

### ITEM 3

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| <b>Application Reference</b> | <b>DC/065614</b>   |
| <b>Location:</b>             | 21 Mellor Road<br>Cheadle Hulme<br>Cheadle<br>SK8 5AT  |
| <b>PROPOSAL:</b>             | Change of use from offices (Use Class B1) to nursery (Use Class D1) along with other associated works. |
| <b>Type Of Application:</b>  | Full Application   |
| <b>Registration Date:</b>    | 28.04.2017   |
| <b>Expiry Date:</b>          | 20170623   |
| <b>Case Officer:</b>         | Jane Chase   |
| <b>Applicant:</b>            | Abacus Play Limited t/a Tiny Toes Children's Day Nursery   |
| <b>Agent:</b>                | Euan Kellie Property Solutions   |

### **DELEGATION/COMMITTEE STATUS**

Should the Area Committee be minded to grant permission under the Delegation Agreement the application should be referred to the Planning & Highways Regulations Committee as the grant of permission would be contrary to the Local Development Framework.

### **DESCRIPTION OF DEVELOPMENT**

This application seeks full planning permission for the change of use of this vacant B1 office building to a D1 nursery along with other associated works.

The application advises that Tiny Toes Children's Day Nursery has been successfully operating at 17-19 Mellor Road, the neighbouring property, since 1998 and currently accommodates 117 pupils. Due to growth during this time the Nursery is now at a point where additional space is required to respond to the local demand for spaces.

The change of use of 21 Mellor Road is sought to accommodate 30 pupils. As originally submitted, it was proposed to erect a two metre high green paladin gate/fence between 21 Mellor Road and the existing day nursery across the vehicle access; this has since been amended to comprise a pair of 1.2m high ranch style timber gates (one at the front of the access and one to the rear). In addition a two metre high paladin fence will be erected to the rear of the property around the garden inside the existing hedge and the rear garden will be resurfaced in astro turf. During the day, children will access the new nursery space from that existing using a door in the side of 21 Mellor Road. Parents will continue to enter the nursery via

17/19 Mellor Road only and will only collect children from 17/19 Mellor Road. They would never use 21 Mellor Road for dropping off children or for the collection of children.

The proposed hours of operation will be Monday to Friday, from 7.30am to 6.30pm with sessions as follows:

- Anytime between 7.30 am to 6.30 pm (full day);
- 7.30 am to 12.30 pm (morning); and,
- 1.30 pm to 6.30 pm (afternoon).

Due to the 'staggering' of sessions at the nursery, parents will arrive at varying times. For example: a child attending the nursery for a full day session may be dropped off at 9.30am and be picked up at 3pm. Alternatively, a child may be dropped off at 7.30am and be picked up at varying times from 3pm to 6.30pm.

The change of use will require 3 no. staff to look after the 30 children as the groups will be pre-school, ages 3-5 years. The ratio for a qualified teacher is 1 no. teacher for up to 13 children.

## **SITE AND SURROUNDINGS**

The application site comprises a 2 storey semi detached property with a small landscaped front garden enclosed by a hedge and a larger landscaped rear garden. The adjoining semi to the south is also in commercial use as medical consulting rooms; to the north is the existing Tiny Toes Day Nursery. To the rear is a commercial building with a car parking area in front and opposite is a public car park.

The application site is separated from the existing nursery at 17/19 Mellor Road by a private driveway which runs down the side and rear of the application site. This gives access to Tudor Buildings at the rear of the site before emerging back on to Mellor Road to the side of 23 Mellor Road.

## **POLICY BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications/appeals to be determined in accordance with the Statutory Development Plan unless material considerations indicate otherwise.

### **The Statutory Development Plan includes:-**

- Policies set out in the Stockport Unitary Development Plan Review (SUDP) adopted 31<sup>st</sup> May 2006 which have been saved by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004; &
- Policies set out in the Stockport Local Development Framework Core Strategy Development Plan Document (CS) adopted 17<sup>th</sup> March 2011.

N.B. Due weight should be given to relevant SUDP and CS policies according to their degree of consistency with the National Planning Policy Framework ('NPPF') issued on 27<sup>th</sup> March 2012 (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given); and how the policies are expected to be applied is outlined within the Planning Practice Guidance ('PPG') launched on 6<sup>th</sup> March 2014.

The UDP Proposals Map identifies the application site as being within a the Cheadle Hulme District Shopping Centre. The following policies are therefore of relevance to this application:-

### **Saved policies of the SUDP Review**

PSD2.5 Other Development in District Shopping Centres  
CDH1.6 Day Care Nurseries

### **LDF Core Strategy/Development Management policies**

CS6 Safeguarding and Strengthening the Service Centre Hierarchy  
AS-1 The Vitality and Viability of Stockport's Service Centres  
CS7 Accommodating Economic Development  
AED-6 Employment Sites Outside Protected Employment Areas  
CS8 Safeguarding & Improving the Environment  
SIE-1 Quality Places  
SIE-2 Provision of Recreation and Amenity Open Space in New Developments  
SIE-3 Protecting, Safeguarding & Enhancing the Environment  
CS9 Transport & Development  
T-1 Transport & Development  
T-2 Parking in Developments  
T-3 Safety & Capacity on the Highway Network

### **National Planning Policy Framework Conformity**

The Planning Advisory Services' National Planning Policy Framework Compatibility Self-Assessment Checklist has been undertaken on Stockport's adopted Core Strategy. This document assesses the conformity of Stockport's adopted Core Strategy with the more recently published NPPF and takes account of saved policies from the Unitary Development Plan where applicable. No significant differences were identified.

### **Supplementary Planning Guidance**

Supplementary Planning Guidance (Saved SPG's & SPD's) does not form part of the Statutory Development Plan; nevertheless it does provide non-statutory Council approved guidance that is a material consideration when determining planning applications.

Day Care Nurseries SPG

## **National Planning Policy Framework**

Paragraph 6 states: *“The purpose of the planning system is to contribute to the achievement of sustainable development”.*

Paragraph 7 states: *“There are three dimensions to sustainable development: economic, social and environmental”.*

Paragraph 11 states: *“Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise”.*

Paragraph 13 states: *“The National Planning Policy Framework constitutes guidance for local planning authorities and decision-takers both in drawing up plans and as a material consideration in determining applications”*

Paragraph 14 states: *“At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking”.*

*For decision-taking this means (unless material considerations indicate otherwise):*

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
  - i) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - ii) *specific policies in this Framework indicate development should be restricted”.*

Paragraph 17 states: *“Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should:*

- *be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;*
- *not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;*

- *proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;*
- *always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;*
- *take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;*
- *support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);*
- *contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;*
- *encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;*
- *promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);*
- *conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;*
- *actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and*
- *take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs”.*

Paragraph 187 states *“Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”*.

Paragraph 196 states *“The planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. This Framework is a material consideration in planning decisions”*.

Paragraph 197 states *“In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development”*.

Paragraph 215 states *“...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”*.

## **RELEVANT PLANNING HISTORY**

J42324 - conversion from residential to B1(a) offices - approved July 1988

DC059996 - Change of use from office (B1a) back to the original use as a semi-detached residential dwelling – approved January 2016

## **NEIGHBOUR'S VIEWS**

The owner/occupiers of neighbouring properties have been notified by letter and the proposal has been advertised as a departure from the Development Plan.

To date 1 representation has been received from the owner of 23 Mellor Road objecting on the following grounds:-

- As the owner of 23 Mellor Road which adjoins the subject property, I wish to formally object on the grounds that there is likely be excessive noise generated by the change of use from office to a children's nursery. The single skin construction and lack of flanking sound insulation typical of 1930s residential properties such as this property does not offer sufficient sound insulation to prevent classroom noise nuisance being heard within the adjacent property.
- Added to the above the forming of an external play area in the rear garden will undoubtedly generate noise disruptive to the occupants of my building and the offices within the Tudor building at the rear.
- Finally I would question the proposal to fence of the vehicle access adjacent to 21 Mellor Road as this is the official access to the rear carpark (which provides car parking for the adjacent/rear properties) which I always believed belonged to the rear

Tudor buildings (Mr K D Murphy). I allow temporary access to the carpark over my private driveway but this is not a permanent right of access.

1 letter has also been received in support of the proposed development from the owner of the Tudor Building to the rear of the site:-

- The proposed plans show a passageway to the left of the application site which is a right of way to car parking at the rear of the site.

- Whilst we are aware that access is also by way of a passage to the right of no.23, this was at one time fenced off, and it was by way of agreement with the owners that at a time when their tenants needed more car park space we allowed them to use our car park on the condition that they would grant us and our tenants access through the passage to the side of no.23.

- This arrangement has worked well for many years and keeps the noise of cars and vans away from the nursery side and therefore we want this arrangement to continue.

Those who have commented on the application have been notified of the receipt of amended plans and any further comments will be reported orally to Members at the meeting.

### **CONSULTEE RESPONSES**

Planning Policy - The site is within Cheadle Hulme District Centre but it is not within a defined type of frontage. It appears that the proposal would allow for the expansion of the neighbouring Tiny Toes day nursery at 17-19 Mellor Road. In terms of Saved UDP Review policy CDH1.6 DAY-CARE NURSERIES (criteria vii), 23 Mellor Road was a vacant non-residential use unit at ground floor level in May 2016. With regard to CTF1.1 and Core Strategy policies CS5, CS6 and AS-1, the proposal would contribute to the vitality and viability of the District Centre.

Highway Engineer – The site does not have any specific off street parking for staff or bespoke drop off and collection area for parents or guardians. It does however benefit from the availability of a public car park opposite the site and short stay parking on the street frontage. Whilst my preference is for proper on-site parking and drop off area to ensure the movement of children is contained within the site I can see no reason to express concern with the use of the street or public parking facilities. The existing business has been in operation for a number of years without traffic or safety related incident and I am therefore satisfied that an increase in capacity of 30 children will not give rise to highway operation and safety conditions that are considered to be severe in terms of detriment.

A condition is required on any approval required to ensure the provision of cycle parking for staff and scooter/buggy parking for children/parents.

Environmental Health Officer – no objections subject to the imposition of a condition requiring the installation of soundproofing on the party wall with 23 Mellor Road.

## **ANALYSIS**

The site lies within the Cheadle Hulme District Shopping Centres as identified on the Proposals Map of the SUDP Review. The main issues for consideration are therefore the loss of the existing employment use; the impact of the proposed use on the vitality and viability of the shopping centre and the impact on the amenities of the locality, neighbouring occupiers and highway safety.

### **Policy Implications**

Policy AED-6 of the CS states that proposals for the change of use of employment sites outside designated employment areas which result in the loss of that use will not normally be permitted unless:-

- it can be demonstrated that the site is no longer viable as an employment use
- the proposal will not adversely affect the operations of neighbouring premises
- the loss of the employment land would not lead to significantly longer journey to work patterns and
- the development does not conflict with other policies.

The applicant has not submitted any information to address this policy position and therefore the proposal, in terms of the loss of employment floorspace, must be considered contrary to AED-6.

Notwithstanding the conflict with policy AED-6, Members are advised that the loss of the existing employment use has been approved by way of the earlier application for a change of use to residential (DC059996 refers) which was considered by the Area Committee and Planning & Highways Committee and this remains extant. This represents a fall back position which is material to the consideration of this application in that the approved residential use could be implemented at any time until January 2019 thus resulting in the loss of the employment use. This in itself justifies the approval of this application despite the fact that the proposal is contrary to policy AED-6.

In addition to the fallback position, however, Members are advised that the proposed use will generate employment in the creation of 3 full time posts. No information has been given as to what the levels of employment were when the premises was last used as offices, however, the creation of employment (albeit not within the B Use Classes) is welcome.

Policy CTF1.1 of the UDP Review allows for the provision of additional community facilities provided that they are well located to serve the population by sustainable transport modes; provide for satisfactory parking and access, cause no harm to residential amenity and no harm to the vitality and viability of existing centres. CS5, CS6 and AS-1 of the Core Strategy all seek to safeguard and enhance the vitality and viability of Stockport's town centres.

Policy CDH1.6 of the UDP Review (supported by the SPG for Day Care Nurseries) allows for nurseries (and expansions thereof) provided that the proposal:-

- provides parking in accordance with the adopted standards
- provides a drop off facility



- is of an appropriate scale in terms of numbers of children, traffic generation, general disturbance to neighbours and openings hours, does not materially lower residential amenity
- provides sufficient amenity space (7m<sup>2</sup> for each 2 children)
- operates 8am to 6pm and is open on weekdays only and
- is in a detached property unless the premises attached to the proposed day nursery is in non residential use.

In response to that policy position, Members are advised that the site is well positioned relative to public transport being within the District Centre. The site is flanked on 3 sides by commercial properties and opposite by a public car park; the closest residential property is understood to be at 32 Mellor Road on the far side of Library some 40m from the application site towards Station Road. On this basis, it is not expected that the proposed use would result in a loss of residential amenity. The Planning Policy Officer has advised that the proposed use will contribute to the vitality and viability of the District Centre thereby complying with policy CTF1.1 of the UDP Review, CS5, CS6 and AS-1 of the Core Strategy. Compliance with policy CDH1.6 in relation to impact on highway safety is explored in the paragraphs below.

Noting the location of the site within a District Centre (where commercial uses are expected to be located) the use of the premises for a 30 place nursery is considered to be of an appropriate scale.

To comply with the standards in the SPG, there should be 105m<sup>2</sup> of amenity space. That proposed measures circa 76m<sup>2</sup> and therefore falls short of the requirements of the SPG. In response to that the agent has advised that:-

- 21 Mellor Road will be used as an extension to the operation at 17-19 Mellor Road to accommodate 30 pupils; in line with this our client's primary objective will be to use the space within the building as classrooms. Notably, the size of the building accords with Ofsted's requirements in terms of minimum floorspace per pupil - a key consideration that must be taken into account by our client.
- The use of the outdoor space by pupils at 21 Mellor Road will be carefully managed by our client and, to a degree, the size of the space of immaterial. With this in mind only a small number of pupils will use the outdoor space at any one time. These pupils will also use the outdoor space at 17-19 Mellor Road and will therefore not solely rely on the space at 21 Mellor Road.
- Our client's commitment to managing the use of this outdoor space is demonstrated by the operation that is in place at 17-19 Mellor Road where the nursery has operated successfully for almost twenty years without any complaints from neighbours (which is particularly noteworthy bearing in mind the first floor of 15 Mellor Road was previously in residential use, and occupied).

The comments of the applicant are noted, in particular the fact that the use of this space will be managed such that only small groups are using it any given time. On this basis and noting that this application effectively seeks a small extension to an existing nursery to meet demand for additional places, it is considered that the level of amenity space is not unacceptable and that a refusal could not be justified. It is

considered prudent however to impose a condition to ensure that the use is operated only as an extension to the nursery at 17/19 Mellor Road. Without such a condition, it could be occupied as a nursery independent of Tiny Toes and therefore not benefit from the facilities that this existing nursery has to offer.

The hours of operation proposed are 7.30am to 6.30pm which having regard to the location of the site within a District Shopping Centre and the mainly commercial character of the locality, are considered acceptable.

Policy CDH1.6 seeks to direct day nurseries towards detached properties. Their operation within semi detached properties is generally only acceptable if that adjoining property is in commercial use. In this instance, the adjoining property is in commercial use and as such, the semi detached nature of the property does not give rise to any cause for concern in relation to noise/disturbance. As the adjoining property is in use as medical consulting rooms where it would not be unreasonable to expect a degree of peace and quiet, a condition should be attached to secure the provision of soundproofing on the party wall.

A condition should also be imposed to ensure that the premises is used only as a nursery within the D1 Use Class. This will enable the LPA to consider the implications of a change of use to any other within that Use Class as part of a formal application.

#### Impact on Highway Safety

The comments of the Highway Engineer as outlined above are noted, in particular the reference to the fact that the site does not have any dedicated off street parking or drop off facility within the site. The location of the site within a sustainable location which is well served by public transport, together with the presence of a public car park directly opposite are noted. In addition to this short stay parking is available on street. It is also noted that the existing adjacent nursery operates in a seemingly successful manner without any provision in relation on site parking or drop off facilities.

On this basis, it is considered that a refusal on highway grounds may be difficult to sustain given that this is effectively an extension of the existing use. As outlined above, however, it is considered prudent to impose a condition to ensure that the use is operated only as an extension to the nursery at 17/19 Mellor Road. Without such a condition, it could be occupied as a nursery independent of Tiny Toes and could give rise to additional traffic movements such as servicing, deliveries etc and parking demands which may impact on highway safety and should therefore be formally assessed as part of an application.

As requested, a condition can be imposed to secure the provision of cycle parking and scooter/buggy parking.

#### Other Matters

In response to the objections received, the applicant has provided a short statement:-

- In response to objections relating to noise, it should be noted that the applicant has operated a 117 place nursery successfully at 17-19 Mellor Road for many years without complaint. Given that the proposed change of use will effectively be an extension of the existing nursery, if noisy activities are proposed they can be relocated to the existing nursery building. The nursery is well run and is committed to being a good neighbour. The proposal is policy compliant in that no more than 30 places are being proposed and the policy specifically allows for the use of semi detached properties where the adjoining property is in commercial use (which is the case in this instance).
- The legal position with regard to access is a private matter.

Members are advised that as this access is privately owned, the issue of its partial obstruction is essentially a private matter; indeed the owner of Tudor Buildings, a development which relies in part on this access, has commented on the application expressing his support for the proposals. Notwithstanding that, the applicant has advised that the gates would only be closed when children are moving between the existing nursery and extension; at all other times they would remain open thus retaining the means of access to Tudor Buildings at the rear.

The proposed gates being set back from the highway will not be prominent in the streetscene or public views of the site. In any event, they are of an acceptable height and design such that they will not detract from the visual amenities of the locality. The paladin fence will be erected alongside the existing hedge on the inside of the garden and as such will not impact on the visual amenities of the locality.

### Conclusions

Having regard to the above, with the exception of the issues relating to policy AED-6 (which are in any event addressed by the fallback position), the proposed change of use is considered to be policy compliant. There will be no unacceptable impact on the amenities of the locality, nor conditions of highway safety. Conditions should however be imposed to ensure that the nursery remains ancillary to that at 17/19 Mellor Road. A condition should also be imposed to secure soundproofing to the party wall with 23 Mellor Road and that buggy/scooter parking be provided.

**RECOMMENDATION** Grant subject to conditions