiple different sites. From a viability perspective it would also not be suitable to purchase multiple sites or work alongside an existing and competitor to provide a separate nursery provision on multiple different sites.
- 4.35 The aim of the test is not to stop development it is to find another more suitable location if possible. Therefore, if multiple sites were to be utilised, in practice and reality, it would not be possible, viable, sustainable for the appellant to provide the nursery spaces proposed, nor would the alternate sites be available for such use.
- 4.36 As per the requirements of policy the test must only “**steer**” development and, as confirmed by Hillingdon Council, the Council does not dispute the

reasonably available, developable, and deliverable definitions and as such an alternate site must be viable, in regard to the proposed development and subject to a five-year timeline of delivery.

4.37 Furthermore, it is important to note that any alternate site must accommodate an additional 64 children, 25 staff members and 9+ parking spaces. If an existing nursery was to be purchased and expanded, it would need to be increased by the above parameters it would not be suitable to simply purchase a nursery of a similar size. Thus, there will be a net zero increase in provision, and this is not suitable.

4.38 Therefore, to summarise, for a site to be reasonably available the alternate site must be:

1. A viable alternate so that development can be relocated in reality.
2. Must be available within the next five years.
3. Must be a viable alternative in relation to the type of development proposed (in this case the erection of a new nursery or the extension of one singular nursery by circa 64 places, circa 25 staff members and 9 car parking spaces - if there is not already capacity to accommodate this increase)
4. The type of development is a biodiversity sensory nursery; this is the unique selling point of the nursery and if this cannot be provided the nursery will not be viable or possible to create in practice.

Local Planning Policy & Status

4.39 The Hillingdon Local Plan Part 1 was adopted in 2012 whilst Part 2 was adopted in 2020. This ensures that aspects of these policies may be considered out of date and not fully in accordance with national planning policy. This is something to be considered when assessing the policies that relate to sequential tests.

4.40 Policy EM6 of Part 1 states that *"The Council will require new development to be directed away from Flood Zones 2 and 3 in accordance with the*

principles of the National Planning Policy Framework (NPPF).".

Therefore, the main focus of local policy is to be aligned with national policy as stated above.

- 4.41 Paragraph 8.84 of Part 1 states that *"The Sequential Test will need to be applied to the subsequent Hillingdon Local Plan: Part 2 -Site Specific Allocations LDD. Development that is proposed in accordance with the Site Specific Allocations LDD and the Sequential Test will not be required to submit further evidence justifying why it is proposed in Flood Zone 2 or 3. Where development is not in line with the Site Specific Allocations LDD, it will need to submit clear evidence and justification that there are no other reasonably available sites in a lower risk flood zone."*
- 4.42 Paragraph 8.85 states the *"Sequential Test should be undertaken prior to the Exception Test for all new development proposed in Flood Zones 2 and 3, and areas identified as having surface water management problems."*
- 4.43 Paragraph 6.43 of Part 2 states *"The Council as the local planning authority will ensure that new development in Hillingdon is not put at unacceptable risk from flooding and that it will not increase the risk of flooding elsewhere. The Council will assess planning applications, including those for windfall sites, against flood risk on the basis of technical advice forming part of the NPPF, which includes the application of a "sequential test" and, if necessary, an "exception test"."*
- 4.44 Flood mitigation measures are provided within the submitted scheme to ensure that the proposed development can be managed for a lifetime and have no impact on, or by, flooding.

5. Sequential Test

- 5.1 The Sequential Test should be applied to demonstrate that there are no 'reasonably available sites' in areas with a lower probability of flooding that would be appropriate to the type of development or land use proposed.

Sequential Assessment

Search Parameters

- 5.2 As agreed with the LPA prior to the test, the sequential test will cover the whole Council-wide area of Hillingdon.
- 5.3 This Sequential Test has been produced in line with the The London Borough of Hillingdon 5-year supply of deliverable housing sites (2022), Local Plan Part 1 (2012), Local Plan Part 2 (2020), London Strategic Housing Land Availability Assessment (2017), and The London Borough of Hillingdon Brownfield Land Register (2021).
- 5.4 A commercial land search was also carried out to assess suitable sites, including sites not allocated within the local plan but have been granted planning permission and sites which have not been granted planning permission but would likely be acceptable in principle based on the adopted Local Plan. However, no suitable sites were identified during this process.
- 5.5 Therefore, all allocated sites, sites with planning permission, and sites for sale within the agreed search area have been assessed within this sequential assessment. All of these reports have been assessed in their entirety.
- 5.6 This sequential test can only fully assess the information provided by the London Borough of Hillingdon Council, as legally required, in full; alongside further research into sites that are for sale within the borough. If the Borough has no clear available, deliverable, and developable sites after assessing all of the relevant housing information, as well as their online platforms; it is evident that no sites are available to facilitate the proposed development and that the sequential test should be passed.

- 5.7 The sequential search follows 4 different phases of methodology as highlighted below:

Stage 1 (Units/Use)

- 5.8 As discussed above, an alternate site must be in relation to the “proposed development”. The proposal is for a 64 child and 25 staff member nursery. The proposal includes the erection of built form and 9 parking spaces.
- 5.9 There are no allocations in regard to nursery provision in which size and use is dictated. Therefore, it is difficult to search for alternate sites in regard to the provision of a nursery with a certain capacity.
- 5.10 However, previous planning applications will be assessed via the Council’s planning search to ascertain if there are other applications which has been approved, and are yet to commence, in which the appellant could purchase the land and carry forward.

Stage 2 (Size of the Site)

- 5.11 As discussed above, due to the fact that it is near impossible to ascertain whether a site will be a suitable size to accommodate a nursery of 64 children and 25 staff members, there must be some parameters to the search to ensure that the sequential test is not simply assessing every single piece of available land within the borough.
- 5.12 As discussed in section 4, an alternate site must be “**viable**” and “**deliverable**” in regard to the “**proposed development**”. The proposal consists of a parking area, the built form itself, amenity area for the children, as well as the biodiversity and tree planting which is the unique factor of the proposal which is key to its future viability and success.
- 5.13 Therefore, the site needs to be off a similar size to the subject site to ensure that a building can be erected which can accommodate these numbers alongside the facilities that go hand in hand with this. The proposal is a careful designed site in which the specific amount of land has been utilised to produce the eco-friendly and biodiversity enhanced nursery scheme. If the site was over 20% larger or smaller than the site, it would not be viable

to purchase a site of that size, whilst a smaller site would not be able to accommodate the proposal.

- 5.14 If larger sites were included within the search, every time ET Planning assessed a site is a viable alternative, ET Planning would simply confirm that the site is too large with the opportunity being too vast. We would then conclude that these sites are not viable.
- 5.15 It is not possible to find alternate sites in allocations via the proposed units (as discussed above). As such there needs to be some means of searching for a site, otherwise every single building and plot of land within the whole borough would potentially be a suitable alternative, this is completely unsuitable and against the purpose of the policy which is to “steer” new development to other suitable sites if these are available.
- 5.16 Therefore, the only way to restrict sites is via size or search area. The Council have required that the search is borough wide due to their assessment that the feasibility study does not justify a smaller search, therefore, they must accept that the test has to be restricted in some way.
- 5.17 As such, we ask that the test’s methodology is viewed to be acceptable by the Inspector, otherwise a borough wide search with no size restrictions results in a piece of work being required which would be 2000+ pages long with the test being impossible to undertake financially.

Stage 3 (Flood Risk)

- 5.18 The application site, as aforementioned, is located within Flood Zone 3. Therefore, any sites within Flood Zone 3 have been excluded from the search parameters.
- 5.19 In addition, an assessment has been made regarding any sites with a higher flood risk from other sources such as groundwater or surface water flooding. It may be that some of these sites have a higher risk of flood risk overall even if they are located in Flood Zone 2; however, Geosmart has assessed whether the flooding concerns are worse at the alternate site when compared to the subject site.

5.20 A site will only be discounted when it has been assessed by a professional consultant and is confirmed to have a higher risk of flooding overall from an assessment of multiple sources.

5.21 For clarity, a site that has a higher risk of surface water flooding but is located within Flood Zone 1 is unlikely to be removed from the search overall, unless the risk of surface water flooding is so severe and common place it exceeds the risk of a Flood Zone 3 site.

Stage 4 (Windfall Search)

5.22 A search was also made on the London Borough of Hillingdon planning search for “nursery” to assess any recent applications that have been made in regard to the erection of change of use of buildings to new nurseries.

Reference	Location	Proposal	Received	Status
75251/APP/2023/3385	Nursery LAWN ROAD UXBRIDGE UB8 2TJ	Change of use from nursery building into a self contained studio (Application to determine if prior approval is required pursuant to Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).	22-11-23	Refusal
77919/APP/2023/785	TELECOMMUNICATIONS SITE LAND AT BUSY BEES NURSERY IRON BRIDGE ROAD WEST DRAYTON UB11 1BF	Installation of 20m telecommunications base station supporting 6 no. antennas, 2 no. 300mm dishes, together with 2 no. ground based cabinets (painted fir green) and ancillary development thereto. (Application under Class A, Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for determination as to whether prior approval is required for siting and appearance).	15-03-23	Refusal
77706/APP/2022/3626	Jigsaw Day Nursery 4 IRON BRIDGE ROAD WEST DRAYTON UB11 1BF	Installation of 1 no. non-illuminated free standing sign	24-11-22	Withdrawn (P)
75251/APP/2022/2902	NURSERY LAWN ROAD UXBRIDGE UB8 2TJ	Addition of rooflights.	19-09-22	Approval
77153/APP/2022/937	Yeadon Nursery School CARLYON ROAD HAYES UB4 0NR	Erection of a single storey side extension following the demolition of existing lean-to structure and the erection of a single storey outbuilding (Application under Class M, Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development)	21-03-22	Approval
75251/APP/2021/4446	NURSERY LAWN ROAD UXBRIDGE UB8 2TJ	Redevelopment/refurbishment of nursery building (Use Class E) including demolition of annex and rear extension. Erection of a three storey building comprising 1 x 1-bed, 1 x 2-bed residential units (Use Class C3)	07-12-21	Appealed
76371/APP/2021/1594	30 NURSERY WAY UXBRIDGE	Single storey rear extension (Application for a Certificate of Lawful Development for a Proposed Development)	22-04-21	Approval
8856/APP/2021/1288	JOEL STREET FARM BLOSSOM TREE MONTESSORI NURSERY JOEL STREET NORTHWOOD HAS 2PD	Minor material amendment (s73) to condition 7 of planning permission Ref: 8856/APP/2013/3802 dated 29/01/2016 (Demolition of existing Dutch barn and erection of a replacement building to be used as a Class D1 (nursery), demolition of existing detached stables, alterations to existing buildings and associated parking and landscaping) to increase the number of children permitted at any one time from 45 to 68	31-03-21	Approval
69128/APP/2020/2201	3 NURSERY WAY UXBRIDGE MIDDLESEX UB8 2BJ	Conversion of roof space to habitable use to include a rear dormer, 2 front rooflights and conversion of roof from hip to gable end (Application for a Certificate of Lawful Development for a Proposed Development)	17-07-20	Approval
73382/APP/2019/3812	14 NURSERY WAY UXBRIDGE UB8 2BJ	Details pursuant to conditions 4 (Bin Storage) and 5 (Boundary Treatment) of Secretary of State's Appeal Decision ref: APP/R5510/W/19/3228114 dated 08/11/2019 (LBH ref: 73382/APP/2019/456 dated 03/04/2019) - Conversion of two storey dwelling with habitable roofspace into 2 x 1-bed flats, involving alterations to front and installation of vehicular crossover to front	25-11-19	Approval
73382/APP/2019/456	14 NURSERY WAY UXBRIDGE UB8 2BJ	Conversion of two storey dwelling with habitable roofspace into 2 x 1-bed flats, involving alterations to front and installation of vehicular crossover to front	06-02-19	Appealed
73382/APP/2018/3522	14 NURSERY WAY UXBRIDGE UB8 2BJ	Conversion of two storey dwelling with habitable roofspace into 2 x 1-bed flats, involving alterations to front and installation of vehicular crossover to front	03-10-18	Refusal

5.23 These sites have then been assessed further to ascertain whether they are viable alternatives for the proposed development at the subject site.

5.24 In addition to the above search, the local nurseries listed in the Council's refusal reason have been assessed further to ascertain whether they can accommodate the proposed development as a viable alternate site.

Stage 5 (Further Assessment)

- 5.25 Any planning applications where the conditions are in the process of being discharged and clearly being progressed by the developer have been discounted.
- 5.26 After removing sites that were located in Flood Zone 3 or sites that had a higher level of flood risk, alongside sites that were not of a suitable size or yield; the remaining sites require further assessment to ascertain whether they are deliverable, developable, and reasonably available as a viable alternate site.
- 5.27 It is important to note that sites that are off a suitable size OR sites for the erection of nurseries or proposed nurseries have been considered (irrelevant of their size due to the specific nature of these uses and the scope for expansion).
- 5.28 Over 250 sites that have been assessed within this report with a large majority of these sites being discounted due to their size or the flood risk on site. The remaining (FIGURE) sites are discussed below in detail to discuss their suitability in relation to the proposed development.

Assessment of Sites

- 1. Application reference: 50395/APP/2019/1943. Address: Bedfont Cross Stanwell Road TN14 8NX
- 5.29 On further research, the planning permission at the above site was moved forward with and the building was converted from an office block to a residential block of flats. Therefore, the site is no longer available for development.



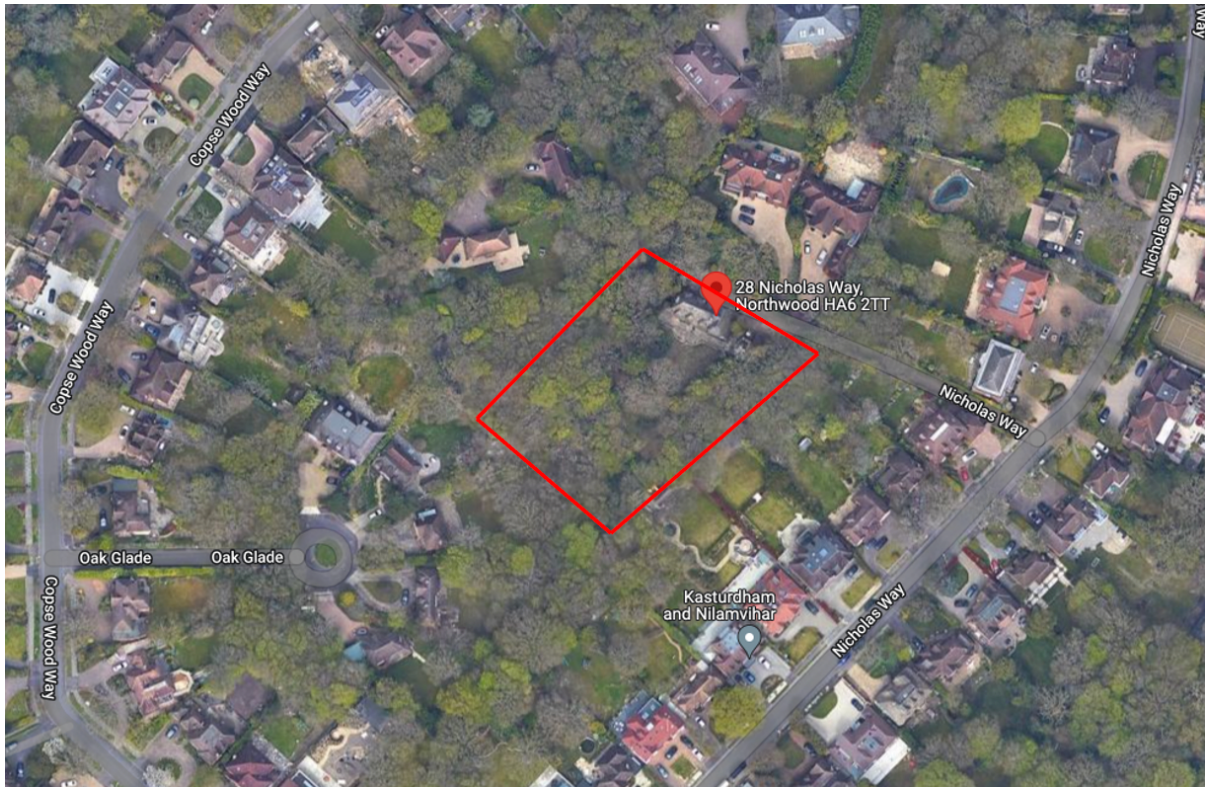


5.30 The above images show the works that were carried out on the building; it is also clearly visible via google that the building is now a residential block of flats. As this site is no longer available, it has been removed from the search as a suitable alternative.

2. Application reference: 63937/APP/2016/1895. Address: 28 Nicholas Way, Northwood, HA6 2TT

5.31 Unlike the above site, no action has been taken in relation to this planning approval since May 2017 when this planning application was approved. Therefore, the permission has now lapsed.

5.32 The below screenshot provides an aerial view of the site with the red line roughly annotating the location of the site as referred to within the brownfield land register.



- 5.33 An application was previously approved for the demolition of the existing dwelling and the erection of a 6-bed dwelling house.
- 5.34 The previous application was deemed to have no impact on the amenity of neighbours in relation to *"overdominance, loss of privacy, light/overshadowing."* However, if this site was to be developed into the proposed nursery, the noise created would impact neighbours in a negative manner. The surrounding environment is heavily residential with multiple rear gardens of dwellings associated with Oak Glade, Nicholas Way, and Cope Wood Way all touching the boundary of this site.
- 5.35 Due to the central location of this site, to the centre of multiple dwellinghouses, it is our view that there will be an adverse noise impact which would adversely affect the neighbouring dwellings. In comparison, the proposed site has no immediate residential neighbours with a river and roads neighbouring the site.
- 5.36 The site has a PTAL value of 0 which is indicative of the distance from public transport and the likely reliance on the private car for trip making.

Therefore, the site is not in a suitable location for a nursery, with multiple clients using public transport to drop off children at nurseries.

- 5.37 Again, no schools are located in the immediate proximity of this site, ensuring that it may be difficult for parents to utilise a nursery in this location. Parents often drop off multiple children and like to choose a nursery which is closely located to a school or pre-school in which another child attends. Therefore, this location is not suitable on a commercial basis for the proposed development. Obtaining permission in a location which is not suitable, will ensure that no development is brought forward, resulting in an alternative site which is not suitable.
- 5.38 The access to the site is via a private road which currently serves the dwellings, No 26 and No 26a. This test questions whether this private access is suitable for a commercial use such as a nursery where multiple vehicles will be accessing the site.
- 5.39 The access is only 1 car width ensuring that there are highway issues present at this site. Yes, the access was deemed suitable for one additional dwelling, however, with the lack of public transport, circa 30 cars would be using the access throughout the day.
- 5.40 In addition, it is unlikely that the existing residential owners of No 26 and 26a would permit the use of the access in relation to a nursery use due to the impact that the use of this road would have on them.
- 5.41 Therefore, this site is discounted due to the adverse impact on highways, neighbouring amenity, and suitability (lack of public transport and an insufficient location for a nursery).
- 5.42 In comparison, the proposed development at the application site has no impact on neighbouring amenity, any access constraints, whilst it also is a suitable location for such a proposed use. Yes, the application site is located in a conservation area and in proximity to listed buildings, but a proposal can be designed in a sensitive manner to overcome these constraints. The issues regarding access, amenity and, public transport cannot be solved in

relation to this alternate site. As such, the site has been discounted from the search.

3. Application reference: 43762/APP/2018/396. Address: Maple and Poplar Day Centre

5.43 This site would have previously been a suitable site for the proposed development. It was a similar size to the proposed subject site and already contained a day nursery use with space for parking and biodiversity enhancements.

5.44 However, the above planning application sought permission for the erection of 34 flats within 2 3 storey apartment blocks. The existing nursery building have been demolished and, as demolition was included within the description of development, this above planning permission has commenced on site. As can be seen by the 2018 and 2019 aerial photos (google earth) below.





5.45 As the development had commenced on site there is an extant permission for 34 units of accommodation. It would not be viable for the applicant to purchase this site and convert it back into a similar site to which it was previously. The cost of the site due to the extant planning permission would be excessive and ensuring that the proposed scheme is unviable.

5.46 As such, the site does not accord with being a developable site in practice and is not reasonably available due to this.

4. Application reference: 68974/APP/2018/2146. Address: Eastern end of Blyth Road, Hayes

5.47 The above planning permission was approved to provide 118 residential units. The proposal has been constructed and the site is no longer available.

5. Address: Fore Street Nursery, Pinner HA5 2HX

5.48 The Council have suggested assessing existing nurseries to assess whether these can be expanded to accommodate the number of children, staff, and the required facilities in accordance with this planning submission. Fore

street Nursery is a small nursery which is adjacent to Coteford Infant School. The nursery grounds itself are extremely limited with only 12-14 parking spaces provided for the adjacent infant school as well as the nursery.

- 5.49 Firstly, the parking situation on site is not sufficient to accommodate the addition children and staff numbers. There is no space to erect no parking facilities and this expansion on this site would be detrimental to highways and transport within the local area and would not be acceptable.
- 5.50 Furthermore, physically there is no space to extend the facilities to ensure that numbers could be increased on site to this level.
- 5.51 As such, the site is not a viable alternative as it would not be possible to extend this nursery site.

6. Address: Honey Bears Montessori, HA5 2QU

- 5.52 Honey Bears nursery is located within the Eastcote Methodist Church ensuring that there is limited space and time constraints due to the religious activities that occur on the overall site. The current nursery is limited to a particular hall in the building in which it functions whilst the reminder of the building is utilised for alternate reasons.
- 5.53 The current operation on site only accommodates 20 children at any given time. If this proposed was to absorb the provision at the subject site, the size of the nursery would increase by nearly 4 times in terms of size and staff. This would not be suitable in the existing building and in relation to the size of the nursery and its relationship with the adjacent church.



Setting details

Unique reference number	EY389083
Local authority	Hillingdon
Inspection number	10265049
Type of provision	Childcare on non-domestic premises
Registers	Early Years Register
Day care type	Sessional day care
Age range of children at time of inspection	2 to 4
Total number of places	20
Number of children on roll	28
Name of registered person	Kassam, Sajeda
Registered person unique reference number	RP904395
Telephone number	0208 4261855
Date of previous inspection	23 May 2017

- 5.54 It would not be possible to extend the building as the nursery does not own this and operates from this space. As such, the site simply does not have the space to accommodate the proposed development via extension.
- 5.55 In addition to this, the latest Ofsted report states that this nursery has closed ensuring that this is less provision within the local area adjacent to the subject site. Therefore, along with the site not being suitable it is also no longer available.

CLOSED

Honey Bears Montessori

URN: EY389083

Address: Eastcote Methodist Church, Pamela Gardens, PINNER, Middlesex, HA5 2QU

7. Address: Haydon Hall Montessori, HA5 2EG

- 5.56 The above nursery is located adjacent to Eastcote Billiards and Cricket Club location within Haydon Hall Park. Therefore, similarly to the situation at the above site the nursery does not own the surrounding land and space ensuring that expansion of the facilities would be extremely difficult. In addition to this, it would not be possible to implement the "biodiversity"

elements of the scheme due to the nature of the surrounding land and its use via the cricket club and as a public park.

- 5.57 This nursery has a much higher capacity due to the existing built from that is afforded to the provision. However, this nursery would almost have to double in size to accommodate the proposed development. It is viewed that the parking situation would potentially be acceptable due to the additional parking associated with the adjacent clubs which could be utilised at certain times. However, there is no space to extend the existing provisions whilst it would not be possible to do this.

Setting details

Unique reference number	EY270688
Local authority	Hillingdon
Inspection number	10073266
Type of provision	Full day care
Registers	Early Years Register
Day care type	Childcare on non-domestic premises
Age range of children	1 - 4
Total number of places	74
Number of children on roll	62
Name of registered person	Norfolk Lodge School Limited
Registered person unique reference number	RP901309
Date of previous inspection	21 April 2016
Telephone number	0208 866 4701

- 5.58 As such, expansion of this provision would not be possible on site, and it is not a viable alternative.

8. Address: Rise Montessori Nursery, HA5 2SH

- 5.59 This provision is located within the Shree Swaminarayan Hindu Temple in Pinner. Again, this ensures that it would be extremely difficult to extend the existing building to accommodate further children. The number of places at the facility is 70 ensuring that the provision would again have to double in size.

- 5.60 Without being able to extend the facilities, and without using the whole building 5 days a week (which would not be possible in a religious facility with this being the primary use), it would not be possible to drastically extend the facility in this manner. In addition, it would not be possible to implement the sensory biodiversity elements of the scheme which are imperative to the operation of the proposed nursery, it appeal to parents and the scope of the project.
- 5.61 As such it would not be possible to develop the site in a way in which the proposed development could be accommodated in practice.

Summary of Assessment of Sites

- 5.62 This additional section has been placed into this report to address the previous comments made by Hillingdon Council in the Council's Officer Report to refuse application subject to this appeal.
- 5.63 Firstly, the Council claim that the sequential assessment has not considered any Class E existing uses stating that these sites have not been considered within the planning search. This is incorrect and the methodology of this test does not restrict the assessment of sites in relation to their use by any means.
- 5.64 The test only discounts sites from its assessment due to size whilst local nurseries around the site are also assessed in regard to expansion. Therefore, any sites that are Class E sites that are possible to development have been assessed. Every single allocation within the Brownfield Land Register has been assessed; alongside the SHLAA and Local Plan. In addition to that, any sites that are available for sale and are Class E would also have been assessed if these were available.
- 5.65 We urge the Inspector to consider that this test could only assess land buildings that are available for sale, are allocated, or have recent planning permission which can be located via the Council's planning search. The appellant cannot be expected to have omnipotent knowledge of the borough and sites within it.

- 5.66 The appellant can also not be expected to assess every single Class E site within the entire borough, irrelevant of its site and actual availability in practice (as most uses will be being utilised and not available, hence these buildings/site not being up for sale or allocated for further development).
- 5.67 Any Class E sites available, would have been assessed within the methodology utilised within this test. If the Council are aware of any additional sites, it is requested that a list is provided, the appellant can then assess whether these are suitable within the appeal proceedings.
- 5.68 As discussed above in section 4, it is crucial that any alternate site must be suitable for the type of development proposed. The appellant would not be able to run 4 or 5 different nursery expansions on multiple different sites in practice. Financially it would not be viable or plausible to fund a minor expansion of multiple nurseries in which the appellant could financially benefit and run a functional business within that model.
- 5.69 In practice it would not be possible to expand multiple sites on a small scale, the appellant would simply not be able to do this in practice and, thus, if this conclusion was made no provision would be provided and moved forward with by the applicant. Crucially, the aim of the test is to “**steer**” development away from the Flood Zone is possible, not “**resist**” development within the Flood Zone.
- 5.70 Therefore, the proposal must be able to provide sensory biodiversity learning through the careful construction and use of the site. Due to the restricted land associated with existing provisions this is not possible.
- 5.71 This is also relevant in regard to existing Class E uses as it would not be suitable for such use and the type of development proposed to be located in a large majority of these locations.
- 5.72 The Council stated that the previous test did not assess whether existing nurseries could be expanded to meet the proposed provision. This criteria is accepted as a reasonable flaw with the previous test, therefore, this test has been amended to address this previous concern raised by the LPA.

- 5.73 The 4 nurseries in close proximity have been assessed in regard to their expansion and all 4 have been deemed to not be suitable. When referring to whether alternate nurseries may be suitable, the Council state in their officer report that *"this optimisation could be operational in terms of accommodating the maximum number of children or physically through extending these"*. Therefore, the Council are aware that the facility needs to either be extended or have the space to accommodate an additional 60+ children.
- 5.74 As is seen within the feasibility study submitted alongside this proposal; there is a drastic need for nursery places throughout the whole borough and within the specific location of the subject site. Therefore, due to this under provision, it is fair to conclude that most (if not all nurseries) within the borough are operating close to their capacity. Again, as found within the assessment of the 4 sites provided by the Council, a large number of existing nurseries either rent out an existing building (ensuring that an extension/expansion is not possible) or they are heavily constrained via the land that confines them.
- 5.75 Therefore, no nurseries will be available to extend or absorb the provision that this appeal submission seeks to address within the local community.
- 5.76 PPG advises that for individual planning applications subject to the Sequential Test, the area to apply the test should be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school (Paragraph: 027 Reference ID: 7-027-20220825).
- 5.77 Therefore, it is suitable to reduce the catchment of the search area of a certain radius around the site, in relation to the catchment area of the proposed nursery in question. In this proposed use there will be a key future user which will be in the surrounding area, thus, providing justification for limiting the scope of the search.

5.78 As the Council confirmed in the pre-application response that a council wide search would be required, this is what has been taken forward in this instance. A Council wide search was completed to provide even more clarity as to there being no alternate sites within the borough. However, when this assessment has gone on to access existing nurseries it has done so via a close proximity basis due to the expansion of these existing nurseries being entirely dependent on the catchment of their local area and the catchment area of the subject site.

5.79 Finally, in the Council's conclusion within the officer report regarding sequential testing 6 bullet points are made as to why the test is not acceptable. These will be stated and responded to (in blue) below following the information and justification provided above.

1. Criteria 6 is overly restrictive and is considered to be arbitrarily in place to limit the number of sites explored under the sequential test. (The test cannot be borough wide and cover every single piece of land or building within the borough. As the proposal does not include units to restrict the use by, the only plausible variable is the size of the site.)

2. Criteria 8 and 9 fail to fully explore a number of sites further and fails to consider and compare flood risk from different sources, by virtue of excluding sites of for example a high risk of surface water flooding but located within flood zone 1. (Sites have been considered in regard to all sources of flooding by a qualified consultant, this has occurred within the above test. The appellant apologises if this was not clear whilst clarity has been provided within this amended statement)

3. The evidence provided to demonstrate there is a local if taken at face value would mean that the application would only meet 0.3% of the local need. However, the Council questions the methodology to assess the local need and feasibility, both in terms of how assumptions have been made and as to if this site would meet need derived from some of the stated areas. (Feasibility and sequential testing are not relevant to each other. The aim of a sequential test is to simply see if there any alternate sites that could accommodate the proposal. There could be an overprovision of

1000% in the borough, but if someone proposes a nursery in the flood zone the same process must occur to see if any alternate sites are available. If the Council questions the feasibility and whether there is not demand for the proposal, this is a separate refusal reason which is completely separate from sequential testing.)

4. The applicant has not considered other appropriate alternatives such as vacancies within existing nurseries, operational and physical expansions to existing nurseries and utilising existing vacant Class E buildings. (The methodology was not restricted in regard to use; therefore, if any Class E sites were allocated or available whilst being of a suitable size; these would have been assessed within this report. This statement is incorrect)

5. The submitted feasibility report, if taken at face value, raises the issue of why other sites in other boroughs have not been explored in line with the findings of the feasibility study. (As per paragraph 027 of the PPG, the area of search to which the Sequential Test could be applied will be wider than the local planning authority boundary only in relation to nationally or regionally important infrastructure or facilities. This is not the case in this submission)

6. No clear and convincing evidence has been submitted by the applicant to demonstrate that there is a local need for the proposed development or that there are no other suitable sites available. (Again, the demand is not relevant to the assessment sequentially, only whether other sites are available)

6. Conclusion

- 6.1 The application proposes the erection of a single storey detached nursery building including access, landscaping, a garden area, and parking. The site is mainly located in flood zone 2 but there are some areas to the rear which are located in flood zone 3. Of the sites identified further assessment was required for some sites in section 5 of this statement.
- 6.2 The sites were not seen to be suitable for a variety of reasons which are stated above. Therefore, no alternative sites have been found in relation to the proposal for a single storey nursery.
- 6.3 Given the requirements of the NPPF are to apply a “pragmatic approach” on the availability of alternatives when undertaking the Sequential Test, the suitability of these sites have then been assessed. This concludes that none are considered suitably similar, available, developable, or deliverable to support the development proposed.

7. List of Accompanying Appendices

Appendix 1: Site & Location Plans

Appendix 2: Detailed Flood Risk Information (Excel sheet from GeoSmart)

Appendix 3: Hillingdon Brownfield Land Register 2020

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