

Officer Report

Application Number:	HGY/2023/0672
Application Type:	Change of use
Address:	100 Lansdowne Road, Tottenham, London, N17 9XX
Proposal:	Retrospective planning for the change of the residential upper floors to nursery use (use Class E) for the continuation of the whole premises to function as a nursery.
Case Officer:	Mercy Oruwari
Valid Date:	08/03/2023
Applicant:	Ms Bossman
Agent:	Mr Ike Obanye

RECOMMENDATION

Approve with Conditions

1. SITE DESCRIPTION

The subject site is a two storey mid terrace property, with a double storey rear outrigger, and a converted loft space. The house has a rear garden and a generous sized paved front garden. The property is registered and has planning permission to be a nursery on the ground floor, whilst the upper floors are residential.

The site is not located within any conservation area and does not fall within the curtilage of a listed building.

2. THE PROPOSAL

The proposal is for the change of the residential upper floors to use Class E(f) (namely for use as a nursery) in order to allow the continuation of the whole premises to function as a nursery, the proposal is retrospective.

The most recent lawful use of the property as approved (HGY/2018/0911) is as a nursery (class E(f)) on the ground floor only and a single family dwelling on the upper floors.

3. RELEVANT PLANNING AND ENFORCEMENT HISTORY

- CON/2022/00496 – Breach of conditions regarding number and age of children (attendees). Noise and environmental issues. Ongoing
- HGY/2023/0371 - Certificate of lawfulness for the existing use of the whole site as a childcare nursery (Use Class E(f)) – Permission required

- HGY/2019/1036 - Application for a non-material amendment following a grant of planning permission HGY/2018/0911 for the replacement of 2 existing windows on the ground floor of the front elevation, with 2 new emergency escape fire doors - Refused
- HGY/2019/1034 - Certificate of lawfulness for the erection of a proposed outbuilding at the rear of the garden (for use as a garden office) – Permission not required
- HGY/2018/0911 - The proposed development includes the: - Single storey ground floor rear infill extension - Change of use of the ground floor from C3 Residential Use to D1 Preschool Learning Centre (Nursery) - Conversion of the 1st and second floor to a 3no. bed family sized maisonette - Grant permission
- HGY/2018/0296 - Certificate of lawfulness for formation of dormer in rear roof slope and installation of one roof light to front roof slope - Permission not required
- HGY/2013/0886 - Change of use of existing property from Residential (C3) to Nursery (D1) - Refused

4. CONSULTATION RESPONSES

Internal & External Consultees

The following were consulted on the planning application:

- LBH Environmental Health – Noise Officer: Raised no objection.
- LBH Transportation Officer: Raised no objection

The following were not consulted on the planning application but did submit a representation:

- LBH Schools and Learning Service – Principal Advisor for Early Years: Raised no objection and supports the application for the nursery.

Local amenity groups

No local groups/societies were consulted or submitted any representations.

Local MP

Rt Hon. David Lammy MP - Member of Parliament for Tottenham

Local Councillors

Councillor David Bevan

Neighbour Consultation

The number of representations received from neighbours in response to notification and publicity of the application were as follows:

No of individual responses 20

Objecting 0

Support 20

The following issues were raised in representations and are addressed further on in this report or below:

- The location as a terraced residential dwelling on a residential street is not appropriate for nursery use.
- The location is not appropriate as a nursery being on a very busy road.

The following points were made in support of the proposal:

- The business would not be active during 18:00-08:00 weekdays and not at all weekends and bank holidays.
- There is a strong need for this facility in the local area and is an asset to the community.
- To accommodate the need for the facility the nursery should not be restricted to the ground floor.
- The closure of other local nurseries and the new developments will drive up demand for the service.
- Government initiatives will also drive up demand.
- Other things are not noted by planning in the area such as HMOs but this makes a contribution to the community.
- The service enables parents to work/study. The opening hours allow flexibility for working/studying parents.
- It has been established for 6 years.
- The lack of housing can be resolved with vacant properties on Tilson Road and the new developments.
- Being on a road is not an issue as the children play inside or in the rear garden. The entrance has a double door system and the drive has a gate.
- The area may be residential but it's no different than having a school in the area.
- Ofsted has deemed this establishment as 'good'.
- Visits from the Early Years Advisors from the LA have seen routines being adapted to ensure noise of children playing outside is kept to a minimum.

5. PLANNING CONSIDERATIONS

Background

Planning permission was issued in May 2018 for the use of the ground floor as a nursery whilst the first and second floor remained as residential to be in accordance with the Development Management policy DM51. The demand for the space within the premises has grown since that time and required the use of the first and second floors being incorporated into the the nursery use.

Principle of development

Planning Policy Framework (NPPF) paragraph 99 states that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education.

Policy SP16 of the Council's Local Plan states that Haringey aims to provide a high standard of education and training for everyone through the borough's network of schools, youth centres and childcare providers. The Council will also work with partners, such as the further education colleges, neighbouring boroughs and the community and voluntary sector, to ensure that suitable services and facilities for education and training are provided.

Policy DM51 of the Council's Development Management DPD states that the Council recognises the value and importance of provision of suitable day care facilities for preschool children. Demand for a range of such facilities, operated either from dwellings or other premises, is likely to increase over the plan period. To ensure that basic standards are maintained, the Council will seek to ensure that all facilities are appropriately located, in particular to protect the amenity of the neighbouring properties and the wider area. Consistent with the housing policies of the Plan, any proposal involving the loss of housing will be resisted.

In determining this application, the LPA are mindful of the proposal resulting in the loss of a dwelling (the upper floor residential unit). The property is a mid-terrace house on a street which is mainly residential. This brings into focus the main consideration of DM51:

A) The Council will only grant planning permission for day nursery schools, childminding, playgroups and related activities in residential dwellings (excluding flats) provided that:

- a The proposal does not result in the loss of a dwelling;
- b The floorspace occupied by the activity is ancillary to the dominant residential use;
- c The noise generated by activity would not adversely affect the amenities nearby properties;
- d The activity would not adversely affect the character of the surrounding area or result in the loss of privacy of neighbouring properties;
- e Traffic movements and parking arrangements of parents/carers and staff do not detrimentally affect road safety or traffic generation; and
- f The property can accommodate satisfactorily the number of children proposed.

B) The Council will expect all planning applications for day nurseries and child care facilities in residential buildings and other non-residential buildings to outline:

- a The numbers of staff and other visitors expected to attend the facility;
- b The days of the week and the hours when the facility will operate;
- c The nature of the activity;
- d The car parking and transport patterns, including servicing of the use;
- e Disabled access in and around the building to promote access for all; and
- f The steps taken to minimise the noise impact of such uses.

The premises has been operated as an established childcare facility by the property owner for some time. The established/ lawful use of the ground floor of this property as a nursery, known as 'Morning Star' was approved in 2018. The permission allowed the nursery to accommodate 20 children and 3 staff working on site. The number of staff will increase to 4 but the number of children would remain the same for this retrospective proposal. Therefore, the main consideration is with the use of the childcare facility being extended to the remainder of the building on the first and second floors, which would cover points a, b and f above.

It has been highlighted that the facility is a valued asset to the area by parents, the LBH Schools and Learning Service –Early Years team and by a Member of Parliament. The need for such facilities has been outlined in policy S3 of the London Plan 2021 which has greater weight than the Local Plan Policies given its more recent adoption. It states that boroughs should '*ensure there is a sufficient supply of good quality education and childcare facilities to meet demand and offer educational choice*'.

Paragraph 5.3.2 goes on to state that '*Access to affordable, accessible and high-quality childcare (pre-school and school age) provision can play a significant role in children's development and positively influence school-readiness, future educational attainment, economic participation and health. Universal, high-quality, early childhood education and care not only benefits the whole population but can particularly benefit children from the most disadvantaged backgrounds. As well as the positive benefit for children, it also helps to enable parents to go back to work*'. The required duty for local authorities to ensure childcare places are available to enable parents to work or train is also outlined in The Childcare Act 2006.

Although there is a concern that the proposal would not be in complete accordance with DM51 with the loss of the upper floor residential space, it is considered that the homeowner/business owner provides a highly sought after service for the community.

Having assessed the circumstances it is considered appropriate to grant a personal, temporary consent to the named home/business owner and applicant for the use of the first and second floors as part of the nursery facility. This would allow the facility to continue operating as an established nursery under the present ownership whilst not permanently losing an established residential dwelling on the upper floors. It would also allow the review of the impacts of the nursery within the immediate area.

Design & appearance

Policy SP11 of the Strategic Plan and Policy DM1 of the Development Management DPD both aim to enhance the built environment through high quality design that respects local context and positive aspects of the area. Policy DM1 sets out that development should relate positively to its locality in terms of building height, form, scale, massing, building lines and architectural details and styles.

DPD Policy DM12 'Housing Design and Quality' states that extensions or alterations to residential buildings, including roof extensions will be required to be of a high, site specific, and sensitive design quality, and respect and/ or complement the form, setting, period, architectural characteristics and detailing of the original building, including external features such as chimneys, and porches. High quality matching or complementary materials should be used appropriately and sensitively in relation to the context.

The retrospective proposal for the extension of the use of the nursery would not include any external alterations to the main building, or for the erection of any new structures. The only change would be the expansion of the use from the ground floor to include the use of the first and second floor.

It should be noted that the approved layout of the entrance for the nursery/residential would have been through the same main hallway. This may not be suitable from a safeguarding aspect for any future occupiers. In addition, the only access to the garden is through the nursery on the ground floor. This would result in any occupiers of the residential unit on the upper floors not having direct access to amenity space.

Impact on neighbouring amenity

London Plan Policy D6 outlines that design must not be detrimental to the amenity of surrounding housing, in specific stating that proposals should provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context, while also minimising overshadowing.

DPD Policy DM1 'Delivering High Quality Design' states that development proposals must ensure a high standard of privacy and amenity for a development's users and neighbours. Specifically, proposals are required to provide appropriate sunlight, daylight and aspects to adjacent buildings and land, and to provide an appropriate amount of privacy to neighbouring properties to avoid overlooking and loss of privacy and detriment to the amenity of neighbouring residents.

This type of educational facility is no different to the nearby school. The school setting is different to running a nursery directly in an area designed for residential use. A property such as the host site directly abuts neighbouring residential properties. The impacts are more direct being located within a row of houses especially within a terrace. Consideration has to be given to the potential impacts, which would be above the normal everyday use as a residential dwelling, especially for those that would be impacted during the operational hours.

Although not specifically for this application concerns regarding noise levels and refuse management have been raised. Regarding noise levels, it is accepted that the activities within such

a use, and the general comings and goings can lead to noise and disturbance. This may have an impact upon the amenity of adjoining properties. Being in a predominantly residential area consideration must be given to the amenities of those nearby neighbours.

The maximum number of children attending the site at any time would still be 20 (fulltime and part time places) as approved in application HGY/2018/0911. With the established planning permission for the use of the ground floor as a nursery, and the number of children not increasing, the impact of the amenity for neighbouring properties is not likely to change.

The retrospective arrangement of the property currently uses the ground floor as the preschool educational/playroom area along with the rear garden (play area). The first floor has 3x rooms ancillary to the nursery such as a quiet/library room for the children, sleeping areas etc. On the second floor is the main Office. The children would be cared for on the ground and first floors. With the established playroom on the ground floor, and the rear garden, the children would have access to two main play areas.

For clarity, the application proposes:

- to be in operation from Monday to Friday only.
- not to be in operation on bank holidays or weekends
- to operate from 7am - 7pm for staff members - to operate from 8am - 6pm for children
- The application proposes a maximum of 20 children between the ages of 3 months - 6 years

Any unacceptable levels of noise or other issues would be dealt with by the councils Environmental Health Service.

The temporary consent would also allow the LPA to review and monitor the impacts of the nursery within the immediate area periodically. This would also address point c part A and point f part B of policy DM51.

Transport Considerations

Local Plan (2017) Policy SP7 Transport states that the Council aims to tackle climate change, improve local place shaping and public realm, and environmental and transport quality and safety by promoting public transport, walking and cycling and seeking to locate major trip generating developments in locations with good access to public transport. This is supported by DM Policy (2017) DM31 'Sustainable Transport'.

Although the Council's Transportation Team did not object to this application, the considerations from a transport and parking aspect would be the same as with the approved application (HGY/2018/0911). From the transportation perspective there were no particular concerns in relation to the previous application. Overall, the property would still be accommodating a nursery of 20 children and the same number of staff members.

Like the previous application, it is expected that walking and public transport will be the predominant modes of transport used by parents to access the site. It is expected, and stated in the statement, that there would be very low or non-existent drop off and pick-up trips by car. In addition, the driveway would still not be available for any drop off or pick-ups. Also stated in the statement there would still be access to 4x cycle parking spaces on the front driveway.

As there is no change to the use of the nursery, other than extending the use into the residential area on the upper floors, there would be no other considerations regarding transport.

Waste and Recycling

DM DPD Policy DM4 requires proposals to sustainably manage waste that arises from development during the design, construction and occupation phases. All proposals should make on-site provision for general waste, the separation of recyclable materials and organic material. Adequate internal and external storage space should be provided to manage the volume of waste arising from the site. Accessible and safe access to on-site storage facilities both for occupiers and collection operatives should be supplied.

Although it has not been discussed in the statement, it has been confirmed that a single commercial bin would be used. It is believed that this would adequately meet the requirements of the nursery over the two weeks collection cycle, which is collected on Thursdays fortnightly. During the period of the two weeks it has also been confirmed that no bins, or any other type of refuse, would be left at the rear of the property or in the front, other than in the assigned bin storage.

To improve the outlook at the front a timber slatted storage painted black would be used to screen the bin. This would protect the visual appearance at the front in order to not detract from the street scene. The Council's Transport Team has not raised any objections to the waste storage. A condition will be added to ensure this is implemented and continuously maintained.

6. CONCLUSION

The application seeks retrospective planning consent for the change of use of the former first/second floor residential unit to provide additional accommodation for the established day childcare facility at ground floor level. With the established lawful use of the ground floor it is considered that the amenity to the adjoining residential properties would not be adversely altered by the use of the entire property as a nursery/ childcare facility.

However, in this instance in order to not permanently lose the residential element of this property in accordance with point a and b of policy DM51 (Development Management DPD 2017) a personal consent strictly in the name of the property/business owner would be applied, as opposed to consent for the property. In addition, to assess the impact upon the surrounding properties in terms of general amenity a temporary consent for a period of thirty-six months is recommended. This application is therefore recommended for approval.

All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be granted for a personal/temporary consent for the reasons set out above.

7. RECOMMENDATION

The application is recommended for approval subject to the following conditions.

Conditions:

- 1 The use hereby permitted shall be carried on only by Beverley Bossman. When the premises cease to be occupied by Beverley Bossman the use hereby permitted shall cease and the use of the upper floor shall be discontinued.

Reason: Permission has only been granted with respect to the special personal

circumstances of the applicant and would not otherwise be granted.

- 2 This permission shall be for a limited period of 3 years from the date of this permission, when the use (of the first and second floors) shall be discontinued and the accommodation reverted back to its previous use (unless a further application has been submitted to and approved in writing by the Local Planning Authority).

Reason: The proposed use is considered to be acceptable only on a temporary basis in order to continuously review and monitor the impacts of the use on the amenity of neighbouring properties.

- 3 The use of the premises as a nursery/ daycare facility permitted shall not be operated before 08:00 or after 18:00 for children (before 07:00 or after 19:00 for staff) on Monday to Friday (excluding Bank/Public Holidays) and not at all on Saturdays, Sundays and Bank/Public Holidays.

Reason: To facilitate the beneficial use of the premises of the premises whilst ensuring the amenities of adjacent residential properties are not diminished consistent with Policy DM1 of The Development Management DPD 2017.

- 4 The number of children on site is limited to a maximum of 20 between the ages of 3 months- 6 years at any one time. The number of staff on site will be 4.

Reason: This permission is given to facilitate the beneficial use of the premises whilst ensuring that the amenities of adjacent residential properties are not diminished consistent with Policy DM1 of The Development Management DPD 2017. Also, the number of children will be limited in accordance with the size of the property in accordance with Policy DM51 of The Development Management DPD 2017.

- 5 Notwithstanding the provision of the Town and Country Planning (Use Classes) Order 1987 (as amended September 2020) the premises shall be used for a nursery only and shall not be used for any other purpose including any purpose within Class E unless approval is obtained to vary this condition.

Reason: This permission is given to facilitate the beneficial use of the premises whilst ensuring that the amenities of adjacent residential properties are not diminished consistent with Policy DM1 of The Development Management DPD 2017.

- 7 The refuse and waste storage recycling facilities shall be screened in accordance with the approved submitted details. All refuse shall be contained in the bin storage at all times (during the two week bin collection) and the screening of the bin shall be permanently retained.

Reason: In order to protect the amenities of the locality and to comply with Policy DM4 of The Development Management DPD 2017.

- 8 The cycle storage of 4 bikes at the front of the site as approved in application HGY/2018/0911, shall be retained in perpetuity.

Reason: To provide for the provision of adequate cycle storage in compliance to Policy T5 of the London Plan 2021

