

Location **20 Dunstan Road London NW11 8AA**

Reference: **16/4026/FUL** Received: 20th June 2016
Accepted: 4th July 2016

Ward: Childs Hill Expiry 29th August 2016

Applicant: Mrs Miri Noble

Proposal: Use of the existing dwelling for a children's nursery to accommodate a maximum of 12 children

Recommendation: Refuse

- 1 The proposed development, by reason of its siting and the intensity of the use would be detrimental to the character of this residential area and would result in unacceptable levels of noise disturbance to neighbouring occupiers contrary to Policies DM04 and DM13 of the Barnet Development Management Policies DPD (Adopted September 2012).

Informative(s):

- 1 The plans accompanying this application are:
- 2 In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority (LPA) 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 applicant did not seek to engage with the LPA prior to the submission of this application through the established formal pre-application advice service. In accordance with paragraph 189 of the NPPF, the applicant is encouraged to utilise this service prior to the submission of any future formal planning applications, in order to engage pro-actively with the LPA to discuss possible solutions to the reasons for refusal.

Officer's Assessment

1. Site Description

The application site is located on the northern side of Dunstan Road within the Childs Hill ward. The character of the street is residential, but the site is close to the Golders Green Town Centre and is well served by local buses.

The application property is a semi-detached, two-storey residential building.

The property is not listed and does not fall within a conservation area.

2. Site History

Nil.

3. Proposal

This application seeks consent for the use of the existing dwelling as a children's nursery to accommodate a maximum of 12 children. The property would remain as a family home outside the hours of use of the business.

4. Public Consultation

Consultation letters were sent to 40 neighbouring properties.

19 responses have been received, comprising of 9 letters of support and 11 letters of objection

The views of the objectors can be summarised as follows;

- Noise and disturbance
- Traffic and congestion
- Impact on parking
- Out of character
- Precedent for commercial premises on residential street
- Inadequate toilet facilities for the number of children proposed
- Overdevelopment

Internal / other consultations:

Highways: No objection following additional supporting information

The existing 4 bed dwelling is proposed to be converted into a 2 bedroom dwelling and child care facility with 3 part-time employees for 12 children, a total gfa of 178 sqm. The existing property parking demand for a 4 bed residential dwelling would be between 1.5-2 spaces, the proposed 2 bed residential dwelling would be 1-1.5 spaces. CPZ parking controls are Mon-Fri 11am-12pm and the location has a PTAL of 6a.

Environmental Health: Objection

Recommend refusal for this proposal. The reason is uncontrolled noise impact from children and staff using the site on neighbouring residents.

"The applicant has submitted her drawings for the layout of the nursery. This nursery is to be sited in the middle of a residential road where the typical background noise would be

quiet and residential based. There is a small playroom and this opens out (double doors) onto a garden which is overlooked by all the neighbouring residents. The size of the play area and the fact that there is no other ventilation would make it necessary to keep windows and doors open often. Also the double doors would make it more likely that the children would use the outdoor space within summer months. The noise from the garden and noise outbreak from open windows would impact on all the neighbouring residents. The applicant states she has plans for covering the garden and limiting the time spent outside but this has not been provided. In any case, it would be unreasonable not to allow children outside when it is too hot and unreasonable not to open windows to ventilate. Very little can be done in this garden to prevent noise outbreak to neighbours.

Arguably the allowed hours 9am - 3pm term time and 8am-4pm maximum appear reasonable however this noise would be daily and from our extensive experience this would lead to nuisance complaints.

Therefore, I have no other comment than that, in my opinion, this is not suitable for a residential area due to the intensity of use. Were the numbers to include five children (max) as in a childminder I would say this could be acceptable. Were the site to be situated at the end of or on a busier road there would be a higher background noise thus reducing the impact. "

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01, DM02, DM04, DM13.

The Council's approach to development as set out in Policy DM01 is to minimise the impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity.

Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted April 2013)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents.

5.3 Assessment of proposals

This application seeks consent to use the host application property as a nursery for to 12 children predominantly from the local Jewish community. The applicant is an Ofsted registered child-minder with an existing nursery facility operating in the Hendon area. The applicant currently occupies the application site as her family home and has been childminding up to 6 children since the summer. The proposed development would see the whole of the ground floor to be used for the nursery, along with two of the rooms at first floor. The other rooms at first floor would be bedrooms for the applicant. The ground floor rooms would be used by the applicant and her family when the nursery is not open.

Policy DM13: Community and education uses

b. New community or educational use

New community or educational uses should be located where they are accessible by public transport, walking and cycling, preferably in town centres or local centres.

New community or educational uses should ensure that there is no significant impact on the free flow of traffic and road safety.

New community or educational uses will be expected to protect the amenity of residential properties.

As noted from the comments made by Highways, the site has a high Ptal of 6a and is therefore considered to be easily accessible by public transport, and whilst not located with the town centre or local centre, it is within close proximity to the Golders Green Town Centre. No off-street parking is currently provided at the property. A residents parking bay is located outside the property. It is therefore considered that the proposals would be acceptable in terms of their accessibility for future users of the site.

In regards to the impact of the proposed development on the free flow of traffic and road safety the information submitted by the applicant notes that the proposed facility would be used by local residents who live within close proximity, mainly on the same road or surrounding roads to the site and would not require to use their cars to drop off children.

Furthermore, the arrival times of children are not the same, depending on the needs of the parents and are staggered throughout the morning, therefore even if parents are dropping of children by cars their arrivals will not be at the same time thereby reducing the potential for impact on the traffic. The staff are noted as not owning their own vehicles and are therefore expected to arrive utilising public transport rather than their own vehicles.

The development would introduce a commercial use, albeit a childminder/ nursery into a residential area. Given the number of children proposed, the level of activity including comings and goings and the area of the property that would be used for the proposed use, it is considered that the development would be of such a scale that it would be out of character within this residential area.

Policy DM13 states that new community or educational uses should protect the amenity of residential properties. The proposed development is not considered to be acceptable in terms of its impact on the amenity of neighbouring occupiers. As noted by the Environmental Health officer the proposals are considered to provide too high an intensity of use for a semi-detached property on a residential street. Whilst it is noted that the proposed development would be operational during term time only it would still be every day and would have the potential to give rise to unacceptable levels of noise disturbance to neighbouring occupiers.

The submitted documents noted that the use of the garden would be restricted for short periods only and with a maximum of 6 children at any one time; however, there is no information regarding how this will be enforced.

The ground floor of the existing premises would be used for the nursery, providing two connected playrooms, kitchen and eating area, with half (two) of the rooms at first floor also used for nursery purposes, providing an additional playroom and library / rest room. The playrooms would be on that side of the house with a shared party wall. The submitted plans shows the ground floor playroom with direct access on the garden area; as noted it is difficult and unreasonable to prevent the children accessing the garden, or ventilating the room with the doors open and therefore it is difficult to control the expected breakout noise of the children. Unfortunately due to the close proximity of neighbouring occupiers the proposals are considered to be detrimentally harmful to the amenities of neighbouring occupiers by way of the noise disturbance created by 12 children playing at any one time.

There is no objection to the proposed hours of use, which are noted to be 9am - 3pm term time and 8am-4pm maximum during term time only; this is considered reasonable and could be conditioned if all other elements of the proposals were acceptable.

On balance the proposals are considered to introduce a level of non-residential activity that would be detrimental to the character of this residential area by reason of the comings and goings and intensity of the use which would have a detrimental impact on the amenity of occupiers of neighbouring properties by reason of unacceptable noise disturbance.

5.4 Response to Public Consultation

The objections received are noted. All planning matters are covered in the above report.

6. Equality and Diversity Issues

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

7. Conclusion

Having taken all material considerations into account, it is considered that the proposed development would have an unacceptable impact on the character of the locality. The development is considered to have an adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for refusal.

