

**LOCATION:** 130 Hendon Lane, London, N3 3SJ

**REFERENCE:** F/04345/14

**Received:** 11 August 2014

**Accepted:** 21 August 2014

**WARD:** Finchley Church End

**Expiry:** 16 October 2014

**Final Revisions:**

**APPLICANT:** AJC MAGEN AVRAHAM SYNAGOGUE

**PROPOSAL:** Retention of change of use of two rooms on first floor as a pre-school nursery from 8.30am- 2pm, Monday to Friday during term time for a maximum of 14 children.

**Approve following legal agreement**

**Subject to a Section 106 Agreement**

**RECOMMENDATION I:**

That the applicant and any other person having a requisite interest be invited to enter by way of an agreement into a planning obligation under Section 106 of the Town and Country Planning Act 1990 and any other legislation which is considered necessary for the purposes seeking to secure the following:

- 1 Paying the council's legal and professional costs of preparing the Agreement and any other enabling agreements;
- 2 All obligations listed below to become enforceable in accordance with a timetable to be agreed in writing with the Local Planning Authority;
- 3 **Requirement to submit Travel Plan £0.00**  
Within 3 months of occupation of the date of the decision notice a school's School Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The document shall set out the nursery's transport policy to incorporate measures to reduce trips to nursery by car and encourage non car modes such as walking, cycling and public transport. The School Travel Plan should include the appointment of a School Travel Plan Champion, SMART targets and a clear action plan for implementing the measures. The School Travel Plan shall be reviewed and submitted for approval annually.
- 4 **Monitoring of the Agreement £5000.00**  
Contribution towards the Council's costs in monitoring the School Travel Plan.

**RECOMMENDATION II:**

That upon completion of the agreement the Assistant Director of Development Management & Building Control approve the planning application reference: F/04345/14 under delegated powers subject to the following conditions: -

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, HL -003/2012, HL-001/2012, HL-002/2012.

Reason:

For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

- 2 The premises shall be used for a nursery school and meeting rooms in relation to the synagogue and no other purposes (including any other purpose within 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.

Reason:

To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area.

- 3 The use hereby permitted shall operate between 8.30am and 2.00pm term times only.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties.

- 4 The rear garden area shall only be used for 1 hour a day by pupils of the nursery school.

Reason:

To safeguard the amenities of the occupiers of adjoining residential properties.

- 5 Within 3 months of the date of the decision notice a School Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The document shall set out the nursery's transport policy to incorporate measures to reduce trips to nursery by car and encourage non car modes such as walking, cycling and public transport. The School Travel Plan should include the appointment of a School Travel Plan Champion, SMART targets and a clear action plan for implementing the measures. The School Travel Plan shall be reviewed and submitted for approval annually.

Reason:

To encourage the use of sustainable forms of transport to the site and in the interests of pedestrian and highway safety and the free flow of traffic in accordance with Barnet's Local Plan Policy CS9 of Core Strategy (adopted) September 2012 and Policy DM17 of the Development Management Policies (adopted) September 2012.

6 The number of children registered to attend the nursery shall not exceed 14.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties.

### **INFORMATIVE(S):**

1 In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The Local Planning Authority has negotiated with the applicant / agent where necessary during the application process to ensure that the proposed development is in accordance with the Council's relevant policies and guidance.

### **RECOMMENDATION III:**

That if the above agreement has not been completed by the 21st December 2014 unless otherwise agreed in writing the Assistant Director of Development Management and Building Control REFUSE the application F/04345/14 under delegated powers for the following reasons:

1. The development would require the submission and monitoring of a Travel Plan to promote sustainable modes of travel and to reduce the use of cars by people visiting the site and no formal undertaking is to submit a Travel Plan and to meet the costs of monitoring the Travel Plan to the detriment of the safety and free flow of traffic and contrary to Policies DM17 of the Development Management Policies (Adopted) September 2012.

### **1. MATERIAL CONSIDERATIONS**

National Planning Policy Framework

The Mayor's London Plan (July 2011)

Relevant Local Plan Core Strategy DPD (Adopted 2012) Policies:

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). The Core Strategy was adopted by the Council on September 11 2012.

CS1, CS3, CS5, CS7, CS8, CS10, CS13.

Relevant Local Plan Development Management DPD (Adopted 2012) Policies:

The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy. These policies will be used for

day-to-day decision making.

DM01, DM02, DM04, DM14

Relevant Planning History:

<b>Application:</b>	Planning	<b>Number:</b>	C/15691/A/07
<b>Validated:</b>	21/08/2007	<b>Type:</b>	APF
<b>Status:</b>	WDN	<b>Date:</b>	09/01/2008
<b>Summary:</b>	WIT	<b>Case Officer:</b>	Fabien Gaudin
<b>Description:</b>	Two storey rear extension. Part ground floor side extension.		
<b>Application:</b>	Planning	<b>Number:</b>	C/15691/04
<b>Validated:</b>	11/02/2004	<b>Type:</b>	S63
<b>Status:</b>	DEC	<b>Date:</b>	16/07/2004
<b>Summary:</b>	APC	<b>Case Officer:</b>	
<b>Description:</b>	Continued use of ground floor as a specialised religious meeting room with associated library and cloakroom. Two bedroom flat at first floor level.		
<b>Application:</b>	Planning	<b>Number:</b>	F/00279/08
<b>Validated:</b>	17/03/2008	<b>Type:</b>	APF
<b>Status:</b>	DEC	<b>Date:</b>	30/07/2008
<b>Summary:</b>	APC	<b>Case Officer:</b>	Fabien Gaudin
<b>Description:</b>	Proposed ground and first floor rear extension with associated pitch roof above part ground floor extension. Side and rear dormers to facilitate a loft conversion. Conversion of existing religious meeting rooms with associated first floor to a synagogue and loft to be a one bedroom flat		
<b>Application:</b>	Planning	<b>Number:</b>	F/01583/13
<b>Validated:</b>	13/06/2013	<b>Type:</b>	APF
<b>Status:</b>	DEC	<b>Date:</b>	01/08/2013
<b>Summary:</b>	APC	<b>Case Officer:</b>	Jo Dowling
<b>Description:</b>	Retention of change of use of two rooms on the first floor as a pre-school nursery from 8.30am - 2.00pm, Monday-Friday during term time for a maximum of 14 children.		
<b>Application:</b>	Planning	<b>Number:</b>	F/01770/13
<b>Validated:</b>	12/07/2013	<b>Type:</b>	APF
<b>Status:</b>	APD	<b>Date:</b>	16/05/2014
<b>Summary:</b>	W	<b>Case Officer:</b>	Jo Dowling
<b>Description:</b>	Change of use to synagogue. Part single, part two storey side extension and single storey rear extension.		
<b>Application:</b>	Planning	<b>Number:</b>	F/02996/12
<b>Validated:</b>	28/08/2012	<b>Type:</b>	APF
<b>Status:</b>	WDN	<b>Date:</b>	17/04/2013
<b>Summary:</b>	WIT	<b>Case Officer:</b>	David Campbell
<b>Description:</b>	Change of use of 2no. rooms at first floor level as a pre-school nursery for 25 children from 8.30am - 2.00pm Monday to Friday Term Times.		

Consultations and Views Expressed:

Neighbours Consulted: 112      Replies: 8  
Neighbours Wishing To Speak: 1

The objections raised may be summarised as follows:

- Traffic in Hendon lane is extremely heavy particularly in the mornings, having parents dropping off will add to the hold ups.
- Hendon Lane is a residential area.
- Road is heavily congested with on-street parking and through traffic.
- This summer there were children playing games and singing in the garden of 130 Hendon Lane which caused noise and disturbance.
- Insufficient parking on adjoining new developments is leading to problems with parking on the adjoining roads which will be exacerbated by the proposal.

Internal /Other Consultations:

- Traffic and Transport - No objection, subject to a school travel plan and a S106 contribution towards the monitoring of the agreement.

Date of Site Notice: 28 August 2014

## **2. PLANNING APPRAISAL**

Site Description and Surroundings:

130 Hendon Lane is a large detached building located on the west side of Hendon Lane on the junction with Waverley Grove. The property was originally a house but has been converted to a synagogue (F/00279/08) and 1 bed flat.

The site has a circular drive and can be accessed from both Hendon Lane and Waverley Grove. The area to the front of the property is hardsurfaced with an area of soft landscaping, to the rear is a large garden. To the side of the property is a single storey detached garage that is used for storage.

Levels drop from front to rear of the site by approx 1.5m so that the property is below street level.

The site is located within an established residential area in a tight knit suburban area. The properties on Hendon Lane are predominantly purpose built blocks of flats. The properties on Waverley Grove are large detached houses.

The accessibility of the site is indicated with the Public Transport Accessibility Level (PTAL). This rating measures the amount of public transport service available. The site has been assessed to have a PTAL of 2, 6 being the highest level of accessibility.

Proposal:

The application is for the continued use of two rooms at first floor level for use as a pre-school nursery from 8.30am to 2.00pm Monday to Friday during term time only for a maximum of 14 children.

Planning permission (our ref:F/01583/13) was granted by the West Area Planning Sub Committee on the 31st July 2013 for the retention of change of use of two rooms on the first floor as a pre-school nursery from 8.30am - 2.00pm,

Monday-Friday during term time for a maximum of 14 children. Permission was granted subject to a number of conditions including condition 2 which required:

'This permission shall be for a temporary period only, expiring on 31st July 2014 when the use shall be discontinued and the works carried out under this permission shall be removed and the premises reinstated in accordance with details approved by the Local Planning Authority in writing before 1st September 2014.

Reason:

To protect the amenities of the area.'

The current application is for the retention of the use on a permanent basis.

Planning Considerations:The main issues for consideration are:

- Impact on amenity of adjoining residents;
- Traffic and highways

### **Impact on amenity of adjoining residents**

The lawful use of the building is as a synagogue and flat. Whilst a synagogue and a nursery fall within the same use class D1 (non-residential institutions) the original consent for the use as a synagogue was subject to a number of conditions which restrict how the building can be used. This includes condition 7 (F/00279/08) which restricted the use to a synagogue and to no other purpose within Use Class D1 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The reason for the imposition of this condition was to enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area.

The only other restrictions on the original consent restrict the use of the premises between 11pm-7am on any day (condition 5); limit the number of people to a maximum of 45 (condition 13) and prohibit weddings, parties and social gatherings (condition 6). There are no restrictions on the use of the garden.

The nursery uses the premises between 8.30am and 2pm for up to 14 children and 3 part time staff. This falls within the permitted hours of use and numbers allowed by the original consent and it is therefore not considered that the use as a nursery would adversely impact on the amenity of residents of adjoining premises.

When the application for the nursery use was originally considered by the West Area Planning Committee in July 2013 it was approved subject to a condition that limited the use to a period of 1 year in order to enable the Local Planning Authority to review the impact of the use. During that period Environmental Health have not received any complaints with regards to noise and disturbance from the use.

The property is a large detached house which is set off from the boundary with both of the adjoining properties, as a result it is not considered that noise from the use of the first floor rooms as a nursery use will adversely impact on either of the adjoining properties.

Unlike the synagogue use the applicant does use the rear garden area for the children to play in. Although Hendon Lane is a busy road and as a result has higher than usual ambient noise levels, the rear garden areas of the properties are screened from the road by the buildings and therefore enjoy quieter noise levels. In order to minimise the impact of noise from children playing in the rear garden the condition restricting the time spent within the garden to one hour per session that was applied to the temporary consent is recommended for this application.

On this basis it is considered that the proposal does not result in noise and disturbance to the adjoining residential properties to such a level as to warrant a refusal.

The proposal is therefore not considered to adversely impact upon the amenity of adjoining residents and to be in accordance with policy DM01 and DM04 of the adopted Local Plan.

### **Traffic and Highways**

The reason for the initial grant of permission for only 1 year was due to the level of local concern regarding the impact of drop off and pick up. During the last year the Councils Traffic and Development section have not received any complaints about parking or traffic in relation to the nursery use.

However, when the temporary consent was granted the Traffic and Development section advised that whilst a travel plan would not be required at that time in the event the application is renewed on a permanent basis then the applicant was informed that a travel plan would be required with a contribution of £5,000 towards the monitoring of the Travel Plan.

Traffic and Development have raised no objections to the permanent retention of the use subject to the submission of a Travel Plan.

If Members are minded to approve the application a condition requiring the submission of a Travel Plan and a S106 agreement to cover the costs of monitoring a Travel Plan are recommended.

### **3. COMMENTS ON GROUNDS OF OBJECTIONS**

These have been considered in the report.

### **4. EQUALITIES AND DIVERSITY ISSUES**

The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

### **5. CONCLUSION**

Having taken all material planning considerations into account, it is considered that

subject to compliance with the attached conditions, this proposal complies with the Adopted Barnet Local Plan policies and guidance and would be in keeping with the character and appearance of the surrounding area. It is not considered to have a detrimental impact on the residential amenities of neighbouring occupiers or on highway safety. This application is therefore recommended for approval.



**SITE LOCATION PLAN:** 130 Hendon Lane, London, N3 3SJ

**REFERENCE:** F/04345/14



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