

Report

Report to:	Hamilton Area Committee
Date of Meeting:	19 November 2008
Report by:	Executive Director (Enterprise Resources)

Application No	HM/08/0311
Planning Proposal:	Change Of Use From Residential Use To Nursery (Class 10) At First Floor Level, External Alterations And Erection Of Fence

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Sylvia English
- Location : 58 Tuphall Road
Hamilton

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant Detailed Planning Permission (Subject to Conditions – Based on Conditions Listed)

2.2 Other Actions/Notes

None

3 Other Information

- ◆ Applicant's Agent: James Baird Associates
- ◆ Council Area/Ward: 17 Hamilton North and East
- ◆ Policy Reference(s): **Hamilton District Local Plan**
Policy RES 1 – Residential Areas – General
Policy DC1 – Development Control – General
South Lanarkshire Planning Policies
Policy SLP6 – Development Control – General
Finalised South Lanarkshire Local Plan
(following modifications)
Policy RES 6 – Residential Land Use
Policy DM 1 – Development Management

- ◆ Representation(s):
 - ▶ 8 Objection Letters
 - ▶ 0 Support Letters
 - ▶ 0 Comments Letters
- ◆ Consultation(s):

Environmental Services

Roads and Transportation Services (Hamilton Area)

Planning Application Report

1 Application Site

- 1.1 The planning application site is situated on the corner of Morgan Street and Tuphall Road and is located within an established residential area. The property was previously a public house but the lower half of the property is now an operational nursery and the first floor is currently comprises a residential use in the form of a self contained flatted development.
- 1.2 The application site is bound to the north and west by residential properties. To the east the site is bound by Morgan Street and further by residential properties and is bound to the south by Tuphall Road and further by residential properties.

2 Proposal(s)

- 2.1 This detailed planning application seeks approval for the change of use from a residential use to a nursery (class 10) at first floor level, external alterations and the erection of fence at 58 Tuphall Road, Hamilton. The external alterations include the erection of a bin store to the front of the property and the erection of a minor extension to the side elevation.
- 2.2 The proposal includes the change of use at first floor level to accommodate an 'out of school club' facility which comprises three study rooms, a games room, four toilets and a preparation area. The pedestrian accesses to the nursery will remain as existing. Following the original submission of the planning application the design has been the subject of a number of amendments. These design amendments include the removal of the proposed external area at first floor level and a 1.8m high security fence around the property.
- 2.3 The applicant's have also submitted a justification statement which seeks to provide support for their proposal.

3 Background

3.1 Local Plan Status

- 3.1.1 Within the adopted Hamilton District Local Plan the site is affected by Policy RES1 'Residential Areas-General' and Policy DC1 'Development Control General.' Policy RES1 seeks to resist any development detrimental to the amenity of residential areas. The policy further establishes that other uses may be appropriate within residential areas, however, the Council will consider any proposals on their merits, taking into account the amenity of the area. Policy DC1 requires all planning applications to have due regard to the local context and built form of the area.
- 3.1.2 Additional policies and guidance to those of the adopted Local Plan are contained within the South Lanarkshire Planning Policies document, which is supplementary to the adopted Hamilton District Local Plan. Policy SLP6 states that all development should be compatible with the surrounding properties in terms of style, scale and materials and should take full account of the local context.

3.1.3 The Finalised South Lanarkshire Local Plan (Following Modifications) is also a material consideration in the determination of this application. The planning application site is affected by Policy RES6 'Residential Land Use' and Policy DM1 'Development Management.' Policy RES6 states that the Council will oppose the loss of houses to other uses and will resist any development that will be detrimental to the amenity of those areas. In addition, developments of an ancillary nature may be acceptable, such as children's nurseries, and each application will be judged on its own merits with particular consideration given to the impact on residential amenity and/or proposed servicing and parking arrangements. Policy DM1 states that all planning applications will require to take account of the local context and built form and should be compatible with adjacent buildings and surrounding streetscape in terms of scale, massing, design, external materials and impact on amenity.

3.2 **Relevant Government Guidance/Advice**

3.2.1 There is no specific Government guidance or advice relevant to the proposed development.

3.3 **Planning History**

3.3.1 The Council granted approval for the 'change of use of public house to children's nursery' (planning reference HM/01/0413) at the application site on 24 October 2001.

4 **Consultation(s)**

Environmental Services - have offered no objection to the proposal, subject to the imposition of conditions and advisory notes.

Response: Noted. It is advised that these requirements can be addressed through the use of planning conditions and advisory notes, where appropriate.

Roads and Transportation Services (Hamilton Area) - have offered no objection to the proposal.

Response: Noted.

5 **Representation(s)**

5.1 Statutory neighbour notification was undertaken in respect of the proposal and the application was advertised in the local press due to the scale and nature of operations. As a result of this publicity, 8 letters of objection have been received. The grounds of objection are summarised below:-

(a) The proposed use of the flat roof to an outdoor study area at first floor level will have an adverse impact on the privacy of the adjacent residential properties.

Response: The design of the proposed development has been revised and no longer includes access to the flat roof area at first floor level. It is considered that the revised design would alleviate any concerns relating to adverse impact on the privacy of adjacent residential properties.

(b) The proposed outdoor area will result in an adverse noise impact.

Response: The design of the proposed development has been revised and no longer includes access to the flat roof area at first floor level. Again, this will reduce any potential noise impact.

(c) Concern regarding the safety of the proposed fencing at first floor level.

Response: The design of the proposed development has been revised and no longer includes access to the flat roof area at first floor level.

(d) The proposed bin storage at the front of the premises and the increased vehicle and pedestrian traffic associated with the development will create an adverse noise impact.

Response: It is considered that there may be a minor increase in the noise generated from vehicle and pedestrian traffic at the site as a result of the proposed development, however, it is considered that this increase is not sufficient to merit the refusal of the planning application. Following receipt of the formal consultation response from Environmental Services a condition has been attached to the planning consent which restricts the noise levels emitted from the premises.

(e) The proposed bin storage and 6ft security fence will have an adverse visual impact on the area.

Response: The design has been revised and the applicant is no longer seeking approval for a 1.8m security fence surrounding the property. Instead the proposal comprises a 6.8m length of metal fencing and entry gates, which are 0.9m high. The proposed fence is a continuation of the existing adjacent fencing on Morgan Street and it is therefore considered that the proposed fence and bin store are visually acceptable.

(f) The proposed fence will close off an open pedestrian area which is an existing public right of way.

Response: The proposed fencing is situated on ground which is within the applicant's ownership and is not a designated public right of way. In addition, Roads and Transportation Services have advised that they have no objection to the proposed development.

(g) The traffic generated from the proposed development will have an adverse impact on the access to the driveways of existing residential properties, reduce vehicular sight lines and restricts the turning space for vehicles.

Response: Roads and Transportation Services have advised that they have no objection to the proposed development. The application site comprises a nursery use at ground floor level and therefore the principle of a nursery use at this site has been established and it considered that the proposal is not a significant intensification of the existing use.

(h) There is no provision for staff and visitor parking or drop off zones relating to the proposed development.

Response: Roads and Transportation Services have advised that they have no objection to the proposed development. The application site comprises a nursery use at ground floor level and therefore the principle of a nursery use at this site has been established and it considered that the proposal is not a significant intensification of the existing use.

(i) The proposal will result in an adverse effect on existing traffic congestion, particularly at peak times.

Response: Roads and Transportation Services have advised that they have no objection to the proposed development. The application site comprises a nursery use at ground floor level and therefore the principle of a nursery use at this site has been established and it considered that the proposal is not a significant intensification of the existing use.

(j) The proposed security fence will impact on vehicle sight lines to and from Morgan Street.

Response: The design has been revised and instead of the 1.8m security fence surrounding the property the agent is now seeking approval for the erection of a 0.9m high metal fence. In addition, Roads and Transportation Services have advised that they have no objection to the proposed development.

(k) Concern regarding the proposed internal access to the first floor level and the fire escape provision.

Response: This issue is not a material planning consideration and subsequently has not been taken into consideration in the assessment of the development. The proposed internal access and fire escape provision will be assessed by Building Standards Services following the submission of a Building Warrant for the proposal.

(l) No conditions relating to the traffic issues were attached to the previous planning consent HM/01/0413 which was granted at the application site.

Response: Planning consent HM/01/0413 does not have any conditions attached to the planning consent relating to traffic or parking issues.

(m) The nursery has been using the fire exit on Tuphall Road as the main pedestrian entrance to the property despite being given planning permission for the entrance on Morgan Street. In addition, the proposal identifies that the main entrance to the nursery is from Tuphall Road.

Response: The existing and proposed floor plans submitted in relation to the current planning application identify that the main entrance to the nursery is from Tuphall Road and there is a secondary entrance to the property from Morgan Street. The Planning Authority has no concerns regarding the existing and proposed entrances to the property.

These letters have been copied and are available for inspection in the usual manner.

6 Assessment and Conclusions

- 6.1 This detailed planning application seeks approval for the change of use from a residential use to a nursery (class 10) at first floor level, external alterations and the erection of fence at 58 Tuppall Road, Hamilton. The determining issues in the consideration of this application are its compliance with the adopted Hamilton District Local Plan, South Lanarkshire Planning Policies, the Finalised South Lanarkshire Local Plan (Following Modifications), its impact on residential amenity and traffic safety.

- 6.2 The application site comprises a nursery use at ground floor level and therefore the principle of a nursery use at this site has been established. It is considered that the proposed use of the whole property as a nursery would result in a coherent land use for the site. In terms of Local Plan policy, the application site is located within an established residential area and affected by Policy RES1 of the adopted Hamilton District Local Plan and Policy RES6 of the Finalised South Lanarkshire Local Plan (Following Modifications). Both these policies seek to resist the loss of residential uses within these areas, however, it is considered that the proposed nursery is clearly ancillary to the main nursery use on the ground floor. In addition, residential policies seek to resist uses which are not compatible with residential uses and would result in an unacceptable impact on residential amenity. The use of the premises, which already approved on the ground floor, would be acceptable in principle in the whole building. Uses such as nurseries, schools and so on are regularly found within residential areas and do not cause an adverse impact on residential amenity levels. Subsequently, the proposal accords with the provisions of Policy RES1 of the adopted Local Plan and Policy RES6 of the Finalised Local Plan (Following Modifications).
- 6.3 In terms of impact on residential amenity, I am satisfied that the proposal is located a sufficient distance away from neighbouring properties to ensure that it will have no impact on adjacent properties in terms of loss of sunlight, daylight or privacy. It is considered that the proposal has been designed and amended with due regard for the local context and the built form of the area as it reflects the scale, design and external materials of the existing property and surrounding streetscape. Subsequently, the proposal accords with the provisions of Policy DC1 of the adopted Local Plan, Policy SLP6 of South Lanarkshire Planning Policies and Policy DM1 of the Finalised Local Plan (Following Modifications).
- 6.4 With regard to the impact on traffic safety, Roads and Transportation Services, who have been consulted on the proposal, have offered no objection. Therefore, the proposed development is considered acceptable in this regard.
- 6.5 The third party representations received in respect of the development relate to the initial submission, however, the design has been significantly revised and it is considered that the issues raised are not significant enough to warrant the refusal of the proposal, in this instance.
- 6.6 I am satisfied that the proposal complies with adopted and Finalised Local Plan policy and would have no impact on residential amenity or traffic safety and therefore recommend that planning permission be granted.

7 Reasons for Decision

- 7.1 The proposal has no adverse impact on either residential or visual amenity and complies with the provisions of Policies RES1 and DC1 of the adopted Hamilton District Local Plan and Policy SLP6 of the South Lanarkshire Planning Policies. In addition, the proposal complies with the provisions of Policies RES6 and DM1 of the Finalised South Lanarkshire Local Plan (Following Modifications).

Iain Urquhart
Executive Director
(Enterprise Resources)

03 November 2008

Previous References

- ◆ HM/01/0413

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ Consultations
 - Environmental Services 09/07/2008
 - Roads and Transportation Services (Hamilton Area) 30/07/2008
- ▶ , Representations
 - Representation from : Mrs H Duffy, 23 Tuphall Road, Hamilton, ML3 6TD, DATED 26/05/2008
 - Representation from : Sam Clark, 21 Tuphall Road, Hamilton, ML3 6TD, DATED 23/05/2008
 - Representation from : George Balmer, 60 Tuphall Road, Hamilton, ML3 6TB, DATED 28/05/2008
 - Representation from : Mr & Mrs D Muir, 62 Tuphall Road, Hamilton, ML3 6TB, DATED 30/05/2008
 - Representation from : G Hainey, 11 Morgan Street, Hamilton, ML3 6RS, DATED 02/06/2008
 - Representation from : Susan Waugh, 18 Morgan Street, Hamilton, ML3 6RJ, DATED 02/06/2008
 - Representation from : Stephen Sweeney, 10 Morgan Street, Hamilton, ML3 6RJ, DATED 10/06/2008
 - Representation from : Sam Clarke, 21 Tuphall Road, Hamilton, ML3 6TD, DATED 17/06/2008

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Gail Campbell
(Tel :01698 453561)
E-mail: Enterprise.hamilton@southlanarkshire.gov.uk

Detailed Planning Application

CONDITIONS

- 1 That the use hereby permitted shall be instituted within five years of the date of this permission.
- 2 That the development shall be carried out strictly in accordance with the plans hereby approved and no change to the design or external finishes shall take place without the prior written approval of the Council as Planning Authority.
- 3 That the facing materials to be used for the extension and binstore of the development hereby approved shall match in colour and texture those of the existing adjoining building on the site to the satisfaction of the Council as Planning Authority.
- 4 That notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any such order revoking or re-enacting that order), the use of the first floor shall be restricted to use as a nursery and for no other purpose within Class 10 as defined in the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997, without the prior written consent of the Council as Planning Authority.
- 5 That notwithstanding the provisions of the Town and Country Planning (Control of Advertisements)(Scotland) Regulations 1984, no fascia signs, adverts or projecting signs shall be erected on the premises without the prior written consent of the Council as Planning Authority.
- 6 Between the hours of 0800 and 2000 the measured noise level emitted from the premises (LAeq (1hour)) shall not exceed the pre-existing background noise level (LA90(1/2hour)) by more than 4dB (A) when measured in accordance with BS4142:1997 at buildings where people are likely to be affected.
Between the hours of 2000 and 0800 the noise emitted from the premises (LAeq (5mins)) shall not exceed the pre-existing background noise level (L A90 (1/2hour)) by more than 4dB(A) when measured in accordance with BS4142:1997 at buildings where people are likely to be affected.
- 7 The use of the premises (with the exception of maintenance works not audible outside the premises), shall be restricted to the following hours of operation:
Mondays to Fridays: Between 7.30am and 9.00pm

REASONS

- 1 To accord with the provisions of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interests of amenity and in order to retain effective planning control.
- 3 To ensure satisfactory integration of the proposed extension with the existing building both in terms of design and materials.
- 4 In the interests of amenity.
- 5 To safeguard the amenity of the area.
- 6 To minimise noise disturbance to adjacent occupants.
- 7 To minimise noise disturbance to adjacent occupants.

For information only

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