

Unrestricted Report

ITEM NO: 6

Application No.
13/00609/FUL

Ward:
Winkfield And
Cranbourne

Date Registered:
25 July 2013

Target Decision Date:
19 September 2013

Site Address:

**Paws Nursery Hayley Green Warfield Bracknell
Berkshire RG42 6BS**

Proposal:

Section 73 application for change of use of shop unit (class A1 use) to nursery school (class D1 use) with associated car parking and outdoor play area and installation of new window on south elevation at ground floor level without compliance with condition 04 of planning permission 621684 which states 'The hours of operation shall be restricted from 09.00 to 12.00 and 12.30 to 15.30 (including 15 minutes at the start and end of each session for the dropping off and collection of children as set out in the application form) Monday to Friday during normal Berkshire school terms and at no other times whatsoever'. (For clarification: this application is to remove the condition restricting the hours of operation of the nursery school).

Applicant:

Mrs Augusta Fretwell

Agent:

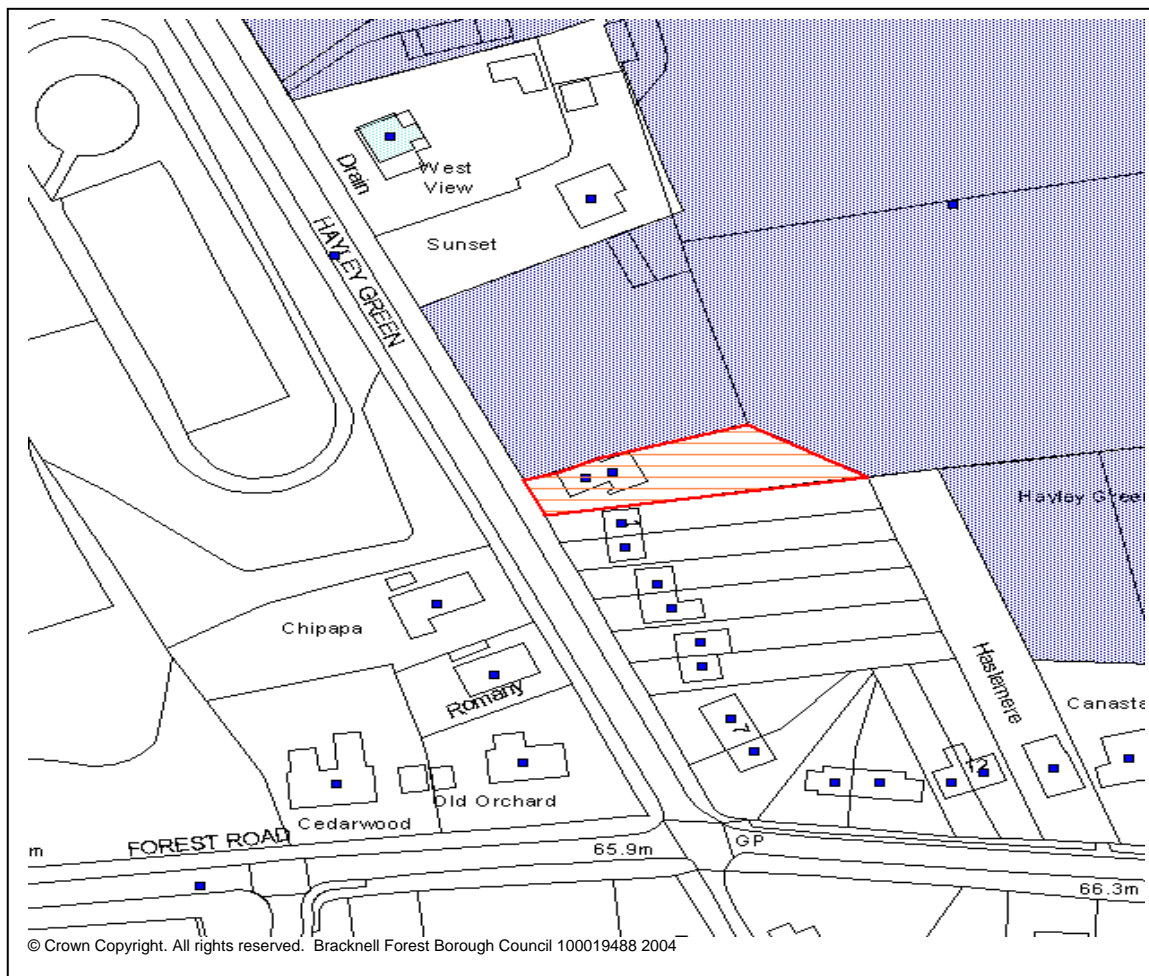
(There is no agent for this application)

Case Officer:

Michael Ruddock, 01344 352000

environment@bracknell-forest.gov.uk

Site Location Plan (for identification purposes only, not to scale)



1 **RELEVANT PLANNING HISTORY** (If Any)

01/00644/FUL

Validation Date: 28.06.2001

Section 73 application to allow nursery school to operate between 12.00 hours and 12.30 hours without compliance with condition 04 of planning permission 621684.

Approved

05/00332/FUL

Validation Date: 29.03.2005

Section 73 application to allow nursery to operate a holiday scheme involving it opening for four weeks during the Berkshire school summer holidays and admitting children between the ages of 5 and 7 for that period without compliance with conditions 04 and 05 of planning permission 621684 (these conditions limit the opening times and restrict the use of the premises to a nursery school).

Refused – Appeal Dismissed

621684

Validation Date: 01.01.1996

Change of use to nursery school - Conditions appeal allowed

Approved

2 **RELEVANT PLANNING POLICIES**

Key to abbreviations

<i>BFBCS</i>	<i>Core Strategy Development Plan Document</i>
<i>BFBLP</i>	<i>Bracknell Forest Borough Local Plan</i>
<i>RMLP</i>	<i>Replacement Minerals Local Plan</i>
<i>WLP</i>	<i>Waste Local Plan for Berkshire</i>
<i>SPG</i>	<i>Supplementary Planning Guidance</i>
<i>SPD</i>	<i>Supplementary Planning Document</i>
<i>MPG</i>	<i>Minerals Planning Guidance</i>
<i>DCLG</i>	<i>Department for Communities and Local Government</i>
<i>NPPF</i>	<i>National Planning Policy Framework</i>
<i>SALP</i>	<i>Site Allocations Local Plan</i>

<u>Plan</u>	<u>Policy</u>	<u>Description</u> (May be abbreviated)
BFBLP	EN20	Design Considerations In New Development
BFBLP	EN25	Noise And Other Pollution
BFBLP	M9	Vehicle And Cycle Parking
BFBCS	CS7	Design
BFBCS	CS23	Transport
SALP	CP1	Presumption in Favour of Sustainable Development

3 **CONSULTATIONS**

(Comments may be abbreviated)

Warfield Parish Council

Observations:

The upstairs flat must remain attached to the nursery.

Transportation Officer

Recommend one year temporary consent.

Environmental Health and Safety

Conditional Approval.

4 REPRESENTATIONS

Twelve letters of objection have been received from nine different addresses. The reasons for objection can be summarised as follows:

- Increase in noise and disturbance, to the detriment of the amenities of the residents of the neighbouring properties.
- Concerns regarding parking, including cars blocking driveways when children are dropped off and picked up.
- Increase in traffic.
- Nursery has already been operating outside of its permitted hours, without compliance with Condition 4.
- Children have been playing outside for longer than the time restricted by Condition 5.
- Previous applications for extended opening hours have been refused.
- Concerns regarding a new window on the side elevation.

[OFFICER COMMENT: A new window is not proposed, this has only been included on the description due to the status of the application as a Section 73 application. For such applications, the whole description of the original proposal, which did include a window, has to be stated as the description of the proposed development.]

The applicant has submitted a representation (dated 28 August 2013) in response to the objections which is available on the Council's website. The applicant has also stated that while she would accept a temporary consent, a permanent consent would be preferred if the Committee are minded to approved such a consent.

The applicant is also concerned that issuing a temporary consent would mean that a new application would need to be made in a year's time, which would require going through a similar neighbour consultation process. The concern is that the planning portal process has no way of protecting the applicant from "inappropriate and offensive" attack through the consultation process, even though it does state on the Council website that such comments/letters would not be allowed to be on the site. The applicant would like this to be taken into account when the Committee makes its decision.

5 OFFICER REPORT

This application is reported to the Committee as more than three objections have been received.

i) PROPOSAL AND BACKGROUND

The application is for the removal of Condition 4 of planning permission 621684. This condition reads "The hours of operation shall be restricted from 09.00 to 12.00 and 12.30 to 15.30 (including 15 minutes at the start and end of each session for the dropping off and collection of children as set out on the application form) Monday to Friday during normal Berkshire school terms and at no other times whatsoever." The condition was imposed in the interests of the amenities of the residents of the neighbouring properties.

The proposed opening hours are from 08:00 to 18:00 hours Monday to Friday, with no opening during weekends or Bank Holidays. This would give the applicant greater flexibility throughout the day, and the ability to open the nursery outside of Berkshire school terms.

Previously, an application (LPA ref. 05/00332/FUL) was submitted to allow the nursery to operate a holiday scheme during the summer holidays, and to admit children between the ages of 5 and 7. This would have been 'without compliance' with Conditions 4 and 5 - Condition 5 restricts the use of the premises to a nursery school only within the D1 class. This application was refused and a subsequent appeal dismissed, on the grounds of neighbouring amenity. No changes to the hours of opening were proposed under this application.

Also relevant to the proposal are Condition 2, which restricts the number of children present at the nursery to 24, and Condition 6, which restricts the use of the outdoor play area to one hour per day. No changes are proposed to Condition 2, Condition 5 or Condition 6 under this application.

ii) SITE

Paws Nursery is a detached building with a D1 use as a nursery at ground floor level and a flat at first floor level. Previously the ground floor unit had retail use. Parking is located at the front of the site with a private garden to the rear, which includes a play area for the nursery. The site is bordered by No.1 Hayley Green to the south, with further properties fronting Hayley Green located to the south as far as the junction with Forest Road. The settlement boundary borders the site to the north.

iii) PLANNING CONSIDERATIONS

1) Principle of the Development

The site is located in a residential area that is defined as settlement on the Bracknell Forest Borough Policies Map, and as such the proposed development is considered acceptable in principle, subject to no adverse impact on the street scene, amenity of neighbouring occupiers, highway safety, trees etc.

Bracknell Forest Borough Local Plan Policies EN20, EN25 and M9 and Core Strategy Development Plan Document Policies CS7 and CS23 are considered relevant to this proposal. These policies are considered to be consistent with the National Planning Policy Framework and are considered throughout this report. Policy CP1 of the Site Allocations Local Plan which refers to the Presumption in Favour of Sustainable Development is also considered relevant to this proposal and carries substantial weight.

2) Effect on the Amenities of the Residents of the Neighbouring Properties

The site lies to the north of a number of residential properties, and a residential flat is located above the nursery. Although the flat is currently under the same ownership as the nursery, the effect on the residents of the flat will be considered alongside the effect on the amenities of the residents of the properties to the south.

Currently, the nursery operates Monday to Friday between 09:00 and 15:30 and includes 15 minutes at the start and end of the day for the dropping off and collection of children. If the nursery were to operate between 08:00 hours to 18:00 hours this would result in an extra hour in the morning and an extra 2.5 hours in the afternoon/evening.

The Council's Environmental Health department have been consulted on the application and have no objection to an extension in operating hours of the nursery to 08:00 hours to 18:00 hours. A condition can be imposed to restrict the operating hours to those proposed which would allow the Local Planning Authority to control operational hours in the interests of the residential amenities of neighbouring properties. Unrestricted operational hours would not be permitted due to the nursery being located within close proximity to residential properties.

The extension of opening hours could potentially extend traffic movements to and from the site over a longer period of time within any given day which would mitigate noise and disturbance to surrounding residential properties as there would be greater flexibility in the time that parents could drop off and pick up their children from nursery as opposed to 4 peak traffic flows at present in the morning and afternoon.

The decision of the Planning Inspectorate to dismiss the appeal against the refusal of application 05/00332/FUL (ref. APP/R0335/A/05/1186136, dated 30 January 2006), is a material consideration in respect of any proposals at the site. The decision states in para 7 "parents leaving and collecting children cause significant obstruction and inconvenience to local residents...I believe it likely that material disruption occurs at such times and that it would inevitably be extended if the school were permitted to open for additional weeks". The appeal was also in respect of the removal of Condition 5, to allow children of 5-7 years to attend the premises during the summer months.

The current proposal is solely for an increase in opening hours and to allow the nursery to be open outside of term time. It is not proposed to increase the use of the outdoor playing area or to allow children older than nursery age to attend. Although similar, it is considered that the proposal would have less impact than that previously proposed under application 05/00332/FUL.

The Inspector's comments with respect to disruption were on the basis that the hours of opening would remain the same, therefore parents would be picking up and collecting children from the nursery simultaneously. The applicant has stated that if the hours were extended to those proposed then drop off / pick up times could be more staggered throughout the day. This could reduce the disruption that the Inspector was concerned with.

However there is no way of demonstrating through that this would definitely be the case prior to permission being granted. A condition restricting the extension of opening hours to a temporary one year period would allow the Local Planning Authority to monitor the site to ascertain if traffic flow is more staggered than existing. The applicant could also gather information over the course of the one year period to establish whether in practice this is the case.

It is considered that the current scheme has gone some way to overcoming the concerns raised by the Inspector, however for a full, permanent planning permission to be granted for the proposed extended hours it would need to be demonstrated that, as a result of the revisions to the scheme, the disruption referred to by the Inspector in the appeal decision would not be an issue.

3) Highways Considerations

The current operational times for the nursery fall close to or outside the peak hour demands for the local road network, and thus the impact on the area surrounding the site is limited. The proposal would allow the nursery to start earlier and finish later which may lead to further demand in peak hours.

However, in principle the extension to the opening hours could stagger vehicle trips to and from the site throughout the day over a longer period of time, as parents would have the ability to drop off and pick up their children to fit in with their working and home lives which could ease congestion on the highway network. As no traffic information has been submitted in support of the proposal, it is considered that a condition restricting the extension of opening hours to a temporary one year period would be appropriate to establish the impact on the highway network. The applicant could therefore monitor the site and gather information with regard to drop off and pick up times in order to demonstrate whether in practice this is the case. This information could then be submitted in support of an application for a permanent extension of the opening hours.

4) Impact on the Character and Appearance of the Area

Given the existing use of the ground floor of the premises as a nursery, it is not considered that the proposals would result in any additional undue impact upon the character and appearance of the area.

CONCLUSIONS

It is considered that the proposal could, in theory, overcome the concerns that lead to the imposition of Condition 4 and the subsequent refused application and dismissed appeal. However no information has been submitted to demonstrate that this would definitely be the case and as such it is considered that an extension of hours for a one year temporary period would be appropriate in this case with the hours to then revert to those previously approved after the initial one year period. This would enable to Council to monitor the site and the applicant to gather information with regard to drop off and pick up times to establish whether these would indeed be staggered throughout the day. This information could be submitted in support of any future application to permanently extend the opening hours.

It is noted that Warfield Parish Council have recommended that the flat above should remain attached to the nursery, however it is not considered that a condition requiring this is reasonable. Although the flat is currently owned by the applicants, the effect on the amenities of the residents of this flat is considered elsewhere in the report alongside the amenities of the residents of the other nearby properties. It is considered that any potential harm to the occupiers of this flat would be adequately mitigated by the recommended conditions. It is not therefore necessary to link the occupation of the flat to the operation of the nursery.

A condition is recommended to be imposed restricting the hours to those applied for one year, and to revert to the previous hours thereafter. As the application is a Section 73 application, an approval would be a new permission replacing the previous permission. Therefore all other relevant conditions from permission 621684 should again be imposed. As such, approval is recommended subject to these conditions.

6 RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:-

01. The hours of operation of the use of the site as a nursery school shall be restricted to the following times: 08.00 hours to 18.00 hours Monday to Friday and at no times during weekends or bank holidays. These hours of operation shall be discontinued on or before 17.10.2014. After 17.10.2014 the hours of

operation of the use of the site as a nursery school shall be restricted to the following times: 09.00 hours to 15.30 hours Monday to Friday and at no times during weekends or bank holidays.

REASON: To enable the Local Planning Authority to maintain control over the use of the site in the interests of the amenities of the residents of the neighbouring properties, including possible impacts arising from traffic movements to and from the site.

[Relevant Policies: BFBLP EN20, EN25; CSDPD CS23]

02. The number of children present at the nursery school shall not exceed 24 pupils at any time.
REASON: To enable the Local Planning Authority to maintain control over the use of the site in the interests of the amenities of the residents of the neighbouring properties, including possible impacts arising from traffic movements to and from the site..
[Relevant Policies: BFBLP EN20, EN25, CSDPD CS7]
03. The permitted use as a nursery school shall apply only to the ground floor of the property and the play area.
REASON: To enable the Local Planning Authority to maintain control over the use of the site in the interests of the amenities of the residents of the neighbouring properties , including possible impacts arising from traffic movements to and from the site and to clarify that the upper floor of the property remains in use as a flat.
[Relevant Policies: BFBLP EN20, EN25, CSDPD CS7]
04. The ground floor of the premises shall be used as a nursery school only and for no other purpose (including any other purpose within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) 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 maintain control over the use of the site in the interests of the amenities of the residents of the neighbouring properties, including possible impacts arising from traffic movements to and from the site.
[Relevant Policies: BFBLP EN20, EN25, CSDPD CS7]
05. The outdoor play area shall be used for teaching/outdoor play associated with the use of the premises as a nursery school for a maximum of one hour in any one day, within the approved operating hours only.
REASON: To enable the Local Planning Authority to maintain control over the use of the site in the interests of the amenities of the residents of the neighbouring properties.
[Relevant Policies: BFBLP EN20, EN25, CSDPD CS7]

Informative(s):

01. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission subject to conditions, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

02. No details are required to be submitted in relation to the following conditions; however they are required to be complied with:
 01. Hours of operation
 02. Number of children
 03. Where the use applies within the site
 04. Restriction within D1 use
 05. Restriction on outdoor play area

Doc. Ref: Uniform 7/DC/Agenda

The application file to which this report relates can be viewed at the Council's Time Square office during office hours or online at www.bracknell-forest.gov.uk