

ATLAS

PLANNING GROUP

STATEMENT OF CASE

MINISTEPS NURSERY, 150 JOEL ROAD, NORTHWOOD, HA6 1NL

FEBRUARY 2017

CONTENTS

Introduction	3
The Appeal Site	3
Refused Application	3
Refused Planning Application (Ref: 698/APP/2017/3447)	3
Grounds of Appeal	4
Principle of Development	5
Loss of A Residential Flat	5
Local Need for Nursery School Places.....	7
5 year Housing Land Supply	10
Impact from Noise and Disturbance	10
Recommended Conditions.....	13
Conclusion.....	18

Appendices

Appendix A- Decision Notice (LPA ref: 698/APP/2017/3447)

Appendix B- Appeal Decision APP/R5510/A/11/2150520

Appendix C- The London Borough of Hillingdon Childcare Sufficiency Assessment (2017)

Appendix D- Appeal Decision APP/U5360/C/14/2216709

INTRODUCTION

- 1.1 This report provides the Statement of Case against the decision to refuse planning permission on 20th November 2017, for the change of use of a first floor one-bedroom flat to a staff room and classroom, in connection with the existing nursery at Ministeps Nursery, Northwood (Planning Reference 698/APP/2017/3447).

THE APPEAL SITE

- 1.2 The site lies to the west side of Joel Street at its junction with Norwich Road and comprises a large detached property. The building is currently in use as a nursery with a one bed self-contained flat located on the first floor. The flat does not have independent access and is accessed through the main entrance of the nursery. To the rear of the property is external amenity space which is used as a play space for the nursery. To the rear of the amenity space is a garden area for the one bedroom flat. Again, this residential amenity space is accessed through the main entrance of the nursery, and the nursery's external play space.
- 1.3 The application site is bounded by residential dwellings to the north and west, whilst Joel Street and a builder's yard are located to the immediate east. To the south lies Norwich Road and further dwellings. The site is located on a corner plot at the junction of Joel Street and Norwich Road, and benefits from an existing access point.

REFUSED APPLICATION

REFUSED PLANNING APPLICATION (REF: 698/APP/2017/3447)

- 1.4 The application subject of this appeal was for the proposed change of use of a first floor one bedroom flat to staff room and classroom, with additional vehicular access and outdoor play space at Ministeps Nursery, 150 Joel Street in Northwood. The application was validated on 25th September 2017.
- 1.5 Three responses from Hillington Council's consultees were received, from the Highways, Access Officer and a Landscape Architect. All three consultees had no objection to the proposals.

1.6 In the Decision Notice (Appendix A), the Case Officer recommended the proposal for refusal. The Officer provided two reasons for refusal, namely:

1.6.1 The proposal would result in the loss of residential accommodation which is suitable with or without adaptation for residential use and which makes a contribution to the boroughs' housing stock. Therefore, the proposal is contrary to Policies H2, H3, R12 and R13 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and Policy 3.14 of the London Plan (March 2016).

1.6.2 The proposal, by reason of the increase in use of the property and rear amenity area would be detrimental to the amenities of adjoining residential occupiers by reason of increased noise and disturbance. Therefore, the proposal is contrary to Policies R12, OE1 and OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and the Council's adopted Supplementary Planning Document HDAS: Noise.

1.7 The application was refused on 20th November 2017.

GROUND OF APPEAL

2.1 When examining both the Officer's report and the reasons for refusal, there are two key aspects to the decision:

2.1.1 The proposal would result in a loss of residential accommodation;

2.1.2 The impact from noise and disturbance from the increase in use of the property.

2.2 These refusal reasons will now be examined in detail.

PRINCIPLE OF DEVELOPMENT

- 3.1 The application site is located within the defined limits of development for the area, and therefore the principle of development should be considered acceptable subject to the proposal according with relevant local policies and other material considerations.
- 3.2 The first reason for refusal states that the proposals *“would result in the loss of residential accommodation which is suitable with or without adaptation for residential use and which makes a contribution to the boroughs' housing stock. Therefore, the proposal is contrary to Policies H2, H3, R12 and R13 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and Policy 3.14 of the London Plan (March 2016).”*
- 3.3 However, whilst the proposal would result in a loss of a 1-bedroom residential unit, that the need for nursery school places significantly outweighs the need for a niche (and unnecessary) one bedroom self-contained flat.

LOSS OF A RESIDENTIAL FLAT

- 3.4 The appeal site currently comprises a pre-school nursery across two storeys, with a 1-bedroom flat which forms part of the first floor. The only access to this flat is through the nursery, and up the stairs past the children's play room. As noted by the Inspector of the previous appeal (Ref: APP/R5510/A/11/2150520) (Appendix B) this flat is only suitable for ancillary manager's accommodation and therefore the use as a flat is highly restrictive.
- 3.5 The Case Officer asserts that the proposal is contrary to Saved Policies H2 & H3 of the Unitary Development Plan, which aim to safeguard existing housing. The former of these policies sets out the Council's position that changes of use from a residential dwelling will *not normally* be acceptable. This states that *“the loss of accommodation (which could be occupied with or without adaptation) will only be permitted if it is replaced within the boundary of the site.”*
- 3.6 However, the supporting text of these policies (paragraphs 7.7 and 7.8) state that dependant on individual circumstances, there can be exceptions to policy. Paragraph 7.8 notes exceptions can be made:

“- where residential accommodation is located over retail or other commercial premises and either:

(a) access to the dwelling unit is gained only through the retail or other commercial premises and it can be demonstrated to the satisfaction of the Local Planning Authority that the construction of an alternative access cannot be provided either physically or at reasonable cost; or....”

- 3.7 The appellant contends the proposal is an exception to the policy under criterion (a), as access to the flat is only achievable through the nursery. There is no means for a separate access, due to the physical constraints of the existing layout.
- 3.8 The flat is only acceptable as managers accommodation, which was highlighted during the application within letters from Ofsted and local estate agents. These letters state that the flat could not be easily rented out on the private market due to its relationship within the nursery. Whilst this argument was presented as part of this application, the Officer’s Report dismisses this as they note that the evidence relates to the unsuitability of the flat as a private rented accommodation when it has been approved as an ancillary use. Whilst the flat has already been established as an ancillary use, this should not dismiss the fact that the flat qualifies as an exception under policies H2 and H3.
- 3.9 The decision notice also states that the proposals are contrary to Saved Policies R12 and R13, which relate specifically to the provision of childcare facilities. Policy R12 allows proposals for the use of premises for childcare providing that there is no loss of residential accommodation. Policy R13 allows for the re-use of residential accommodation for childcare where (amongst other things), only part of a dwelling is used, and the remainder is capable of residential use in accordance with policies H9-H12 as appropriate. It is acknowledged that the proposals conflict with Policies R12 and R13.
- 3.10 However, it appears there is a degree of conflict between these two sets of policies (H2 and H3 and R12 and R13). Indeed, it seems illogical that whilst there are policies which specifically seek to safeguard existing dwellings, Policies R12 and R13 re-tread this ground. It is a further oddity that the loss of the flat can be justified in this instance under the exceptions of paragraph 7.7 and 7.8, but further policies specifically restrict this loss. This means there will always be a conflict in situations where the loss of a residential unit is proposed above childcare premises. This would not be the case where a flat above a shop unit met the exception criteria under H2 & H3. There is no apparent logical basis for the extra restriction placed upon changes of use of residential accommodation for childcare purposes.

- 3.11 It should be noted that the proposal accords with the remaining requirements of Policy R13, as highlighted by the Inspector of the previous appeal. It is noted there are no similar facilities in the area, on the contrary, the Borough has recognised the need for more facilities in the area to provide for its ever-growing population. Furthermore, the proposal will have no detrimental impact on the highway network. Indeed, the Highways Officer stated, *“on the basis of the above comments there will always be short periods of congestion outside nurseries and pre-school premises but in this case the increase is only 16 more pupils which I do not believe results in significant highway impact on the local highway system.”* Therefore, it is considered that there will be no impact on highway safety and therefore does accord with the remaining criteria of Policy R13.
- 3.12 The proposals pass the exception test of paragraph 7.8 under H2 & H3 and are therefore accordant with these policies, however, conflict with elements of Policies R12 & R13 has been identified. The appellant argues that this conflict is outweighed by the significant local need for nursery school places.

LOCAL NEED FOR NURSERY SCHOOL PLACES

- 3.13 The Inspector of the previous appeal at the site (ref: APP/R5510/A/11/2150520) highlighted that the local need for preschool places outweighs the need for residential accommodation, stating:

*“I conclude that the proposed development would harm the provision of residential accommodation and conflict with the aims of UDP policies H2 and H3 **but this is outweighed by the need for nursery school places.**”* [our emphasis added].

- 3.14 In this instance, the Inspector acknowledged that the proposal does not accord with the local policy, yet recognised that the need for places in an established nursery would outweigh the need for such accommodation at the site. It is therefore considered that the policy conflict over the loss of the residential unit can be overcome.
- 3.15 Across the borough, there is a requirement for nursery school places. It is acknowledged in the Local Plan that the growing population in the borough is putting pressure on social infrastructure and that *“Hillingdon’s primary and secondary school provision will need to react to changing demographics and this Hillingdon Local Plan: Part 1- Strategic Policies supports proposals to address the needs arising from an increase in the school age population.”*

- 3.16 Paragraph 72 of the NPPF seeks to ensure that LPAs take a proactive and collaborative response regarding educational provision and states that LPAs should *“give great weight to the need to create, expand or alter schools”*. Paragraph 72 additionally notes *“the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities”*.
- 3.17 It is considered that the current use as a flat is not meeting the needs of the local people, and that the change of use would help achieve the overarching objectives of the NPPF. Furthermore, the reuse of this redundant flat would help contribute to ever-growing need for nursery school spaces and help address the increase in school age population across the borough, and ward of Northwood. It is therefore considered that the proposal accords with local and national policy expectations.
- 3.18 The appeal site is already an established nursery, where Ofsted have rated the service at the nursery as good. The extra provision at the established unit could benefit the surrounding area. Indeed, the nursery currently has a total of 18 families with children on a waiting list, further highlighting that there is an established local need for additional spaces.
- 3.19 As previously noted, the existing flat is unsuitable for use as a market dwelling, yet the ancillary accommodation is not used and therefore is practically redundant. Nevertheless, the Case Officer argued the information provided as part of the application was not sufficient to justify its loss. However, it should be noted that the Inspector of the previous appeal highlighted the need for nursery places is greater than the need to retain the residential unit.
- 3.20 Indeed, the Inspector of the previous appeal at the site noted *“the UDP recognises the value and importance of suitable day-care facilities for pre-school children. The emerging Core Strategy 2 indicates that high and rising birth rates are leading to a pressing need for additional primary school places. Locally, there are considerably more pre-school age children than there are available nursery school places.”* It is considered that this proposal can contribute to relieve pressures in the ward by making use of this redundant space.
- 3.21 The Childcare Sufficiency Assessment (December 2017) which was undertaken by London Borough of Hillingdon, highlights the pressing local need for more preschool spaces (Appendix C). Indeed, one of the main findings from the report was that due to a rise in birth rates across the borough, there has been a greater demand for pre-school childcare places across the borough, leading to demand and supply pressures. The report highlights that the consequence from the increase in birth rates in the area is;

“likely to be more demand for childcare places and in the short term this is likely to be put further pressure on places for pre-school children. The birth rate is also having an impact on the supply of places that offer the free early education entitlement for three and four-year olds.”

As highlighted in the report *“the local authority has a statutory duty to ensure that there are sufficient childcare places for eligible two, three and four-year olds.”* Indeed, the report concludes by highlighting that *“overall there are not enough childcare places as a whole in the borough given the rising birth rate and the likelihood that demand for childcare will increase. In the short term a higher number of baby places are likely to be needed but it is anticipated that more childcare places will be needed overall to meet an increasing population.”* It is considered that not only would this proposal contribute to the pressures of supply spaces for preschool children, that the proposal is also making use of an already existing established preschool facility and helping meet the demand of the borough.

3.22 The London Borough of Hillingdon Strategic Infrastructure Plan (2012) further highlights the need for more nursery school spaces due to an increase in population within the borough, which is putting a strain on local services. It states *“according to Hillingdon Education Services, the number of births in Hillingdon has risen for several consecutive years with record highs in 2006, 2007, 2008 and 2009. Births in 2008 and 2009 were exceptionally high at 4,126 and 4,207 respectively, several hundred more children than the previous record high. Having risen steadily for several years, the ONS and GLA predict that the birth rate will remain high for the next few years”*. It further notes that this is exacerbated by family movements to the area, which increases pressure on services.

3.23 Furthermore, the report highlights that the growth in Hillingdon alone is expected to significantly rise over the next 10 years, where *“between 2011 and 2026 the number of residents aged 0-19 as a percentage of the total population is expected to increase by approximately 10%”*. The Joint Strategic Needs Assessment report produced in 2017 for the Council has further identified the current population change of the borough in comparison to other large boroughs in North London. The report identified a proportionately larger population increase than other boroughs of London. This increase in population will put further stress on the local economy and facilities.

3.24 Hillingdon’s Local Economic Assessment (2011) states there is a greater demand for pre-school childcare places, which has occurred as a *“result of the rising birth rate is higher demand for childcare places in the short*

term. The birth rate is also having an impact on the supply of places that offer the free early education entitlement for three and four-year old's." The rise in birth rates and the lack of provision for nursery school spaces is an ongoing issue. The proposal would provide an additional 16 spaces for under 5's, contributing to the need in the local area.

- 3.25 It was recognised by the previous Inspector that the need for more nursery spaces in the borough does outweigh the need to retain a single residential unit. The appeal site is considered to be an exceptional circumstance and the loss of the ancillary use is considered to have no material impact on the housing supply of the borough. This space could be better utilised through providing more spaces for pre-school education, for which there is a proven local need.

5 YEAR HOUSING LAND SUPPLY

- 3.26 It should also be noted that the Council is well in excess of its five-year housing land supply. Whilst this supply is not a cap, because the flat is restricted to the employees of the nursery, it does not make a significant contribution to the supply.
- 3.27 It is considered that due to its limited provision and niche use, that the proposal for additional pre-school spaces in an already established nursery outweighs the need for the flat. This is further highlighted in a similar case for the change of use of a C3 dwelling to a D1 school in the London Borough of Hackney. Allowing the appeal (Ref: APP/U5360/C/14/2216709) (Appendix D), the Inspector stated that *"In my opinion, the loss of a single dwelling does not adversely harm the character of the street scene or significantly undermine the supply of dwellings in this location, due to the limited scale of the development....I conclude that the development has no material effect upon the supply of housing in the borough"*.

IMPACT FROM NOISE AND DISTURBANCE

- 3.28 The second reason for refusal was due to the potential noise and disturbance to the surrounding dwellings. The Case Officer stated that *"by reason of the increase in use of the property and rear amenity area would be detrimental to the amenities of adjoining residential occupiers by reason of increased noise and disturbance"* and therefore was contrary to Policy OE1, OE3 and R13.
- 3.29 It is important to highlight that the appeal site is already an established nursery. The application proposes to provide an additional 16 nursery spaces for the children, which is not considered to cause detrimental harm

regarding noise and disturbance, particularly as the number of children playing outside will not be increased. It is important to note that there are no external changes to the building, therefore the size, scale and mass of the building will remain as the existing building. Notwithstanding this, the nursery is only proposed to be open between the hours of 7.30am and 6pm Monday to Friday, and therefore its impact on the surrounding area would be restricted to avoid disturbance during unneighbourly hours.

- 3.30 The proposal only seeks to change the internal floor space of the first floor, and the amenity space to the rear of the garden, and therefore this statement has examined the potential disturbance the proposal would have regarding these issues.
- 3.31 The proposed 'Room C' seeks to change from a residential kitchen and lounge to provide space for 10 under 5's during the opening hours of the nursery. The room's only window is located on the south-east elevation. This window fronts out onto the junction of Norwich Road and Joel Street. It is considered that the change would have no material impact on neighbouring properties to the west (namely 2 Norwich Road), due to the location of the existing window which fronts the road and that the room will be in use for a limited time throughout the day.
- 3.32 Furthermore, there will be no material increase in noise or disturbance from the change of use of the room on the first floor from a bedroom to a staff room. It is considered that this room would be the room emitting the lowest noise disturbance and will be least in use throughout the opening hours of the nursery. Furthermore, the only window is on north west elevation, which faces out towards the amenity space, which therefore will limit the noise and disturbance from the room.
- 3.33 It is considered that there will be no detrimental impacts on the neighbours to the east of the site from the increase in children using Room D. Currently, this room can provide for 6 under twos, however the proposal seeks to increase the size of the room to provide for 13 under 5's. This room will have three windows, two of which are on the northern elevation looking out onto the amenity space, and one on the southern elevation which fronts onto the road. It should be noted that this room is already established as a nursery room and the increase in children using the room is considered to have little impact on the neighbouring property due to the siting of the windows.
- 3.34 The change of use of the residential garden to a wildlife garden will not significantly contribute to noise or disturbance to the surrounding dwellings. In the first instance, the garden will only be used during opening

hours of the nursery and therefore it is considered to have minimal impact on the surrounding area. The Case Officer refused the application due to it being contrary to Policy OE3 which states that *“buildings or uses which have the potential to cause noise annoyance will only be permitted if the impact is mitigated within acceptable levels by engineering, layout or administrative measures”*.

- 3.35 In addition, although the number of children is proposed to be increased to 54, it is important to note that there will **no** changes in terms of the number of children using the outdoor amenity space at one time. Indeed, it should be noted that the nursery wishes to retain a condition similar to that of the previous planning permission which restricted the number of children using the amenity space to 19 (condition number 7). With an appropriate condition in place, there will be no difference in the number of children using the outdoor play area than existing and therefore, it is not considered that there will be any additional impacts on neighbours with regards to noise and disturbance. As such, the proposed development is considered acceptable.
- 3.36 The proposed application sought to install a new timber fence as mitigation for both visual impact and noise from the play area, to ensure the amenity of surrounding properties is safeguarded. The Case Officer states that this mitigation is not sufficient, however has provided no justification as to why the proposed landscaping and fence would not provide mitigation. It should be noted that a ‘Jakoustic Environmental Noise Barrier Fence’ was approved as part of the previous application and was considered to provide appropriate mitigation. It is considered the noise impacts from the additional children using the unit will not be detrimental, as the building is already a fully established nursery and the same number of children will be using the amenity space at one time - there will be no additional noise from the amenity area at one time. Any concerns raised regarding noise could also likely be conditioned as part of this decision.
- 3.37 Furthermore, with regards to noise implications from the road, the highways officer raised no objection to the scheme and noted that there would only be an additional 8 additional car trips at peak time. The Highways Officer considered this to be acceptable, and as the established nursery is at a junction, it is considered that there are already low levels of noise disturbance from the roads. Therefore, it is considered that the proposal will have no further disturbance from the road.
- 3.38 It is therefore considered that the proposal will have minimal impact on noise and disturbance to the surrounding area due to the existing conditions and carefully designed noise mitigation provided with the new timber fences. Appropriate noise mitigation can be conditioned this appeal, and should not constitute a reason

for dismissal, as the use of the building as a nursery is already established. The appeal site is therefore in accordance with Policy OE1, OE3 and R13 and should be considered acceptable.

RECOMMENDED CONDITIONS

4.1 Should the Appeal be Allowed, we recommend the following conditions be applied:

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

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans (numbers 16019 PA 0201, Planning Statement, Design and Access Statement, Noise Impact Statement, Transport Statement) and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON: To ensure the development complies with the provisions of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and the London Plan (July 2011).

3. The development hereby permitted shall not be occupied until the following has been completed in accordance with the specified supporting plans and/or documents: Refuse and Recycling Storage
Thereafter the development shall be retained/maintained in accordance with these details for as long as the development remains in existence.

REASON: To ensure that the development complies with the objectives of Policy 5.17 of the London Plan.

4. No development shall take place until details of all materials and external surfaces, have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details and be retained as such. Details should include information relating to make, product/type, colour and photographs/images.

REASON: To ensure that the development presents a satisfactory appearance in accordance with Policy BE13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

5. The premises shall be open for the use hereby approved between the hours of 07:30 hours and 18:00 hours on Monday to Friday only and shall be closed on Bank Holidays.

REASON: To safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with Policy OE3 of the Hillingdon Unitary Development Plan.

6. No more than 54 children shall be accommodated at the site at any one time.

REASON: To safeguard the amenity of surrounding areas and nearby properties in accordance with Policy OE3 of the Hillingdon Unitary Development Plan.

7. The outdoor play area within the site shall be restricted to a maximum of 19 children at any one time on any day that the nursery is open.

REASON: To safeguard the amenity of surrounding areas and nearby properties in accordance with Policy OE3 of the Hillingdon Unitary Development Plan.

8. The external play area shall be covered with a sound absorbing and permeable surface and the underside of the soffit of the covered section of external play area shall also be treated acoustically with sound absorbing material, details of which shall be submitted to and approved in writing prior to the commencement of any works on the site and such details as are approved shall be implemented prior to the use hereby permitted and maintained thereafter.

REASON: To safeguard the amenity of surrounding areas and nearby properties in accordance with Policy OE3 of the Hillingdon Unitary Development Plan.

9. The external play area and children's garden as set out in Drawing No. 16019 PA 0201 shall be bounded on all sides by acoustic fencing of 2.0m in height. Details of which shall be submitted to and approved in

writing prior to the commencement of any works on the site and such details that are approved shall be implemented prior to commencement of the use hereby approved and maintained thereafter.

REASON: To safeguard the amenity of surrounding areas and nearby properties in accordance with Policy OE3 of the Hillingdon Unitary Development Plan.

10. Deliveries and collections, including waste collections, shall be restricted to the following hours: 0730 hrs to 1800 hrs Monday to Fridays; 0800 hrs to 1300 hrs on Saturdays; and not at all on Sundays and Bank Holidays.

REASON: To safeguard the amenity of surrounding areas and nearby properties in accordance with Policy OE3 of the Hillingdon Unitary Development Plan.

11. Trees, hedges and shrubs shown to be retained on the approved plan shall not be damaged, uprooted, felled, lopped or topped without the prior written consent of the Local Planning Authority. If any retained tree, hedge or shrub is removed or severely damaged during construction, or is found to be seriously diseased or dying another tree, hedge or shrub shall be planted at the same place or, if planting in the same place would leave the new tree, hedge or shrub susceptible to disease, then the planting should be in a position to be first agreed in writing with the Local Planning Authority and shall be of a size and species to be agreed in writing by the Local Planning Authority and shall be planted in the first planting season following the completion of the development or the occupation of the buildings, whichever is the earlier. Where damage is less severe, a schedule of remedial works necessary to ameliorate the effect of damage by tree surgery, feeding or groundwork shall be agreed in writing with the Local Planning Authority. New planting should comply with BS 3936 (1992) 'Nursery Stock, Part 1, Specification for Trees and Shrubs' Remedial work should be carried out to BS BS 3998:2010 'Tree work - Recommendations' and BS 4428 (1989) 'Code of Practice for General Landscape Operations (Excluding Hard Surfaces)'. The agreed work shall be completed in the first planting season following the completion of the development or the occupation of the buildings, whichever is the earlier.

REASON: To ensure that the trees and other vegetation continue to make a valuable contribution to the amenity of the area in accordance with policy BE38 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and to comply with Section 197 of the Town and Country Planning Act 1990.

12. No development shall take place until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

1. Details of Soft Landscaping

- 1.a Planting plans (at not less than a scale of 1:100),
- 1.b Written specification of planting and cultivation works to be undertaken,
- 1.c Schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate

2. Details of Hard Landscaping 2.a Means of enclosure/boundary treatments (inc. elevations if appropriate)

2.b Car Parking Layouts

2.c Hard Surfacing Materials

2.d External Lighting

2.e Other structures (such as play equipment and furniture)

3. Details of Landscape Maintenance

3.a Landscape Maintenance Schedule for a minimum period of 5 years.

3.b Proposals for the replacement of any tree, shrub, or area of surfacing/seeding within the landscaping scheme which dies or in the opinion of the Local Planning Authority becomes seriously damaged or diseased.

REASON: To ensure that the proposed development will preserve and enhance the visual amenities of the locality and provide adequate facilities in compliance with policies BE13, BE38 and AM14 of the Hillingdon Unitary Development Plan Saved Policies (September 2007)

13. The roads/turning/loading facilities/sight lines and parking areas (including the marking out of 2 parking spaces) shown on the approved plans shall be constructed prior to occupation of the development, thereafter permanently retained and used for no other purpose.

REASON: To ensure that the loading, roads, turning facilities and parking areas are satisfactorily laid out on site in accordance with Policies AM3 and AM14 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) and Chapter 6 of the London Plan (July 2011).

14. The development hereby permitted, shall not be occupied until cycle storage facilities for the storage of 8 bicycles have been provided in accordance with the approved plans. Thereafter, these facilities shall be permanently retained on site and be kept available for the use of cyclists.

REASON: To ensure the provision and retention of facilities for cyclists to the development and hence the availability of sustainable forms of transport to the site in accordance with Policy AM9 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Chapter 6 of the London Plan. (July 2011).

CONCLUSION

- 5.1 This Statement of Case has presented the appellant's case against the decision to refuse the change of use of a 1-bedroom unit to staff room and classroom in connection with use as a nursery and provision of an additional vehicular access and outdoor play-space.
- 5.2 This document provides justification for the appellant's position that the scheme is acceptable in planning terms and should be Allowed on Appeal. It is argued that even if the site does not conform with local policy, the need for the provision of nursery school space significantly outweighs the benefits of retaining a 1-bed unit that is currently not in use. This line of thought follows the conclusions of a previous appeal decision at the site.
- 5.3 With regards to noise and disturbance it is considered that the proposal will not constitute a significant increase in noise, due to the mitigation that is proposed as part of the scheme. In addition, the nursery wishes to retain the restriction on the number of children using the outdoor area to 19, which ensures that there will be no additional noise disturbance from the amenity space to the existing use. It is further noted that any concern regarding noise could be restricted through a condition, and therefore further protection could be secured.
- 5.4 After due consideration of the evidence presented, we consider that the proposal will have no adverse impacts on the neighbouring properties in terms of noise or disturbance, and although the proposal will result in a loss of a 1-bedroom unit, that the identified need for nursery school facilities significantly outweighs the need for such a unit.
- 5.5 As such, we respectfully request that the Inspector allows this Appeal.

A



Mr Dipesh Shah
D S Squared Architects
Multicom House, 2 Spring Villa Road
Edgware
London HA8 7EB

Application Ref: 698/APP/2017/3447

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

REFUSAL OF PLANNING PERMISSION

The Council of the London Borough of Hillingdon as the Local Planning Authority within the meaning of the above Act and associated Orders **REFUSES** permission for the following:-

Description of development:

Change of Use of first floor one bedroom flat to staff room and classroom in connection with use as a nursery and provision of an additional vehicular access and outdoor play-space

Location of development: 150 Joel Street Northwood

Date of application: 25 September 2017

Plan Numbers: See attached Schedule of plans

Permission is refused for the reason(s) listed on the attached schedule:-

Head of Planning and Enforcement

Date: 29 December 2017

NOTES: (i) Please also see the informatives included in the Schedule of Reasons.

(ii) Should you wish to appeal against this decision please read the attached sheet which explains the procedure.

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

REFUSAL OF PLANNING PERMISSION

Application Ref: 698/APP/2017/3447

SCHEDULE OF REASONS

- 1 · The proposal would result in the loss of residential accommodation which is suitable with or without adaptation for residential use and which makes a contribution to the boroughs' housing stock. Therefore, the proposal is contrary to Policies H2, H3, R12 and R13 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and Policy 3.14 of the London Plan (March 2016).
- 2 · The proposal, by reason of the increase in use of the property and rear amenity area would be detrimental to the amenities of adjoining residential occupiers by reason of increased noise and disturbance. Therefore, the proposal is contrary to Policies R12, OE1 and OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and the Council's adopted Supplementary Planning Document HDAS: Noise.

INFORMATIVES:

- 1 · The decision to REFUSE planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).
- 2 · The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) as incorporated into the Hillingdon Local Plan (2012) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including The London Plan - The Spatial Development Strategy for London consolidated with alterations since 2011 (2016) and national guidance.

Part 1 Policies:

Part 2 Policies

BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the area.
BE20	Daylight and sunlight considerations.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE22	Residential extensions/buildings of two or more storeys.
BE23	Requires the provision of adequate amenity space.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
BE38	Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
H2	Restrictions on changes of use of residential properties

SCHEDULE OF REASONS

H3	Loss and replacement of residential accommodation
OE1	Protection of the character and amenities of surrounding properties and the local area
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
R10	Proposals for new meeting halls and buildings for education, social, community and health services
R13	Use of residential accommodation for educational and child care premises
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
HDAS-EXT	Residential Extensions, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted December 2008
HDAS-LAY	Residential Layouts, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted July 2006
LPP 3.14	(2016) Existing Housing
LPP 7.4	(2016) Local character
LPP 7.6	(2016) Architecture
LPP 8.3	(2016) Community infrastructure levy

3 . On this decision notice policies from the Councils Local Plan: Part 1 - Strategic Policies appear first, then relevant saved policies (referred to as policies from the Hillingdon Unitary Development Plan - Saved Policies September 2007), then London Plan Policies (2016). On the 8th November 2012 Hillingdon's Full Council agreed the adoption of the Councils Local Plan: Part 1 - Strategic Policies. Appendix 5 of this explains which saved policies from the old Unitary Development (which was subject to a direction from Secretary of State in September 2007 agreeing that the policies were 'saved') still apply for development control decisions.

4 . In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies from the 'Saved' UDP 2007, Local Plan Part 1, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service.

We have however been unable to seek solutions to problems arising from the application as the principal of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

END OF SCHEDULE

SCHEDULE OF REASONS

Address:

Residents Services
London Borough of Hillingdon
3 North Civic Centre, High Street, Uxbridge UB8 1UW
Tel: 01895 250230
www.hillingdon.gov.uk

REFUSAL OF PLANNING PERMISSION

Application Ref.No.: 698/APP/2017/3447

SCHEDULE OF PLANS

Design and Access Statement (REF:16019 PA 02.00) - received 21 Sep 2017

16019 PA 0201 - received 21 Sep 2017

16019 PA 0101 - received 21 Sep 2017

Statement from Ministeps Nursery - received 21 Sep 2017

Transport Statement (Ref: 3606) - received 21 Sep 2017

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the office of the First Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within six months of the date of this notice, using a form which you can get from the Planning Inspectorate at Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel 0117 372 8424). Appeal forms can be downloaded from the Planning Inspectorate's website at <http://.Planning-inspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of an appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices.

If either the local planning authority or the officer of the First Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use by carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

B



Appeal Decision

Site visit made on 18 August 2011

by G M Hollington MA, BPhil, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 September 2011

Appeal Ref: APP/R5510/A/11/2150520

150 Joel Street, Northwood, Middlesex, HA6 1NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by M D Homes against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref. 698/APP/2010/1947, dated 7 September 2010, was refused by notice dated 2 November 2010.
 - The development proposed is change of use from C3 (residential) to D1 (non-residential institutions) for use as a nursery school involving 1 x 1-bedroom (2 person) flat, two storey front extension, single storey rear extension, alterations to existing elevations and alteration to existing crossover to front with associated parking and demolition of existing attached garage to side.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposed development on:
 - (a) the provision of residential accommodation;
 - (b) the character and appearance of the surrounding area; and
 - (c) highway safety and the free flow of traffic.

Reasons

- (a) Residential Accommodation
3. Policies H2 and H3 of the UDP¹ aim to resist the loss of residential accommodation but policy R13 allows the use of residential accommodation for educational and childcare premises provided that certain criteria are met. These include that, in residential areas, only part of a dwelling is used and the remainder is capable of residential use (criterion (i)).
 4. The west side of Joel Street, containing the appeal site, is predominantly residential. The appeal building is a large detached house, which would be altered and extended. Over half the first floor would be used as residential accommodation but it would not have a separate access, serving as the resident manager's flat.

¹ London Borough of Hillingdon Unitary Development Plan (adopted 1998) Saved Policies 27 September 2007

5. Policies H3 and R13 do not state that replacement or remaining residential accommodation must be self-contained. The underlying aim is to avoid diminution of the housing stock and the flat would contribute towards this by providing accommodation for a manager who would otherwise have to be housed elsewhere.
6. The UDP recognises the value and importance of suitable day-care facilities for pre-school children. The emerging Core Strategy² indicates that high and rising birth rates are leading to a pressing need for additional primary school places. Locally, there are considerably more pre-school age children than there are available nursery school places.
7. In these circumstances, I conclude that the proposed development would harm the provision of residential accommodation and conflict with the aims of UDP policies H2 and H3 but this is outweighed by the need for nursery school places and it would accord with policy R13 in principle and with its criterion (i).

(b) Character & Appearance

8. The residential area comprises a mixture of mostly detached and semi-detached houses of a variety of ages and designs, including some of art deco appearance, together with some flats a little to the north. The appeal building is of unremarkable appearance, with a two-storey, hipped-roof projection to the front.
9. As proposed, the building would be substantially altered and extended, including single storey extensions to the rear and to one side (where there are now a garage and car port) and a flat-roofed two-storey projection to the front to accommodate a stairwell and storage. It is this front extension to which the local planning authority (LPA) objects.
10. The alterations would give the building more of a contemporary appearance. In the varied context of the site, this is not itself objectionable, and Planning Policy Statement (PPS) 1: *Delivering Sustainable Development* encourages LPAs not to impose architectural styles or stifle innovation.
11. Although the proposed materials and some of the external features would reflect those to be found in the locality, the building occupies a prominent corner position where the two-storey front projection (beyond the existing forward-most wall) would particularly attract attention. It would appear as an incongruous addition to the front of the building because of the mismatches between the shapes of the proposed flat roof and existing pitched roof and the heights of the flat roof and the eaves of the existing pitched roof.
12. My conclusion on this issue is that the proposed development would result in unacceptable harm to the character and appearance of the surrounding area. It would conflict with the aims of UDP policies BE13, BE15 and BE19 and, insofar as it is relevant to a non-residential extension to an existing dwelling, the Residential Extensions SPD³.

² *A Vision for 2026* Local Development Framework Core Strategy Pre-Submission Draft February 2011

³ Hillingdon Design and Accessibility Statement (HDAS) Supplementary Planning Document *Residential Extensions* (December 2008)

(c) Highway Safety & Free Flow of Traffic

13. The appeal site is at the junction of Joel Street (designated a Local Distributor Road by the UDP) and Norwich Road, both of which are bus routes, with stops nearby on the opposite side of each road. Both roads are well used but the appellant's analysis of recent accidents does not suggest there is a road safety issue in the vicinity of the site. There are waiting restrictions on the west side of Joel Street close to the junction; these continue along Joel Street northwards and a short way into Norwich Road.
14. On the opposite side of Joel Street is a builders' merchant's yard with limited on-site turning; large vehicles reverse into it or unload on the road, but I have no information on the frequency of such occurrences. A recent appeal decision (Ref. APP/R5510/A/10/2134967) in respect of development at the yard concluded the development would not result in a wholly satisfactory servicing arrangement but it would be an improvement on the existing situation.
15. The proposed development would include two car parking spaces (one for the flat, one for staff) and eight cycle spaces. The two existing accesses would be closed to vehicles and a new vehicular access would be formed on to Norwich Road; this would represent a modest improvement on the existing situation.
16. The nursery would provide 38 spaces for children and the overall number of staff would be 11 (the numbers could be the subject of a planning condition). The appellant estimates (and the LPA does not dispute) the use would result in approximately 12 vehicles dropping-off or picking-up in the morning and evening peak periods, and to this I would expect to be added some arrivals or departures of staff who may park cars nearby. These increases in traffic movements would be very low compared with existing flows.
17. Given the busy nature of the roads and the difficulties which can sometimes arise in the vicinity of schools, I can understand the concerns of the LPA and local residents. However, the appellant's survey (on only one day but also undisputed by the LPA) supports my observation that there is ample on-street parking in the vicinity of the site. This should be able to accommodate staff as well as short-term drop-off/pick-up parking.
18. It is unclear what the LPA means by "indiscriminate parking", in view of the existing waiting restrictions at the junction itself and the nearby bus stops. Although yellow lines along the edge of a carriageway allow vehicles to stop while passengers board or alight, most of the children are likely to be sufficiently young that they would need to be escorted to/from the nursery and vehicles would need to be parked elsewhere. The central islands or refuges in Joel Street would also act as a physical deterrent to vehicles stopping on that road close to the junction. For both reasons, parking and dangerous manoeuvres close the junction would be unlikely to arise.
19. Furthermore, the appellant is willing to submit a revised Green Travel Plan and has entered into a section 106 planning obligation which would provide £10,000 for highways works including upgrading yellow lines from single to double, providing "children keep clear" markings and installing corner bollards. While I doubt the effectiveness of a travel plan when there is unrestricted parking nearby, and double yellow lines only affect the duration of the restriction, the other measures would assist in deterring abuse of the existing restrictions.

20. I conclude on this issue that, while adding to local traffic movements, the proposed development would not cause material harm to highway safety and the free flow of traffic. It would not conflict with the aims of UDP policies AM7 and R13 (criteria (iii) and (iv)).

Other Matters & Overall Conclusion

21. I have also taken into account all the other matters raised in the written representations, including the ecological ethos of the design and local residents' concerns, but they do not outweigh the considerations which have led to my conclusions on the main issues.
22. I have come to the views that the proposed use as a nursery school would be acceptable in principle and that material harm to highway safety and the free flow of traffic would not result, but there would be unacceptable harm to the area's character and appearance from the design of the front elevation in this prominent corner position.
23. PPS1 emphasises the importance of ensuring high quality development through good design and, while the consultation draft National Planning Policy Framework carries limited weight at this early stage, it also attaches great importance to achieving good design. My overall conclusion is that the harm to the area's character and appearance outweighs the favourable views I have reached in other respects.

G M Hollington

INSPECTOR

C

Childcare Sufficiency Assessment

London Borough of Hillingdon

December 2017

The Childcare Act 2006 placed a legal duty on all local authorities to ensure that there is sufficient childcare in their area.

In particular, the local authority has a duty to:

“Secure sufficient childcare, so far as is reasonably practicable, for working parents, or parents who are studying or training for employment, for children aged 0 - 14 (or up to 18 for disabled children).”

The local authority is required to report annually on how it is meeting its duty to secure sufficient childcare.

Focus is specifically required on lower income families and, for the purpose of this assessment, this has been taken as being families with a household income of less than £30,000 a year.

4 key issues were considered:

- The current level of supply of childcare
- The current level of demand for childcare
- The factors that have influenced the take up of childcare and could have an impact on both supply and demand
- Using this information to measure sufficiency

Supply - to assess the supply of childcare, we referred to Ofsted data and the provision offered by childcare providers.

Demand - in order to assess demand, questionnaires were distributed to parents across the borough and focus groups were held with targeted groups of parents to ensure that their needs were captured as part of the assessment.

The result is a comprehensive survey of the demand for and supply of childcare in the London Borough of Hillingdon. This assessment will give an overview of childcare in the borough and describe where the gaps are in terms of what is currently provided.

Main findings

This assessment of childcare in the borough has found that **there are not sufficient childcare places available overall to meet parental demand.**

The reasons why there is now a shortfall in places are as follows:

Rise in the birth rate – though it was predicted that a rise in the birth rate would be likely to lead to an increase in the demand for places for babies, the scale of the growth in the birth rate was not anticipated. Since 2008 the population of children aged 0-14 has risen by 7% with the birth rate going up by 9%.

Greater demand for pre-school childcare places – the consequence of this rising birth rate is likely to be more demand for childcare places and in the short term this is likely to be put further pressure on places for pre-school children. The birth rate is also having an impact on the supply of places that offer the free early education entitlement for three and four year olds. The largest shortfall in places is likely to be in the Townfield ward but there will also be a shortage of places in other wards as well, in particular Pinkwell and Uxbridge South wards.

Parents returning to work – the change in rules concerning Income Support is likely to result in more parents requiring childcare. Where previously parents could continue to claim Income Support until their youngest child was 16, this has now decreased to the youngest child being 5. This is likely to be result in more parents of school aged children requiring childcare in order to enable them to work.

Changes to the welfare system – over the next three years changes will begin to be introduced relating to the way in which benefits are organised with the introduction of the Universal Credit and the emphasis on encouraging people back to work by making work pay. This may lead to a rise in the number of parents wishing to work and needing childcare.

Hillingdon has relatively high proportions of economically active people. It is anticipated that it is likely that a high employment rate will sustain a need for childcare.

Availability of Childcare provision

Overall the amount of childcare provision available in the borough has remained similar over the last couple of years. According to Ofsted's figures, between September 2013 and September 2017 there has been a decrease in the number of registered childcare providers on the Early Years Register from 497 to 421 providers. This was mainly due to a decrease in the number of registered childminders. However the number of places available increased from 6,713 to 7,799 places.

Type of childcare provider	Early Years Register				
	Number of providers Sep 2013	Number of providers Sep 2017		Number of places Sep 2013	Number of places Sep 2017
Childminders	389	292		1,855	1,696
Childcare on domestic premises	2	2		35	39
Childcare on non-domestic premises	106	127		4,823	6,064
All	497	421		6,713	7,799

Availability of childcare by type across the borough

When assessing the level of childcare provision in an area, it is useful to compare the number of childcare places available with the number of children who might benefit from them. For example an area may have few pre-school places but this may not be an issue if it also has a small under 5's population.

Overall the wards with the highest levels of childcare places are Heathrow Villages and Northwood. In contrast Barnhill and Townfield wards have the least number of places.

However to put this in context, it is important to compare the places available with the local population in order to make a comparison between different wards. This has been done by identifying the percentage of children who have access to different types of childcare by ward. Therefore for example in Northwood ward 70% of children aged under 5 years old have access to a full daycare place but in Pinkwell ward, only 22% have access.

Free childcare for two, three and four year olds

The local authority has a statutory duty to ensure that there are sufficient childcare places for eligible two, three and four year olds.

Free childcare for two year olds is for families on a lower income. In Hillingdon in Autumn 2017, there were 1,333 two year olds who were eligible for free childcare. 821 children are attending a place (a take up rate of 62%).

For three and four year olds, all children can access free childcare for 15 hours a week from the term after their third birthday. In Hillingdon take up for this entitlement has been consistently high for a number of years. However this has reduced in the last year from 94% to 89%. However the same pattern of lower take up this year has been apparent across Outer London. Hillingdon still has the sixth highest take up of 19 Outer London local authorities.

From September 2017, eligible working parents with three and four year olds were entitled to access up to 30 hours free childcare. If parents are eligible, they will be given an eligibility code from the HMRC and they give this to a childcare setting to validate with the local authority before their child can take up a place offering up to 30 hours free childcare. In Hillingdon an eligibility code has been obtained for 945 children and codes have been validated for 870 of them. Therefore of the children who are confirmed as eligible, 92% of them have had the codes validated by the local authority. This is the fourth highest proportion of codes validated out of 19 Outer London local authorities. Of the children who have an eligibility code, 83% of children have a place offering up to 30 hours free childcare.

Parents of disabled children

They found it difficult to find suitable childcare that will cater for their children's needs. They felt that this was particularly a problem as their children became older. There was a lack of suitable holiday clubs for older children in the school holidays especially for older children with SEN of secondary school age. They felt that they had a lack of flexibility in accessing childcare e.g. they are restricted to working part-time, term time only to fit in with school hours and employers are not sensitive to parents' needs and do not offer flexibility in jobs.

Cost was also an issue as they could not afford to pay for the childcare that they needed as they were above the threshold for tax credits. When they larger families (e.g. three children under 5) they said they would never earn enough to pay for childcare and so they would prefer to use family members to help out. They felt that childcare is so expensive, by the time you've paid it not much better off going out to work than staying at home on benefits.

Affordability of childcare

Many parents who responded to the survey about childcare used informal childcare (friends or family) but often did so in combination with formal childcare (Ofsted registered). Of all the parents who told us that they did not use childcare, the most common reason was that “childcare is too expensive” – 54% of all respondents.

Take up of Tax Credits

The Tax Credits system has been set up to support working people, especially families. Most people are eligible to receive the basic element of Child Tax Credit. However if they are on a lower income, they may be able to receive more than this.

Findings from the Parent Survey suggest that take up of tax credits is surprisingly low. For example only 39% of families on a low income likely to be eligible for help with childcare costs through the childcare element of the Working Tax Credit were claiming it.

From April 2017, working parents of children under the age of 12 may be able to access funding towards the cost of childcare through the Tax Free Childcare scheme.

Ofsted judgements of childcare provision

Ofsted inspects all registered childminders and daycare provision to scrutinise the quality of all practice for learning and teaching and compliance against the legal requirements for the health and safety of children. The timing of any inspection is determined by the previous inspection rating; those with the highest quality will only be inspected once within any Ofsted framework period whilst those with the lowest rating will have more frequent inspections.

Judgements are made as follows:-

Grade 1 is Outstanding	This aspect of the provision is of exceptionally high quality
Grade 2 is Good	This aspect of the provision is strong
Grade 3 is Requires Improvement	This aspect of the provision is sound
Grade 4 is Inadequate	This aspect of the provision is not good enough

Up to August 2017, the number of providers by grade received at an Ofsted inspection was as follows:

	Outstanding	Good	Requires Improvement	Inadequate
All provision	37	241	30	7
Childminders	22	163	29	5
Day care	15	77	1	2

Quality of childcare provision

The quality of childcare provision can be assessed by looking both at Ofsted inspection judgements and Early Years Foundation Stage Profile (EYFSP) results.

In addition, **good achievement across the EYFS is measured**. The results for the last 4 years are as follows:-

Year	2013	2014	2015	2016
Percentage of 5 year olds achieving a good level of attainment	41.3	52.5	65.2	69.6

Hillingdon performs well in terms of its provision for the Early Years Foundation Stage (EYFS) when compared to England. In all aspects of the Early Years Foundation Stage Profile outcomes Hillingdon children achieve similar outcomes to those of their peers elsewhere.

Quality Improvement

The Early Years Service provides a universal and targeted quality support programme for all childcare providers on the early years register. This has resulted in a significant improvement in the quality of the provision in settings and has been achieved through partnership working with setting owners, managers and practitioners.

Quality assessment visits are conducted by the local authority early years teams on an annual basis except where it has been recognised that the highest quality practices are embedded in settings everyday provision. The outcomes of any quality assessment visit are scrutinised and, where required, targeted support is provided.

Inclusion

Dynamic and inclusive Early Years settings contribute to the building of an inclusive society. National guidance and legislation such as the Early Years Foundation Stage and the Equalities Act underpin the work of the Early Years Service.

Many settings in Hillingdon have a positive attitude to Inclusion and are welcoming to families. They seek appropriate support and advice, and differentiate opportunities to ensure that all children's needs are met.

Settings have a range of experience of meeting the needs of children with additional needs and disabilities. There appears to be an increase in the numbers of children with more complex medical needs and disabilities. There are combinations of reasons why this may be happening. These include: - the developments in medical science, increased confidence in settings' abilities, grants such as inclusion funding which have funded support to settings caring for disabled children and increased availability of training.

Conclusion

The judgement as to whether there is sufficient childcare in the borough is dependent on a range of factors. It varies with the area of the borough within which parents live. Parents of children of different ages will also have varying degrees of access to childcare.

Overall there are not enough childcare places as a whole in the borough given the rising birth rate and the likelihood that demand for childcare will increase. In the short term a higher number of baby places are likely to be needed but it is anticipated that more childcare places will be needed overall to meet an increasing population. The number of childcare places needed may also be influenced by changes made by central government such as the introduction of the Universal Credit and if there are further changes to Income Support entitlement.

However at the moment there are vacancies in some school nurseries, partly because the take up of free early years provision by three and four year olds has reduced.

Research has shown that good quality childcare benefits children's educational attainment in the early years and that play supports over 5's. It is important that parents have the choice of whether or not to use childcare. However they need to be aware of the ways in which their child may benefit from attending a childcare place and know the support that may be available to help them do so.

If they decide to use childcare, then they should have access to a diverse range of high quality provision. The aim of this assessment has been to identify where there are gaps in this provision so planning can take place as to identify if and how these can be addressed.

D

Appeal Decision

Hearing and site visit held on 13 January 2015

by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 February 2015

Appeal Ref: APP/U5360/C/14/2216709

Land at 122 Bethune Road, London N16 5DU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr J A Lipschitz against an enforcement notice issued by the Council of the London Borough of Hackney.
- The Council's reference is 2012/0901/ENF.
- The notice was issued on 21 March 2014.
- The breach of planning control as alleged in the notice is without planning permission the material change of use of the property to a school (use class D1).
- The requirements of the notice are to: (1) Cease the use of the property as a school (2) Remove all fixtures and fittings facilitating the use of the property as a school (3) Remove all waste, materials, equipment, and debris from the property resulting from compliance with the requirements (1) to (3).
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Decision.

Ground (a)

1. No. 122 is a semi-detached building. It is a two-storey property with rooms in the roof space thus giving rise to three levels of accommodation. The appellant purchased the appeal property in 2009 and converted it into a school. At the time of the Hearing, there were 110 children on roll. The pupils start at the age of three and leave when they are six. The locality is mainly residential in character and the street includes a purpose-built main school at no. 83 - 95. The appeal school is affiliated with the main school.
2. The **main issue** to consider is the effect of the development upon: (1) the supply of housing in the borough and (2) the living conditions of the neighbours, having particular regard to noise and general disturbance.

Loss of a dwelling

3. Policy 3.14, existing housing, of The London Plan (July 2011) states The Mayor will, and boroughs and other stakeholders should support the maintenance and enhancement of the condition and quality of London's existing homes. Amongst other things, it states that the loss of housing, including affordable housing, should be resisted unless the housing is replaced at existing or higher

densities with at least equivalent floor space. The REMA¹ does not materially alter these Policies and any minor changes reflect guidance contained in the National Planning Policy Framework.

4. Paragraph 2.17 of the Hackney Local Development Framework Core Strategy 2010 (*'the CS'*) sets out a spatial portrait and context of the borough. CS Policy 19 states the council will seek to ensure that proposals for new residential development, and conversions including changes of use, incorporate a mix of dwelling types and sizes that reflect and respond to Hackney's current and future housing needs and positively contribute to the creation of mixed, sustainable communities and neighbourhoods. The council will seek to resist the loss of family accommodation and promote the provision of new family accommodation (three bed or larger) of all tenures. Policy 19 seeks to provide a mix of housing to meet the identified needs of different types of households within the borough and to create cohesive tenure diverse communities. The Policy states that planning permission will not be granted for any development which results in a net loss of residential units unless acceptable plans are in place for replacement development at an equivalent or higher density.
5. In 1982 planning permission was granted for the conversion of no. 122 into a girls' school with a maximum of 50 pupils aged 11 to 13². Condition no. 6 stipulated that the planning permission was personal to the Beis Shammai Schools, but they decided to relocate and the Talmud Torah School opened. On 10 November 1993, planning permission was granted for the continued use of the site as a school (*'the 1993 permission'*)³. Condition no. 1 required the cessation of the school on 31 May 1995. The permission was for the benefit of the Talmud Torah School. However, the use of no. 122 as a school continued in breach of condition no. 1 and the council issued a breach of condition notice. Subsequently the school ceased operating. To my mind, the planning history illustrates that no. 122 has been used as a school for a considerable length of time without causing harm to the availability and supply of family houses in this particular locality.
6. The property has been significantly modernised. On the ground floor there is a spacious lobby, two classrooms and a washroom. On the first floor there is an office, there are toilets, two classrooms and indoor play areas. The second floor comprises an office, a playroom and remedial rooms for children with learning difficulties. Food is prepared offsite and delivered at lunchtimes as there are no suitable facilities available at no. 122. The property has been fully equipped with a fire alarm and security system including closed-circuit television. The refurbishments include new double-glazed windows, floor coverings as well as the installation of air conditioning and suspended ceilings.
7. Considerable investments have been made to modernise the premises. The conversion into a single dwelling is also likely to require significant investment given its internal layout and configuration. There would be a need to carry out physical alterations to the built fabric. I do not doubt that such alterations are not totally achievable and residential properties of this size are generally desired by families. Nonetheless, the evidence presented does not sufficiently show that no. 122 would necessarily be converted into a single dwelling if planning permission is refused for its use as a school.

¹ See the Revised Early Minor Alterations to The London Plan 2013 (REMA).

² Council ref: TP/50457/JP dated 29 July 1982.

³ Council ref: 11/19397/A.

8. The supporting text to CS Policy 19 indicates that Hackney has experienced record housing growth in recent years most of which has been in the private sector with the proportion of three bedrooms or larger new homes doubling since 2004. I note that the location of no. 122 is suitable for its use as a single dwelling given the residential character of the locality. However, the street includes semi-detached properties and blocks of flats and it appears to me that the majority remain in residential use. In my opinion, the loss of a single dwelling does not adversely harm the character of the street scene or significantly undermine the supply of dwellings in this location, due to the limited scale of the development.
9. The CS aims to help residents to become better qualified and raise educational aspirations. CS Policy 9, investing in education, sets out the council's aims to deliver educational facilities through the planning system by working with stakeholders to meet the needs of Hackney's growing population of children and young people so that they have access to high quality education through favourably considering appropriate proposals for new educational facilities, especially in areas where the evidence demonstrates the greatest need. Similar objectives can be found in Policy 3.18 of The London Plan 2011. Additionally, paragraph 72 of the Framework states that the Government attaches great importance to ensuring 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 requirement, and to development that will widen choice in education. In this location, I find that the development delivers an educational facility which meets the needs of the local community without causing demonstrable harm to the supply of large dwellings in the borough.
10. Taking all of the above points together, the grant of permanent planning permission results in the loss of family accommodation but I conclude that the development has no material effect upon the supply of housing in the borough. Accordingly, the development does not materially conflict with the aims and objectives of CS Policies 9 and 19, Policy 3.14 and 3.18 of The London Plan.

Living conditions

11. Policy 3.18 of The London Plan states The Mayor will support provision of early years, primary and secondary school and further and higher education facilities adequate to meet the demands of a growing and changing population and to enable greater educational choice, particularly in parts of London with poor educational performance. Proposals for new schools should be given positive consideration and should only be refused where there are demonstrable negative local impacts which substantially outweigh the desirability of establishing a new school and which cannot be addressed through the appropriate use of planning conditions. Policy 7.15 states the transport, spatial and design policies of this Plan will be implemented in order to reduce noise and proposals should seek to reduce noise by minimising the existing and potential adverse impacts of noise from within or in the vicinity of development proposals.
12. Saved Policy EQ40 of the London Borough of Hackney Unitary Development Plan 1995 (*'the UDP'*) relates to noise control. It states proposals likely to introduce a potential noise nuisance into sensitive areas, or increase ambient noise levels over large areas, to incorporate appropriate measures to ensure

- that background noise levels pertaining prior to the development are not increased to an unacceptable degree. Development which could lead to an unacceptable increase in noise levels affecting existing or future occupiers of adjacent premises will not be permitted. This Policy is broadly consistent with advice found in paragraph 123 of the Framework. It states that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.
13. No. 120 physically adjoins the appeal property and to its rear there is a row of dwellings on Cranwich Road. The school operates from 09:00 to 16:00 though the staff arrives earlier and departs later. The school operates Monday to Fridays and Sundays. The appellant's assertion is that there has been no noise-related complaint to the environmental health section but I heard first hand evidence of noise-related complaints generated by the use of no. 122 as a school. In any event, the absence of a statutory noise nuisance does not necessarily mean the development is appropriate in this particular location.
 14. In this location, background noise levels are likely to be dominated by sound from passing traffic and the usual hustle and bustle of daily life. The acoustic environment is characterised by residential and commercial activities. The residents' first hand evidence shows that noise generated by people coming and going to and from the property, and children playing in the rear garden (despite the existence of solid boundary treatments), has caused some disturbance. Additionally, sound produced from people talking, chatting, children walking around the building, teachers giving lessons and even the scarping of chairs across floors has caused considerable annoyance.
 15. I find that the use of the property by the current number of pupils is likely to disturb the occupiers of no. 120. This is because of the design and layout of the buildings, irrespective of the argument that these are substantial Victorian buildings.
 16. The appellant's argument is that sound proofing has been carried out by the previous occupiers of no. 122, because of condition no. 4 imposed on the 1993 permission. The information shows that the party walls were to be sound proofed by the installation of two layers of 12.5mm plasterboard fixed to 50 x 75mm studwork. The details include a 50mm wide gap between the studwork and the wall with a 25mm fibreglass quilt. Nonetheless there is still a problem because I observed noise emanating from the school during my site visit to no. 120. Sound from people talking and the scraping of chairs is noticeable to the human ear and likely to disturb the occupiers of the adjoining property.
 17. Clearly, the appeal property has been refurbished, shared internal walls have been plaster boarded and suspended ceilings have been installed throughout which, incidentally, assist in reducing noise transference. The double-glazing also assists in reducing sound transmission. Nonetheless, there is no independent verification of the sound proofing's effectiveness as a proper noise assessment has not been carried out. The evidence shows that the previous sound attenuation measures have not adequately addressed internal noise transference. I find that the development is likely to cause some harm to the quality of life enjoyed by the occupiers of no. 120 given the current number of pupils as well as the lack of sufficient sound insulation.
 18. Furthermore, neighbours living on Cranwich Road complain about the lack of control over the use of the garden as an outdoor play area. Residents find that

at certain times of the day the use of the adjoining gardens has been affected by excessive noise emitted from excited children playing outdoors. This affects the amenity value of the neighbouring gardens, especially on Sundays and in the summer months when occupiers of the adjoining properties expect to enjoy the comfort of their own surroundings.

19. The local highway authority has not raised concerns about highway safety however residents complain about the potential increase in traffic and vehicle movements. The appellant told me that the majority of pupils walk to the school and some families' car-share because children attend the main school opposite. I have considered all of the council's concerns regarding the potential cumulative effect, but the evidence does not show a significant increase in vehicle movements due to the use of no. 122 as a school.
20. Nevertheless, given the unrestricted nature and scale of the school's activities, I find that the development causes some harm to the occupiers of no. 120 and properties on Cranwich Road by reason of noise and general disturbance. However, it is reasonable to consider whether suitably worded conditions can be imposed on a grant of planning permission to control the use of no. 122 as a school in order to safeguard the residential amenities of the neighbours. Stipulations could be imposed to regulate the use of the property at certain times of the day. Conditions could restrict the number of pupils and their ages, or the use of the outdoor play area. Potentially, these could be imposed to overcome the harmful impact of the development. If conditions were not imposed then planning permission would have to be refused. I shall consider the suggested conditions next.

Conditions

21. Paragraph 203 and 206 of the Framework states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
22. In the interests of safeguarding residential amenities of the existing properties, it is reasonable to specify that the appeal building should only be used as a school because of its location. This would prevent its use for any other purpose falling within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended.
23. The school can easily accommodate 110 pupils given the size and layout of no. 122. The council suggest the number should not exceed 60 but the appellant considers that 90 pupils would make the school viable. Given the need for the facility and its location opposite the main school, I consider 90 children would be a suitable compromise.
24. It is necessary to control when the school operates in the interests of safeguarding neighbours' quality of life. The school can feasibly operate Mondays to Fridays between 08:45 and 16:00. The school closes all day Saturdays which gives residents some respite. However, the appellant considers that it is important to allow the school to open on Sundays as it is considered the first day of the week.

25. In my opinion, there would be some merit in allowing the school to open later on Sundays at 09:30 until 15:30. Furthermore, a condition can be imposed to restrict the use of the rear garden for outdoor play to certain times of the day. For example, between the hours of 10:00 to 14:00. In a busy and compact urban area such as this, these conditions are likely to give residents some degree of respite from the school's activities.
26. There is a lack of evidence regarding the adequacy of the soundproofing. However, I do not consider that this is a strong enough reason to withhold planning permission because a strict retrospective condition can be imposed to require the submission of a noise assessment. The report should be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of the Planning Practice Guidance and the Framework.
27. Additionally, there are air conditioning units located on the rear elevation of the property which are exposed and likely to generate noise and disturb the neighbours. The assessment should include details of any acoustic soundproofing for these units. The appellant agreed to submit all of these details. I will impose timescales in this condition to ensure submission of the assessment within four months and to allow time for approval of those details, or appeal if necessary.
28. The council also suggests that a school management plan should be submitted. A travel plan should be included as well as details of the use and timings of the outdoor play area. Furthermore, in the interest of good neighbourliness, I will impose conditions restricting the use of a public address system, and the timings of deliveries.
29. For all of the above reasons, I find that suitably worded conditions can be imposed to make the development acceptable in planning terms. The advice in paragraphs 203 and 206 of the Framework would be met.

Overall conclusions

30. While the grant of a permanent planning permission results in the loss of a single dwelling, I attach substantial weight to my finding that the development does not materially affect the supply of housing in the borough. Significant weight can be attached to the need for a school in this location. Considerable weight can also be given to my finding that suitably worded conditions can be imposed to mitigate the effect of the development upon nearby residents' living conditions. Accordingly, the development would, subject to conditions, comply with Policies 3.14, 3.18 and 7.15 of The London Plan, UDP Policy EQ40, CS Policies 9 and 19, and advice found in paragraphs 17, 72 and 123 of the Framework.
31. I have had due regard to the Public Sector Equality Duty (PSED) contained in the *Equality Act 2010*, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic, such as the appellant, and people who do not share it. It does not follow from the PSED that the appeal should succeed. However, given my findings on the first and second main issues above, I consider that planning permission should be granted subject to conditions. On the particular circumstances, this is a fair and proportionate response.

32. For the reasons given above and having considered all other matters, I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered as the notice will be quashed.

Decision

33. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of 122 Bethune Road, London N16 5DU, as shown on the plan attached to the notice, for the material change of use of the property to a school subject to the following conditions:
- 1) The premises shall be used for a school for children up to the age of six and for no other purpose whatsoever (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
 - 2) The school hereby permitted shall only accommodate 90 pupils up to the age of six at any time.
 - 3) The premises shall not be open outside the following hours: 08:45 – 16:00 Mondays – Fridays, 09:30 – 15:30 Sundays and Bank Holidays and Public Holidays. The premises shall not open at all on Saturdays.
 - 4) The rear garden to the premises shall only be used as an outdoor play area in connection with the use of the premises as a school. The outdoor play area shall not be used whatsoever outside the following hours: 10:00 to 14:00 on Mondays to Fridays, on Sundays, on Bank Holidays and Public Holidays. The outdoor play area shall not be used at all on Saturdays.
 - 5) The use hereby permitted shall cease and all materials brought on the land in connection with the use of the land as a school shall be removed within 12 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) Within four months of the date of this decision a noise assessment shall be submitted to the local planning authority for approval in writing and shall include details of any noise insulation measures required to meet target levels for noise. Target levels are those specified in the World Health Organisation Guidelines. The scheme shall provide details of any mitigation and soundproofing measures inside and outside of the premises and for the exposed air conditioning units at the rear of the property. The details shall include a timetable for the scheme's implementation.
 - ii) Within four months of the date of this decision a school management plan shall be submitted to the local planning authority for approval in writing and shall include a travel plan, the layout and use and timings of the outdoor play area to the rear of the property. The details shall include a timetable for the scheme's implementation.
 - iii) within 11 months of the date of this decision the schemes shall have been approved by the local planning authority or, if the local

planning authority refuse to approve the schemes, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- iv) if an appeal is made in pursuance of (iii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - v) the approved schemes shall have been carried out and completed in accordance with the approved details and timetables.
- 6) No public address system shall be used in the premises whatsoever.
 - 7) No deliveries shall be taken at or despatched from the premises outside the hours of 08:45 to 16:00 Mondays to Fridays and 09:30 to 15:30 on Sundays, Bank Holidays or Public Holidays.

A U Ghafoor

Inspector

APPEARANCES

FOR THE APPELLANT:

Ian Coward	Collins & Coward Planning and Development Consultancy
Rabbi Joseph Lipschitz	Appellant
B Brand	On behalf of the appellant

FOR THE LOCAL PLANNING AUTHORITY:

Marcin Manikowski	Deputy Planning Enforcement Manager
-------------------	-------------------------------------

INTERESTED PERSONS:

Maryam Hafezji	}
Iain Bruce	}
Rupert Harding	} Local residents

DOCUMENTS HANDED IN AT THE HEARING

1. Notification letter and those consulted