

<b>No.7</b>	<b>APPLICATION NO.</b>	2018/1063/FUL
	<b>LOCATION</b>	Briar Dene Nursery School, 2 Fulwood Avenue, Tarleton, Preston, Lancashire PR4 6RP
	<b>PROPOSAL</b>	Provision of hardstanding to the front of 2 Fulwood Avenue.
	<b>APPLICANT</b>	Mr David Birkbeck
	<b>WARD</b>	Tarleton
	<b>PARISH</b>	Tarleton
	<b>TARGET DATE</b>	20th December 2018

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## **1.0 REFERRAL**

- 1.1 The application was to be determined under delegated powers, however, Cllr Mee has requested it be considered at planning committee to consider the impact of the proposed development on the Conservation Area, protected trees and the effect of additional traffic on Fulwood Avenue.

## **2.0 RECOMMENDATION: That planning permission be REFUSED.**

## **3.0 SUMMARY**

- 3.1 The proposed formation of an in-out driveway across the mixed-use site frontage within the context of the Douglas and Fulwood Avenues Conservation Area would result in harm to the character and appearance of the Conservation Area. Benefits would accrue through the improved provision for vehicles visiting the site, however, this approach fails to prioritise access for pedestrians and other sustainable forms of travel and therefore the public benefit fails to outweigh the harm to the Conservation Area. The development therefore conflicts with Policies GN3 and EN4 of the Local Plan and the National Planning Policy Framework.

## **4.0 THE SITE**

- 4.1 The application site is located on the south side of Fulwood Avenue. The nursery element is located to the eastern side and partly at the rear of a residential property at no.2 Fulwood Avenue. The dwelling is detached from the nursery buildings and benefits from a detached double garage to the western side. To the rear of the property the land is subdivided between the residential and nursery elements to provide a residential garden area associated with the dwelling and a detached extended timber clad nursery building to the south-eastern corner of the plot. Some of the land within the curtilage of the nursery has recently been resurfaced to facilitate outdoor play, and there are separate timber buildings close to the southern boundary. The dwelling and nursery have separate tarmacked vehicle driveways but a shared pedestrian access point.
- 4.2 Fulwood Avenue is an un-adopted, privately maintained road approximately 4.8 metres in width with a non-metalled final surface. Its junction with Hesketh Lane lies about 28 metres to the west.

## **5.0 THE PROPOSAL**

- 5.1 The revised application proposes the provision of increased areas of tarmacked hardstanding to facilitate an in-out drop-off area whilst maintaining access to the domestic garage. The proposal would utilise an area of existing hardstanding that was extended and re-surfaced in January 2015 to the front of the garage and western bay of the

dwelling, and the separate existing nursery access/driveway in combination with a new link of about 10 x 3 m between the two. Some compensatory green areas are proposed to the forward part of the residential part of the site in lieu of removed landscaping and a pedestrian access.

## **6.0 PREVIOUS RELEVANT DECISIONS**

- 6.1 2014/1374/FUL REFUSED (23.03.2015) Single storey extension and canopy to the existing nursery APPEAL DISMISSED (19.08.15).
- 6.2 2008/1026/FUL GRANTED (10.12.2008) Single storey front/side extension to nursery school to provide staff/disabled wc and store. Erection of covered play space area at rear. Demolition of garage at side of dwelling and erection of single storey storage building.

## **7.0 OBSERVATIONS OF CONSULTEES**

- 7.1 Director of Leisure and Environment (21.1.19) – concerns with regard to the facilitation of increased vehicle movements and associated noise arising, including car doors, radios, loud conversations/children crying would be brought closer to the immediate neighbours rather than being generally dispersed. There is little respite due to the long opening hours each day.
- 7.2 LCC Highways (14.11.18) - no objection, negligible impact on highway safety and highway capacity within the immediate vicinity of the site.

## **8.0 OTHER REPRESENTATIONS**

- 8.1 16 letters of objection on the following grounds:

Proposal does not consider larger vehicles using the site and will facilitate increased vehicle use

The proposal will exacerbate the number of blind turns into Fulwood Avenue and by virtue of the restricted width, the absence of a pavement and no emergency refuges and the low quality of the road surface, will exacerbate collision risks.

Conflicts with reason for imposing Article 4 restriction

Undesirable precedent

Proposal extends over commercial and residential parts of the site

Question validity of the ownership certificates

Potentially obstruct emergency access/muster point

No justification for additional parking – attendee numbers to nursery falling

Will decrease landscaping and potentially impact trees and not protect or enhance the Conservation Area

Proposal will facilitate additional traffic resulting in traffic congestion and increased safety concerns

Will potentially facilitate a change of use of the residential property

Incremental erosion of character and cumulative negative effect on Conservation Area

Erosion of habitats and wildlife refuge opportunities

Time restrictions should be imposed in the event of planning permission is granted

Will facilitate increased numbers attending the site to detriment of local amenity

Conflict with fire assembly and emergency access points

Inconvenience

In conflict with covenant preventing commercial uses on the Avenue

Revised proposals don't materially change previous concerns

- 8.2 Conservation Area Advisory Panel (06.12.18) - No objections to the principle of making an 'in and out drive' however scheme needed to be amended to retain more of the existing garden and provide compensatory planting close to the road to mitigate any lost landscaping/garden.

## **9.0 SUPPORTING INFORMATION**

- 9.1 The applicant suggests the development will improve the existing access arrangements and therefore contribute to sustainable development consistent with the aims of Policies SP1 and GN1 in the WLLP and the primary aim of the NPPF. The supporting statement advises that the proposals meet the NPPF's requirements in terms of delivering economic and social benefits and causes no harmful environmental impacts. It is concluded that the development would not give rise to any harmful impacts and offer benefits in terms of highway safety. A Heritage Statement concludes that the proposals would not result in any negative impact on the Conservation Area.

## **10.0 RELEVANT PLANNING POLICY**

- 10.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan (WLLP) provide the policy framework against which the development proposals will be assessed. In addition, the Planning (Listed Buildings and Conservation Areas) Act 1990 is a material consideration.
- 10.2 The site is located within a Key Sustainable Village and the Fulwood Avenue / Douglas Avenue Conservation Area as designated in the West Lancashire Local Plan. The site is subject of an Article 4(2) removing permitted development rights inter alia for the formation or replacement in whole or part of a hard surface fronting the highway.
- 10.3 Relevant West Lancashire Local Plan 2012-2027 (WLLP) policies:  
SP1 – A Sustainable Development Framework for West Lancashire  
GN1 – Settlement Boundaries  
GN3 – Criteria for Sustainable Development  
IF2 – Enhancing Sustainable Transport Choice  
IF3 – Service Accessibility and Infrastructure for Growth  
EN2 – Preserving and Enhancing West Lancashire's Natural Environment  
EN4 – Preserving and Enhancing West Lancashire's Cultural and Heritage Assets

Supplementary Planning Document, Design Guide (Jan 2008)

## **11.0 OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION**

### *Principle of Development*

- 11.1 The proposed development lies within the established settlement area of Tarleton and is therefore appropriately located in terms of the principles of sustainable development outlined in Policies SP1 and GN1 in the WLLP. Some concern has been expressed in relation to the extension of the hardstanding – primarily for use in conjunction with the nursery, into the area previously dedicated for use in conjunction with the dwelling. The site is in single ownership and constitutes a mixed-use planning unit. The cross-over of shared facilities does not, in my view, result in any material change of use within the planning unit. In itself, the proposals would not generate any significant intensification of either the residential or nursery uses or introduce an additional use to the planning unit and therefore I do not consider this aspect significant in assessment of the proposals. The main points of consideration are considered to be:

Design, appearance and the preservation or enhancement of the character and appearance of the Conservation Area

Impacts on Highways

Impacts on adjacent land uses

*Design, Appearance and the Conservation Area*

- 11.2 The revised proposals would result in the partial loss of existing areas of landscaping including small areas of shrubs and grass. These would be replaced with tarmac hardstanding facilitating vehicles entering the site via the existing domestic access and leaving via the driveway currently serving the nursery. Forward lengths of the pedestrian pathway areas will be removed to be replaced with compensatory areas of lawn to seek to offset those parts of the existing landscaping to be removed. The tarmac finish to the link element would match that of the existing driveways.
- 11.3 The design and appearance of the development is clearly aimed at facilitating improved vehicle manoeuvring and uses a minimum amount of additional area to achieve this, however, this must be assessed in the context of the site with particular reference to the Conservation Area status and the characteristics that justify that status and the Article 4 restriction.
- 11.4 Para 7.1 of the Fulwood and Douglas Avenue Conservation Area Appraisal sets out the reasons for imposing the Article 4(2) restriction on properties in the Conservation Area. In terms of hardstandings this identifies that the formation of additional hard surfaced areas may affect the character of the Conservation Area. Paragraph 9.1 highlights the importance of the buildings and landscaping and the intrinsic link between the two in making positive contributions to the Conservation Area. Paragraph 10.1 identifies that large areas of hard standing or paving to the front of dwellings has become a concern in terms of the management of the Conservation Area. Para. 10.3 goes on to seek the encouragement of removal of large areas of hard standing for replacement with smaller parking areas and natural vegetation (gardens).
- 11.5 Whilst it is acknowledged that there are other deep and wide driveways serving several of the other properties on Fulwood Avenue these present as domestic scale driveways and generally limited to areas fronting side garages. These are treated in a variety of materials with consequential differing levels of visual prominence and assimilation into their landscaped frontages. The domestic property at no.2 benefits from a widened driveway; similarly the tarmac nursery driveway leads to a gravelled area used for accommodating two vehicles and pedestrian access. These are currently linked by a surfaced path immediately to the front of the dwelling and the forked pedestrian access from Fulwood Avenue itself. The main driveways present as visually separate hardstandings with the formal green garden area and domestic scale paths providing a visual break between them. I have some concern that the linkage of these with an average width of about three metres of tarmac will harm the interpretation of the individual areas as being of domestic scale. The proposal will result in the outward spread of the commercial use across the frontage of the site. At present the commercial use associated with the nursery has been confined to the eastern drive. I consider that the scheme blurs the lines between the two separate uses and it will be inevitable that the new access arrangements will encourage increased activity across the frontage of the house and this will be at odds with the more infrequent vehicle movements commonly associated with the residential properties which characterise the Conservation Area. Notwithstanding that there is some potential to soften the site frontage through enhancement landscaping, I conclude that the combined extent of the hardstanding would be at odds with and harm the general character of the area, resulting in a more commercial and utilitarian appearance. An alternative surface

treatment may assist to some degree in reducing the impacts of the proposal but the scale of the combined hard standing would remain excessive in its context.

- 11.6 The Conservation Area Character Appraisal describes the area as being characterised by bespoke designed late C19 and early C20 detached dwellings which sit back from the roadside on a consistent building line. This provides space for front gardens which on the whole are well established and in combination with the existing mature trees and hedges provide an Arcadian feel to Fulwood and Douglas Avenues. As part of recognising the above as being important characteristics to the character and appearance of the Conservation Area, the Council has sought to manage the potential harm caused from incremental 'permitted development' changes by designating the Article 4(2) Direction. In my view the proposal would be prominent and, notwithstanding the provision of new landscaping to the site frontage, would be clearly viewed as involving the substantial loss of a traditional front garden, which will be at odds to that well defined character of the Avenue. Being sited close to the entrance of the Avenue this will be visually prominent. Due to the layout of the proposed in-out arrangement I also have some doubt as to whether the proposed landscaping areas would not see a degree of overrun about its edges (as is evident along the current frontage) reducing the quality of any landscaping. The Design Guide suggests sensitivity to the character of the historic environment and encouragement of high quality materials with the aim to enhance the character and appearance of the wider area. For the reasons stated above, I do not consider this requirement to be met with respect to the historic character. Furthermore, the tarmac proposed does not appear as a high quality material within the site context.
- 11.7 In determination of planning applications within a Conservation Area the principle statutory duty under the P(LBCA) Act 1990 is to preserve the special character of heritage assets, including their setting. In respect to conservation areas, the Council must pay special attention to the desirability of preserving or enhancing the character *and* appearance of that area. Further detail as to determining development proposals is set out in the NPPF and Policy EN4 of the WLLP. Policy EN4 – reaffirms a presumption in favour of the conservation of designated heritage assets.
- 11.8 I consider that, by virtue of the increased area of hardstanding, the loss of the visual break between the existing driveway areas, the loss of domestic scale of the resultant hardstanding and the relative containment of the consolidated garden, the proposal will fail to preserve the character and appearance of the Conservation Area in a manner classified as 'less than substantial' by the NPPF. In the circumstances, the NPPF requires the decision maker to consider whether the harm caused to the heritage asset would be outweighed by any public benefits arising from the development.
- 11.9 The applicant submits that benefits do accrue as a consequence of the improved traffic management for vehicles visiting the nursery facilitated by the in-out driveway and addresses areas of planning harm identified by the appeal Inspector in 2015, then considering the proposal to increase nursery places from 20 to 24.

#### Highways and Amenity

- 11.10 It is material to consider the relevant planning history of the site. In 2015, planning application 2014/1374/FUL was refused for the following reason:

*By virtue of increased activity and absence of suitable drop-off and parking facilities the proposed development would result in significant on-road parking and manoeuvring in the locality to the detriment of the free-flow of traffic and amenity of nearby residential occupants, and therefore conflict with Policy GN3 and IF2 in the West Lancashire Local Plan (2012-2027) Development Plan Document.*

- 11.11 This decision was subject to a planning appeal which was ultimately dismissed on the grounds of highway safety concerns – particularly in relation to reversing manoeuvres in and about the site, the inaccessibility of the site and the nature of its use i.e. small children being present in the locality where vehicle manoeuvring might be concentrated.
- 11.12 The applicant suggests that the provision of the in-out driveway will form a loop to reduce the amount of reversing manoeuvres in the vicinity of the site and thereby give rise to benefits both in terms of highway safety and neighbour amenity. I have some sympathy with that view. Previous schemes have generated significant representation with respect to the local effects in terms of vehicle numbers, reversing up neighbouring drives to turn, damage to frontages, blocking and general inconsiderate driver behaviour on Fulwood Avenue. The Inspector anticipated in that instance - where additional traffic would be generated by additional numbers of children, it would lead to on-street parking in a vicinity with no pedestrian footways and result in additional reversing manoeuvres that would pose an increased risk to highway safety. The effective use of an in-out system would have potential to address some of these concerns by facilitating continuous forward movement and theoretically reducing reversing manoeuvres and on road parking/waiting.
- 11.13 I do, however, have some reservations with respect to aspects of this argument. Firstly, the provision of an improved facility could, in itself, attract increases in the level of use of Fulwood Avenue, which, due to its width, surface and absence of pedestrian footways is identified as sub-standard to suitably facilitate the higher intensity activity of the nursery use in comparison to the remaining residential uses on the Avenue. Any increased use is likely to somewhat offset any benefit arising as detailed in the following paragraphs.
- 11.14 If increased use occurs then there is greater potential for the in-out loop to become ineffective. Whilst the combined area of the driveways and proposed link could accommodate up to 4 visitor vehicles, it will only take one extended drop-off to snarl the facility which could then still generate vehicle reversing in the concentrated area of the proposed access point which lies close to the main junction of Fulwood Ave with Hesketh Lane. Reversing from this driveway has poor visibility to approaching pedestrians and the main junction and therefore has the potential to adversely impact highway safety in a manner described by the appeal Inspector.
- 11.15 The intensified use of the turning area also has potential to increase general activity including noise from patrons, car doors, radios etc. This was a matter that the Planning Inspector considered and determined that the level of amenity impact would not be sufficient grounds to reject the 2015 application. Given any such activity is more likely (but not exclusively), to occur within the application site than previously, I likewise consider this would not constitute a firm ground for refusal.
- 11.16 Secondly, the current staffing requirement was stated at appeal as three full-time equivalent posts that requires the provision of three parking spaces to meet the standards set out in Policy IF2. The space adjacent to the eastern gable is only capable of accommodating two small vehicles whilst maintaining the pedestrian access to the nursery. A third space would substantially impede the pedestrian access to the nursery (or the ability to use the proposed loop). The consequent under provision of staff parking is likely to see displacement to either elsewhere on Fulwood Avenue or Hesketh Lane – both determined to be unsuitable at the appeal. Alternatively insufficient on-site provision would occur. Sufficient parking is shown for the domestic unit. Given the above I consider that some weight can be attributed to the benefits of the proposal in preventing and/or reducing some of the unsafe parking and manoeuvring of vehicles.

11.17 However, I consider those benefits to be offset by concerns in terms of the provision of staff parking (or waiting) over the pedestrian access, the removal of the pedestrian footways within the site and the general approach to facilitate private vehicle trips to the site that does not benefit from suitable public pathways runs contrary to the requirements of Policy GN3 in the WLLP and Para 110 of the NPPF which seek to prioritise the convenience and safety of pedestrians, cyclists and public transport users over car users. I would therefore conclude those benefits accrue less weight than the considerable weight in favour of preservation of the character and appearance of the Conservation Area.

#### Trees

11.18 The revised scheme proposes to retain a Silver Birch tree located on the site frontage. Whilst the proposed hardstanding may encroach slightly into the root protection area of the tree, it is not anticipated that the development would give rise to any significant threat to the health of the tree.

#### Other matters

11.19 Concerns in respect of amenity impacts as a consequence of hours of operation have also been raised. The site is free from planning restrictions on operational times. This matter is therefore substantially outside the consideration of the application. However, I would comment that the more infrequent use of the turning area during earlier and later times of opening are likely to be less restricted and therefore likely to reduce noise impacts to properties on the northern side of the Avenue but maintain a similar level of impact to the immediate property to the east.

11.20 It is alleged that the layout will impede a fire safety muster point; this is a matter for consideration under more direct regulation than the planning system and is likely capable of easy remediation and is not therefore attributed significant weight in this instance. Similarly, restrictions imposed by legal covenants are not a material planning consideration.

## **12.0 SUMMARY**

12.1 In summary, I consider that by virtue of the increased hardstanding, linkage of the existing driveways and consequential loss of the domestic scale and characteristic garden, the proposals will result in a level of harm to the character and appearance of the Conservation Area that would be classified as 'less than substantial' as defined in the NPPF. That harm must be attributed considerable weight. The NPPF allows the identified harm to be balanced in the planning judgement by any public benefits arising from the proposals.

12.2 In terms of public benefits the applicant references the improvement to access arrangements that seek to address the planning harm identified during a recent appeal in terms of vehicular access arrangements. I agree that some highway safety benefits and local amenity impacts are likely to accrue from the proposal, however, due to the site and design limitations, and the implications of staff parking the weight afforded is diluted. Furthermore, the proposals are more likely to encourage private vehicle use at the cost of the existing limited facilities for pedestrians or other sustainable forms of transport access and therefore in direct conflict with Policy GN3 in the WLLP and the NPPF. Given the above, I consider that the development would not constitute a sustainable form of development and therefore the weight attributed to the harm to the character and appearance of the Conservation Area is not outweighed.

## **13.0 RECOMMEDATION**

13.1 Planning permission is **REFUSED** for the following reasons:

### **Reasons for Refusal**

1. The proposed development, by virtue of the amalgamation and extension of hardstanding area to the frontage of the site, would fail to preserve or enhance the character and appearance of the Conservation Area which, in the absence of public benefits to outweigh the identified harm, would conflict with Policy EN4 in the West Lancashire Local Plan (2012-2027) Development Plan Document and Part 16 of the National Planning Policy Framework.
2. The proposed development would fail to prioritise or promote the convenience of pedestrians, cyclists and public transport users over car users or provide safe pedestrian access and therefore conflicts with Policy GN3 in the West Lancashire Local Plan (2012-2027) Development Plan Document and Part 9 of the National Planning Policy Framework.
3. By virtue of its siting, scale and design, the proposed development would conflict with Policy GN3 1 i, ii and iv in the West Lancashire Local Plan (2012-2027) Development Plan Document and the Design Guide Supplementary Planning Document in that it would not have regard to the historic character of the local townscape and would detract from the character and streetscene of the locality.