

KEY INFORMATION

Ward North East

Proposal

Application to increase
nursery placements from 26
to 36 places

Address

56 William Fitzgerald Way
Dundee
DD5 2EL

Applicant

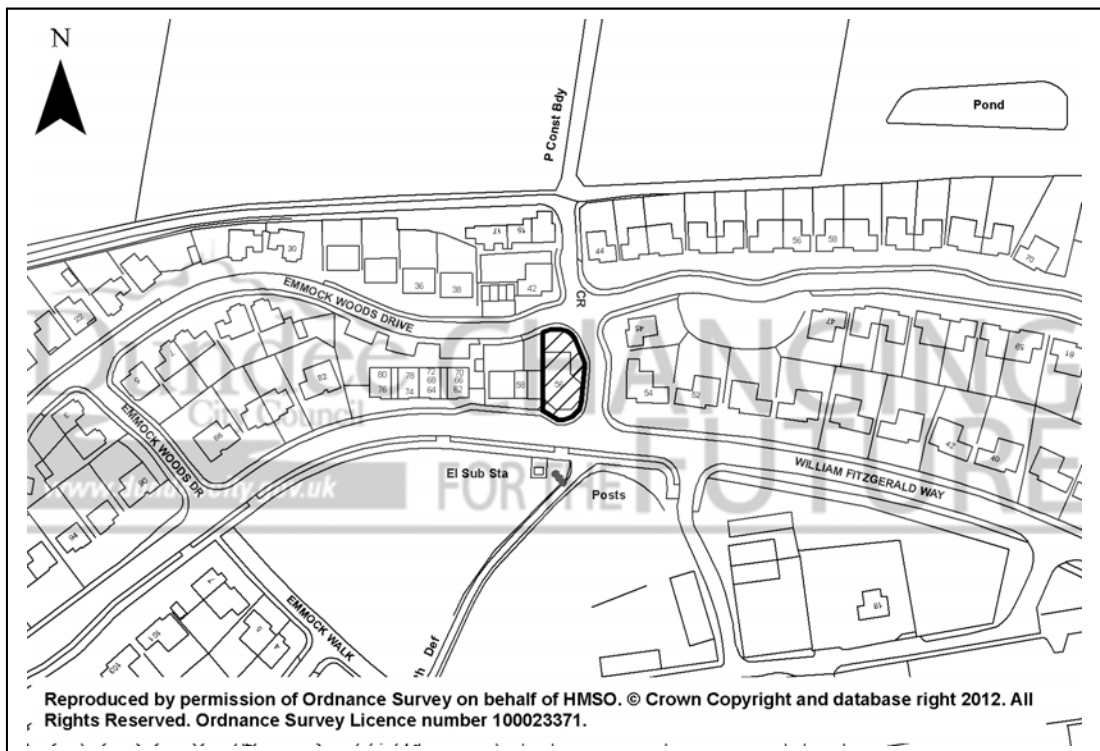
Butterflies Nursery School
56 William Fitzgerald Way
Dundee
DD5 2EL

Agent

Paul Doig
7 The Esplanade
Broughty Ferry
Dundee
DD5 2EL

Registered 28 Nov 2011

Case Officer Eve Jones



Additional Child Places at William Fitzgerald Way Nursery

The application to increase nursery placements from 26 to 36 places is **RECOMMENDED FOR REFUSAL**. Report by Director of City Development.

RECOMMENDATION

The proposed material change of use to increase placements from 26 to 36 children fails to meet the criteria of Policy 19 and Policy 1 of the Dundee Local Plan Review 2005. The applicant's Supporting Statement and the planning history are not sufficiently strong material considerations to support approval of the application. The application is therefore recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for a material change of use to an existing children's nursery to increase the number of placements from 26 to 36 children. No changes are proposed to the building. No additional staff are required. The site on William Fitzgerald Way comprises a ground floor unit in a 2 storey building containing 4 flats within a relatively new housing development. The nursery use was approved in March 2010. It is not a classified road; has no on street parking restrictions.
- Dundee Local Plan Review 2005. The proposal does not comply with Policy 19 due to insufficient outdoor play space or parking and Policy 1 because there would be an adverse impact on parking and traffic movement and increased traffic noise.
- A Supporting Statement states that the nursery is full, has a waiting list and that parents are very happy with the outdoor play and activities provided for the children. In this case, previous planning decisions have already set aside standards to grant planning permission for 26 children on this restricted site. This application seeks relaxation of the standards with the addition of a further 10 children with no increase in facilities.
- 1 Objection was received from a local resident on the grounds of traffic and parking problems creating increased risk to road safety.
- The application requires to be determined by the Development Management Committee in accordance the approved Scheme of Delegation as the building is owned by the City Council.

DESCRIPTION OF PROPOSAL

Planning permission is sought for a material change in the use of the existing nursery to increase the number of placements from 26 to 36 children. No changes are proposed to the building. No additional staff are required to accommodate the increased numbers. A Supporting Statement has been submitted by the applicant. The plan indicates that the increased numbers will be children aged 2-5 years.

SITE DESCRIPTION

The site comprises a ground floor unit in a 2 storey building constructed approximately 7 years ago and containing 4 flats, 1 at ground floor to the west of the nursery unit and 3 on the upper floor level. The unit was constructed as a shop but was never occupied for that use. The nursery was approved in March 2010.

The building has a plan area of some 190m² and has a garden area of approximately 100m² which contains play equipment. The site is enclosed by a low reconstituted stone boundary wall with railings above and a 1.8m high fence.

The site is surrounded by dwellings to the north, east and west. To the south is an area of public open space known as the village green.

William Fitzgerald Way is the main distributor road which serves this housing development. It is not a classified road; has no on street parking restrictions; does not carry high levels of traffic.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

Dundee Local Plan Review 2005

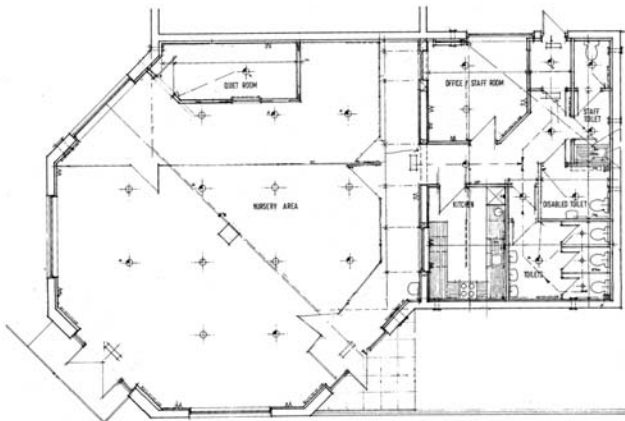
The following policies are of relevance:

Policy 1: Vibrant and Sustainable Communities.

Policy 19: Private Day Nurseries.

Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of Government policy relevant to the determination of this application.



Non Statutory Statements of Council Policy

There are no non statutory Council policies relevant to the determination of this application.



SUSTAINABILITY ISSUES

The increased use of the site as a nursery may be sustainable if it would lead to a reduction in the need to travel by car by local residents who may have to use another facility. There is no guarantee that users of the nursery will be local residents.

SITE HISTORY

The original Emmock Woods Planning Brief adopted by the Council in October 1996 made provision for a shop in the centre of this new housing development and planning permission

was granted in 2001. However, it was never occupied as a shop.

In June 2008 an application was made to change the use of these premises to a day care nursery - application 08/00444/COU refers but was withdrawn by the applicants in August 2008.

Application 08/00663/COU to change the use of these premises to a day care nursery was refused by the Development Quality Committee on 10 November 2008. Planning permission was granted on appeal, subject to conditions, on 3 April 2009. The conditions limited the use to no more than 26 children.

Application 10/00002/FULL was for use of the vacant shop unit as a nursery for up to 26 children. The application was submitted because the nursery did not have use of the 2 parking spaces which were which were approved by the appeal. The application was approved by the Development Quality Committee on 15 March 2010.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out to 14 neighbouring properties and the proposal was advertised in the local press. 1 objection was lodged on the grounds of lack of available parking which causes traffic problems and increased risk to road safety. Members will already have had access to the letter of objection and the issues raised are considered in the Observations section below.

CONSULTATIONS

There were no adverse comments from consultees.

OBSERVATIONS

Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan

The provisions of the development plan relevant to the determination of

this application are specified in the Policy background section above.

Policy 1: Vibrant and Sustainable Communities - "The City Council will promote vibrant communities, encouraging the development of an appropriate range of services and facilities close to and within housing areas. New development should be in accordance with other policies in the Plan and seek to minimise any affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell."

In respect of environmental quality, the potential impact on residential amenity will comprise the increase in traffic and potential noise resulting from the increase in placements from 26 to 36. There are no changes to the building so there are no issues in terms of design, layout and smell.

Parking and drop off spaces for customers and staff cannot be provided within the curtilage of the premises. On street facilities comprise a lay by at the front of the premises, adjacent to flats which are located along this street frontage. There are no parking restrictions on William Fitzgerald Way and it is not a heavily trafficked road. There will tend to be traffic peaks with parents arriving at the start and end of the morning or afternoon sessions with limited traffic movements between those times.

In terms of noise, it is considered that the likely noise impact will result from increased traffic and increased numbers of children using the outdoor play space. A condition of the granting of planning permission on appeal in April 2009 was the installation of sound proofing between the proposed nursery and the adjoining flats. This was not installed and was investigated by the Enforcement Officer. The residents of the flats submitted statements to the effect that there was no adverse noise affecting their property and they did not wish to have sound tests carried out to confirm the need for soundproofing.

It is considered that there is likely to be an increase in noise from traffic resulting from the proposed change of use for an increase in placements from 26 to 36 children.

The increase in placements from 26 to 36 may result in up to 10 additional cars accessing the site at busy times. It

is considered that the proposal will be likely to result in an increase of adverse parking and traffic movements affecting traffic safety.

It is concluded that there would be an adverse impact as a result of increased parking and traffic movement and traffic noise such as to justify a refusal of planning permission in terms of Policy 1. The development should also comply with other policies in the Plan.

Policy 19: Private Day Nurseries - "In support of the development of well located nurseries offering good quality facilities in a pleasant surrounding environment, planning permission will only be granted where proposals are in accordance with the guidelines contained in Appendix 4 of the Local Plan. In general proposals that provide for more than 50 full time places (or equivalent) will not be supported, nor will sites on major or heavily trafficked roads be considered suitable. Nursery premises should be situated wholly or predominantly on the ground floor and should have ground floor access, including ramped access suitable for wheelchairs and pushchairs. Tenement buildings/flatted accommodation are not considered suitable. Adequate sound insulation to the satisfaction of the Director of Environment and Consumer Protection should be provided."

Specific requirements for outdoor play space, staff parking, dropping off and distance from other nurseries are contained in Appendix 4 of the Plan linked to Policy 19.

The nursery has planning permission to operate with 26 children but seeks planning permission for a material change of use to increase the number of placements to 36. The nursery was approved on appeal in 2009 as it was considered that the material considerations of the large indoor area and the nearby village green were sufficient to justify the approval contrary to the criteria in the Development Plan.

An additional 10 children would require an additional 90m² of attractive, usable, safe and sunny outdoor play space. There is no proposed increase in the available outdoor play space.

The nursery has no off street parking space or drop off space. Planning

permission was granted for use of the site as a nursery for 26 children as it was considered that the material considerations of the nature of the surrounding area, the available on street parking and the re-use of a building which had remained vacant for some time. No additional parking provision is proposed.

It is concluded from the foregoing that the proposal does not comply with the provisions of Policy 19 of the Local Plan in terms of the provision of outdoor play space or parking.

The application also fails to comply with Policy 1 because it does not meet other policies in the Dundee Local Plan Review 2005.

Other Material Considerations

The other material considerations to be taken into account are as follows:

Supporting Statement

The applicant has provided supporting information to justify the application. They are full and have a current waiting list of 30 names. The outdoor play area is unchanged and the village green is immediately across the road from the site. The applicant states that "Existing nurseries in Dundee have smaller or no gardens at all". No increase in staff is proposed and there are no parking problems on this quiet road. Other businesses nearby result in much more serious parking problems.

Parent Questionnaires were issued by the applicant to 12 parents and 7 replies were received. All gave the highest marks to the use of the outdoor play space and garden, the outings and the opportunities for physical activities.

The comments on the issues raised are as follows:

Whilst the nursery may be successful and have a waiting list of children, need for a facility is not the only criteria to be considered as a material consideration. The nearby Village Green may provide additional play space but this will depend upon staff levels to allow its use and the play equipment is in the nursery garden. Only older nurseries which were established before the criteria were set out in the Dundee Local Plan have smaller or no gardens. Whilst the 7 parents out of a total of 26 children were very happy with the services

provided by the nursery, the application does propose that an additional 10 children, aged 2-5, will be accommodated with no increase in the available space either indoors or outdoors which will be likely to diminish the quality of the play space available at present. There are parking issues with commercial operations elsewhere in the area but that does not justify increasing the traffic impact of this operation in this location.

Planning History

The nursery was approved on appeal in 2009 when the material considerations of the large indoor area and the nearby village green were sufficient to justify the approval contrary to the criteria in the Development Plan. A further planning permission was granted for use of the site as a nursery for 26 children without the parking spaces approved by the previous appeal as it was considered that the material considerations of the nature of the surrounding area, the available on street parking and the re-use of a building which had remained vacant for some time were sufficient to set aside the Development Plan requirements.

Objection

1 objection was lodged by a local resident on the grounds of lack of available parking which causes traffic problems and increased risk to road safety. There have been a number of requests for parking restrictions to be imposed on William Fitzgerald Way as a result of overspill car parking from nearby offices and from non residents car sharing into the City. Other enquiries have related to speeding of vehicles. It is likely that there will be localised short term parking around the site when children are being taken to and from the nursery and a potential increase of up to 10 cars would be likely to adversely affect parking and traffic movement in the immediate vicinity. The objection is supported.

Assessment of Material Considerations

The material considerations of the nearby Village Green, the available on street parking and the re-use of a vacant building were sufficient to set aside the Development Plan requirements in two previous planning decisions. Whilst there may be

demand for additional places at this nursery, it is considered that the Supporting Statement does not provide sufficiently strong material considerations to support the granting of planning permission for a material change of use to accommodate an additional 10 children at this nursery.

Design

There are no design issues associated with this proposal.

CONCLUSION

In order to be fair and consistent when dealing with children's nursery proposals, the requirements in the Local Plan should be applied to all applications unless there are material considerations which are sufficiently strong to set those standards aside. In this case, the material considerations taken into account in previous applications have already been considered to be sufficient to set aside the Local Plan criteria and grant planning permission for 26 children. This application seeks further relaxation of the Local Plan standards.

The standards in the Local Plan seek to ensure that nurseries have appropriate facilities to ensure that the children have a high quality of environment and the use does not have an adverse impact on surrounding residents or road users. Whilst the nursery may be successful and have a waiting list of children, it is considered that the site cannot accommodate any more children and meet the above requirements, even with the nearby Village Green to provide additional play space.

The proposed material change of use to increase placements from 26 to 36 children fails to comply with Policy 1 or meet the criteria of Policy 19 of the Dundee Local Plan Review 2005. The material considerations to be taken into account include the Planning History and the applicant's Supporting Statement. It is concluded that there are no material considerations of sufficient strength to justify approving the application contrary to the Development Plan.

It is concluded that the application should be REFUSED.

RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:

Reasons

- 1 The proposed development is contrary to Policy 1 - "Vibrant and Sustainable Communities" of the Dundee Local Plan Review 2005 as the increase in placements would have an adverse impact on parking and traffic movement, would be likely to increase traffic noise and be contrary to other policies in the Plan. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.
- 2 The proposed development is contrary to Policy 19 - "Private Day Nurseries" of the Dundee Local Plan Review 2005 as it fails to meet the criteria for outdoor play space or parking. Previous applications set aside the Local Plan criteria to grant planning permission for 26 children. There are no material considerations of sufficient strength to justify the granting of planning permission for a further 26 children in this case.