
Site Address: 99 Havant Road, Emsworth, PO10 7LF
Proposal: Variations of conditions 4 and 5 of planning permission 05/51618/001
(Change of use of property from residential to mixed use residential (use Class C3) and
day nursery (use Class D1)) relating to number of attendees (increase in children from 28
to 39) and use of outside play area (in terms of time used and number of children using it).
Application Type: Variation/Relief of Condition
Application No: APP/23/00281 Expiry Date: 22/05/2023
Applicant: Daisy Chain Nursery
Daisy Chain Nursery
Agent: Mrs Coles Case Officer: Joseph Toole
Genesis Town Planning
Ward: Emsworth

Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 Daisy Chain Nursery (99 Havant Road) comprises a detached three-storey building with a nursery and staff accommodation contained within, situated on the north side of Havant Road. The building has direct access from Havant Road and the site is partially screened from the street by a large Horse Chestnut tree, which is the subject of a TPO. To the front of the property is parking and landscaping with a rear garden to the north. There are two mature trees to the south of the site which are covered by a TPO.
- 1.2 The area is mixed use with residential properties to the west, commercial development to the east, residential development to the north and the A259 to the south.

2 Planning History

05/51618/001 - Change of use of property from residential to mixed use residential (use Class C3) and day nursery (use Class D1)., PERM,23/11/2005
09/55563/010 - Application for non-material changes to Planning Permission 09/55563/009 relating to addition of central rear window to stairwell at first floor level and to the rear (north elevation)., PERM,12/11/2009
57/05144 - Outline for layout of roads and footpaths for residential development, UNK,09/10/1957

3 Proposal

- 3.1 The proposed development is for the Variations of conditions 4 and 5 of planning permission 05/51618/001 (*Change of use of property from residential to mixed use residential (use Class C3) and day nursery (use Class D1)*).

Condition 4

No more than 28 children shall attend the Nursery School at any one time.

Reason: In the interests of the amenity of occupiers of neighbouring properties and in the interests of highway safety and having due regard to policies and proposals UB3 of the Hampshire County Structure Plan 1996-2011 (Review) and D1 (D4), T7 (T14) and T9 (T17) of the Havant Borough District Wide Local Plan 1996-2011.

The proposal seeks to increase the number of children from 28 to 39.

Condition 5

Outside children's play shall be restricted to two separate one-hour periods per day of no more than ten children in each period. Apart from this, there shall be no children in the rear garden of the property in connection with the Day Nursery use, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of occupiers of neighbouring properties and having due regard to policies and proposals UB3 of the Hampshire County Structure Plan 1996-2011 (Review) and D1 (D4) of the Havant Borough District Wide Local Plan 1996-2011.

The proposal seeks to increase the number of hours the children can use the garden from two separate one hour periods to a five and a half hour period. Below shows the daily breakdown of the age ranges and number of children within the garden:

08:30-09:30 Babies (maximum 12 children)
09:30-11:15 2-5 year olds (maximum 28 children)
14:00-15:00 2-5 year olds (maximum 28 children)
15:00-16:00 Babies (maximum 12 children)
16:45-17:30 Mixture of ages/children attending nursery all day (maximum 28 children)

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS16 (High Quality Design)
DM10 (Pollution)
DM14 (Car and Cycle Parking on Development (excluding residential))
DM8 (Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist

Approve, subject to conditions

The Council seeks to protect tree coverage in the Borough, sympathetically incorporating existing features into the overall design of the scheme including measures taken to ensure their continued survival.

The application seeks to vary the conditions for the site which would result in a change in car parking arrangements to the front of the property.

The agent has submitted supporting information that replicates the measures agreed with the previous application (05/51618/001) concerning car parking and the impacts on the trees to the front of the property.

The proposed works, subject to the conditions would ensure the protection of the trees on and off site and would be in accordance with Policy CS16 and DM8 of the Havant Core Strategy (2011).

Recommended Conditions:

Approval subject to the following conditions;

a) Parking Construction Details:

Tree protection measures will be undertaken in accordance with the submitted plan 'Construction Details 1&2' Feb 06 4176 drawing no.12 Revision B' and implemented to the parking bays labelled 4 and 5 on the western boundary of the site and the area of the turning circle highlighted on the submitted document 'Parking Layout'. The only amendment to the submitted plans would be replacement of concrete block stretchers to wooden sleepers. The development shall be implemented and thereafter maintained in accordance with the approved details.

Reason: To safeguard the continued health and presence of such existing trees and protect the amenities of the locality and having due regard to policies CS16 and DM8 of the Havant Borough Core Strategy (2011) and the National Planning Policy Framework.

Councillor Julie Thain-Smith

No Comment.

Councillor Lulu Bowerman

No Comment.

Councillor R Kennett

No Comment.

Environmental Health Manager, Community Group

Thank you for consulting the Environmental Protection team on this application.

We do not have any objection to the amendment of Conditions 4 and 5 as proposed. The nursery has been used in breach of these conditions for a substantial period without complaint to the Council. However, we should wish to see condition 5 amended in accordance with paragraph 5.23 of the Planning Statement so there is still some control in terms of the number of children using the outside area at any one time, and restriction on play periods.

Hampshire Highways

In regard to application APP/23/00281, specifically the highways related Condition 4 which limits attendee numbers at the setting, having reviewed the information contained within the application pack, there is no objection to the proposals from a highways perspective.

ACCESS

In terms of pedestrian and vehicle access in and out of the site, this is unchanged by the proposed uplift of attendees, and works in its current layout without known issue.

TRIP RATES:

Whilst an uplift in attendee numbers would be anticipated to generate additional trip rates to and from the site, it is understood that the setting has run at numbers exceeding the limited 28 attendees for many years. As such, whilst there could be an increase in up to 11 journeys to and from site, twice a day as parents / carers drop off and pick up, in reality the majority of these are already taking place.

Furthermore, when adjusting these additional trips for elements such as walking or cycling to the setting, shared journeys for siblings, pass-by trips by parents / carers dropping off on their way to work, etc. the additional trips to the setting become limited in number and unlikely to have an impact on the local highway network.

PARKING:

Whilst the parking quantum is for HBC to consider, ensuring that the number of spaces provided accords to the HBC Parking Standards, it is noted that plans show 8 available parking spaces on site, the only ones of which are 'blocked in' are staff spaces which is likely to be acceptable.

In terms of the layout, again this is acceptable for a private use such as this, with adequate turning widths (6.0m minimum), and there looks to be potential to add to the quantum of parking along the western boundary should this be required.

6 **Community Involvement**

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 8

Number of site notices: 2

Statutory advertisement: Not applicable.

Number of representations received: 1

Comment	Officer Comment
Strongly objected in 2006 when planning permission was first applied for due to its impact on the neighbourhood and because of traffic issues	Noted
From spring to autumn the noise levels from the children playing outside and the adult 'carers' activity encouraging noisy play can become unbearable and in the summer impossible to sit outside or work in the house with the windows and doors open.	Please see Section 7.
We will complaint directly to the owner	Noted
Predominantly a residential area	Noted
Parking issues - the parking area is not big enough for the number of cars required to drop off 39 children	Hampshire Highways commented on the application raising no objection
Concern if approved they will increase the numbers further	This is not what is being applied for here.
Increase use of the garden totals to 5 1/2 hours of outdoor play 5 days a week. The original application was restricted to 2 hours a day.	Please see Section 7.

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Impact on trees
- (v) Access and Parking matters

(i) Principle of development

7.2 This is a Section 73 application and if approved, its granting effectively re-issues the original permission and must repeat the relevant conditions unless they have been discharged. In this case conditions 4 and 5 are sought to be varied. It has been found that conditions 6,7,8,11 have not been formally discharged. Having reviewed the situation on site it is considered to have appropriate boundary treatment, landscaping/driveway and the fact that these conditions would now not be prior commencement conditions and as they do not go to the heart of the planning use it is considered to be appropriate not to reimpose them. The other conditions requiring ongoing compliance have been added to the decision. It is therefore the impact of the proposed changes that are now under consideration.

(ii) Impact upon the character and appearance of the area

7.3 There would be no external alterations associated with the proposed use which would remain appropriate to its setting and character of the area.

(iii) Impact upon residential amenity

7.4 The nursery has residential properties to the west and south. Concerns have been raised with regards to the use of the garden and the noise emissions because of children using the garden throughout the day. Although it is inevitable there would be some noise and disturbance from the nursery, it is worth noting the nursery is not open during noise sensitive hours such as early mornings, evenings and weekends, so it will avoid disturbance at times when gardens are more generally in use. The Council's Environmental Health team commented on the application raising no objection subject to the use of the gardens to be in line with paragraph 5.23 of the Planning Statement. Due to concerns with the garden being open to all children during 16:45 - 17:30 following discussions this number has been reduced to a maximum of 28 children. If approval is forthcoming a condition to this effect would be added.

7.5 The applicant states the nursery has been operating in breach of condition 4 since the 8th December 2006 with the increase to 39 children since April 2016. This has been supported in the form of evidence which included statutory declarations, attendance lists and Ofsted reports.

7.6 The applicant states the nursery has been operating in breach of condition 5 since 12th July 2006 both in terms of hours of use of the outdoor play space and the number of children. They say Children have unrestricted numbers of hours in the garden per day between 9am and 6pm and up to a maximum of 39 having access to the garden at any one time. This has been supported in the form of statutory declarations.

- 7.7 During the period of the breaches to conditions 4 and 5 there has been no complaints to the Council's Environmental Health department regarding the impact on the amenity of neighbouring properties. It has come to the Council's attention there has been some complaints in terms of the noise and disturbance, however, it is understood this has been between the parties involved and not through the Council. There have also been no complaints to Hampshire Highways regarding the impact of the increased number of children on highway safety grounds. Therefore, the level of activity on the site has been operating at a level higher than the application is currently seeking, without concerns being raised with either of these two authorities which helped inform the situation now.
- 7.8 Since the granting of planning permission for the nursery the premises to the east has changed from residential to mixed commercial and residential use with parking to the rear of the site. This has changed the character of the area and as such the proposed increase in the number of children and increase use of the garden would have less of an impact on this side.
- 7.9 As to other residential properties in the locality, based on the evidence provided, there would be no significant material change in residential amenity terms, when assessed against how the nursery has operated since 2016, (if not earlier), if permission is granted to regularise the use.
- 7.10 There are examples within the borough where nurseries have conditions to control of the number of children and the number of children outside at any one time. These include 125 New Brighton Road, Emsworth, 106 Park Lane, Bedhampton and 208 London Road, Waterlooville. All of which have various degrees of control of usage.
- 7.11 Overall, on the evidence available, the conditions have been in breach since 2006, there is no objection from the Environmental Health Team, the area has become less residential and there are examples of other sites within the borough which operate to a similar scale as to proposed here it is considered on balance to be acceptable, complying with Policy CS16 and DM10 of the Havant Borough Core Strategy (2011).

(iv) Impact on trees

7.12 The application which would result in a change in car parking arrangements to the front of the property. The agent has submitted supporting information that replicates the measures agreed with the previous permission (05/51618/001) concerning car parking and the impacts on the trees to the front of the property. The Council's Arboriculturist commented on the proposal raising no objections subject to a condition which would ensure the protection of the trees on and off site in accordance with Policy CS16 and DM8 of the Havant Core Strategy (2011). A condition to this effect has been recommended to the decision.

(v) Access and Parking matters

7.13 Hampshire Highways commented on the application raising no objection, stating the additional trips in relation to the increase in the number of children is unlikely to have an impact on the local highway network.

- 7.14 The Havant Borough Parking Standards SPD sets out the minimum parking standard for D1 Educational Establishments (day nurseries) as 1.5 spaces per two full time staff. The adopted cycle standard is one stand per six full time staff (long stay) and at least two stands per establishment.
- 7.15 The residential accommodation at the property is one bedroom and there are two parking spaces allocated in the garage for the residential unit. There was no requirement in the original planning permission for parking in association with the residential unit.
- 7.16 The nursery has produced a green travel plan and parking plan which includes two residential spaces in the garage, three spaces for staff and five spaces for parents to pick up and drop off. This accords with Policy DM14 of the Havant Borough Core Strategy (2011) and the Havant Borough Parking Standards SPD.

8 Conclusion

- 8.1 The proposed development is acceptable in principle, is appropriate in terms of design and its impact on the character of the area, and would have a limited and acceptable impact on the neighbouring properties. On this basis it is recommended for approval.
- 8.2 Relevant conditions are required to be carried forward from the original permission; however, as work has commenced in respect of the development there is no requirement to impose a time limit on the commencement of development.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/23/00281 subject to the following conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Planning Statement
Travel Plan
Revised Parking Plan
Statutory Declaration - Donna Sims
Statutory Declaration - KLC
First Steps Children Attendance Report
Ofsted Certificates
Ofsted Notification of removal of 34 children limit

Reason: To ensure provision of a satisfactory development.

- 2 The residential accommodation on the site shall only be occupied by a person, who is employed by the day nursery, and their dependant's, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure no conflict results in between the uses in terms of noise, safety, and parking arrangements having due regard to policies CS16, DM10 and DM14 of the Havant Borough Core Strategy (2011).

- 3 The Day Nursery shall only operate between the hours of 0800 and 1800, Monday to Friday, and not at all at weekends or on recognised Bank or Public Holidays.

Reason: In the interests of the amenity of occupiers of neighbouring properties and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 No more than 39 children shall attend the Nursery School at anyone time.

Reason: To protect the amenities of nearby residential properties and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 Outside children's play shall be restricted to time periods detailed below. Apart from this, there shall be no children in the rear garden of the property in connection with the Day Nursery use, unless otherwise agreed in writing by the Local Planning Authority.

- 08:30-09:30 Babies (maximum 12 children)
- 09:30-11:15 2-5 year olds (maximum 28 children)
- 14:00-15:00 2-5 year olds (maximum 28 children)
- 15:00-16:00 Babies (maximum 12 children)
- 16:45-17:30 Mixture of ages/children attending nursery all day (maximum 28 children)

Reason: To protect the amenities of nearby residential properties and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no extension, building or structure permitted by Part I, Classes A or E of the 1995 Order, as amended, shall be erected within the curtilage of the site without the prior written approval of the Local Planning Authority.

Reason: In the interests of the amenities of the neighbouring properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

- 7 There shall be no play equipment placed in the garden unless details of the equipment and its location has been agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the neighbouring properties and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 8 Tree protection measures will be undertaken in accordance with the submitted plan 'Construction Details 1&2' Feb 06 4176 drawing no.12 Revision B' and implemented to the parking bays labelled 4 and 5 on the western boundary of the site and the area of the turning circle highlighted on the submitted document 'Parking Layout'. The only amendment to the submitted plans would be replacement of concrete block stretchers to wooden sleepers. The development shall be implemented and thereafter maintained in accordance with the approved details.

Reason: To safeguard the continued health and presence of such existing trees and protect the amenities of the locality and having due regard to policies CS16 and DM8 of the Havant Borough Core Strategy (2011) and the National Planning Policy Framework.