

Whittlefield with Ightenhill Ward

Full Planning Application
Proposed Change of Use from Public House to Children's Nursery
22 TUNNEL STREET BURNLEY

Background

The application property:

The application relates to a detached two storey building directly adjacent to the highway at the junction of Dale Street and Tunnel Street. The building was last used as a public house, known as Dickie Pinks, and is unoccupied at present. Its immediate townscape was remodelled in the 1970s following large scale clearance and this remnant C19 building is now surrounded by a sizeable area of green space. Immediately adjacent the western boundary is a residual section of Dale Street, approximately 16.0m in length, which is not a through route though it remains adopted highway.



Tunnel Street (North) and Dale Street (West) Elevations

Rear (South) elevation from Dale Close



Former Beer Garden adjacent Dale Street

View West along Tunnel Street

The site is located within a predominantly residential area. The nearest residential properties include Dale Close within 22.0m to the south and west and Cotton Street within 16.0 m to the north. The site is located within the development boundary for the settlement of Burnley as defined in Burnley's Local Plan.

The proposal:

The application seeks planning permission for a change of use of the building from a drinking establishment (Use Class A4) to a private children's day nursery (Use Class D1). Details include the following:

The nursery will operate between 07:30 to 18:00 hours Monday to Friday offering provision of childcare for children between the age of birth and 4 years old. It has been clarified during the application process that the nursery will operate with a maximum capacity of 42 children at any one time. At full capacity there will be 8 full time equivalent members of staff employed at the site.

The change of use extends to the building in its entirety and includes a kitchen, bathroom facilities and three nursery rooms. The former beer garden to the west of the property (fronting Dale Street) would provide an outdoor play space large enough to host a small number of children at a time. The nursery would also need to adhere to Ofsted requirements in regards to indoor and outdoor amenity provision. No alterations to the external appearance of the building are proposed.

The proposal makes no provision for on-site staff car parking or for drop off/collection of children and this is expected to take place on the surrounding highway.

Relevant Policies:

Burnley's Local Plan (July 2018)

SP1: Achieving Sustainable Development

SP4: Development Strategy

SP5: Development Quality and Sustainability

NE5: Environmental Protection

IC1: Sustainable Travel

IC3: Car Parking Standards

IC5: Protection and Provision of Social and Community Infrastructure

The National Planning Policy Framework (2019)

Relevant Planning History:

APP/2007/0443 - Proposed erection of smoking shelter - Granted

Consultation Responses:

LCC Highways:

Raise an objection to the proposal on the basis that the site is unable to offer any allocated staff parking in accordance with the standard in the Local Plan. They state that "although the applicant makes reference to parking being available on Dale Street, this is adopted highway and as such can't be allocated for the sole use of the business. Whilst there is no indication regarding the dedicated drop-off point for the children it is apparent that these could be accommodated on the existing highway".

Environmental Health:

Have no objections, subject to inclusion of conditions to control the hours of use in line with those proposed; to require the outdoor play area to be fully enclosed with acoustic fencing; and to ensure the appropriate provision of refuse and recycling facilities.

Publicity:

Three neighbour responses have been received. In summary, the respondents offer support to the loss of the use of the building as a drinking establishment but make observations regarding the potential for noise and disturbance; and express concern over the use of Dale Close as a pick-up and drop-off zone and for staff parking.

Planning and Environmental Considerations:

The Principle of Development:

Local Plan Policy SP1 sets out a presumption in favour of sustainable development and makes clear that development proposals that are sustainable will be welcomed and approved without delay. In order to be sustainable, development must accord with national and local policy and have

regard to, amongst others, the priority afforded to accommodating growth in Burnley and Padiham through the efficient use of land and buildings; and the need to develop sites that are well located in relation to services and accessible by public transport, walking and cycling.

The application site is located within the development boundary for the settlement of Burnley as defined in Burnley's Local Plan. Policy SP4 provides the development strategy for the borough and supports the re-use of existing buildings within the development boundary provided they are compatible with other relevant policies of the Local Plan.

The provision of facilities for childcare under Use Class D1 fall within the definition of a community use. It is therefore relevant to consider NPPF Paragraph 92 which encourage the provision of community uses that enhance the sustainability of communities and residential environments.

The proposed development is located within the development boundary, it re-uses an existing building for community use and is considered to be locationally sustainable. The proposal is therefore considered acceptable in principle subject to the acceptability of the details of the proposal.

The other main issues are

- the effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance;
- and the effect of the increased demand for on-street car parking upon highway safety and local highway conditions.

Residential Amenity:

Local Plan Policies SP4 and SP5 requires development to ensure there is no unacceptable impact on the amenity of neighbouring occupants or adjacent land users. The nearest residential properties include Dale Close within 22.0m to the south and west and Cotton Street within 16.0 m to the north.

There are no extensions or other buildings proposed which could affect light or outlook, and the residential properties are sufficiently distanced from the site so as not to be adversely affected in terms of loss of privacy. The main issues in respect of residential amenity are noise and general disturbance.

It seems likely that there would be potential that noise arising from the proposed outdoor area could result in an increase in noise beyond the previous beer garden use. The proposed hours of use of the outdoor space between 09.00 and 17:00 Monday to Friday will see a reduction in noise and general disturbance at evenings and weekends. It is also noted that the size of the space would restrict the number of children who could play at any one time. The proposed mitigation measures of installing an acoustic fence and controlling the hours of use in line with those proposed would limit any disturbance for neighbouring occupiers. With such mitigation measures in place I do not consider that the use of the outdoor area would result in any significant adverse effects on neighbouring amenity.

There is also a potential noise from the general comings and goings of the nursery staff and parents dropping off and picking up children. Likewise, the former use as a public house would have generated a degree of disturbance and whilst this may have been more gradual through the day and evening it would none-the-less have had a noticeable impact for nearby residents. The nursery is proposed to operate between 07.30 and 18.00 hours. These are not unsociable hours and unlike a school the children are not likely to be dropped off or picked up all at the same time, but rather it will be staggered. It is not therefore considered that this would be so detrimental that the application could be refused on these grounds.

Taking account of the above and most notably the restrictions on the times of operation of the premises and the positions of neighbouring properties in relation to the site, the proposed development is not considered to result in any significantly adverse noise or disturbance for the occupiers of any neighbouring properties. It is considered that levels of noise and disturbance would be satisfactorily mitigated and minimised through the imposition of conditions as recommended by Environmental Health. Subject to these controls, the proposal would have an acceptable impact on residential amenity in accordance with Policies SP4 and SP5.

Highway Safety and Parking:

Section 9 of the NPPF contains guidance on transport and land use planning, including the promotion of sustainable transport choices and reducing travel by car. Paragraph 109 states that: 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.

Policy IC1 seeks to ensure sustainable travel, highway safety and a safe and convenient means of access for all users. Policy IC3 requires the adequate provision of car parking for developments in accordance with specific parking standards set out in Appendix 9.

With a maximum capacity of 42 children at any one time the Council's parking standards require 6 spaces for staff parking and a drop off zone of 4 car parking spaces. In applying the parking standards Appendix 9 allows for local circumstances to be taken into account which includes the accessibility of the site by public transport, walking and cycling; the availability of existing public parking provision or on-street parking nearby; and whether any under-provision might cause or exacerbate congestion, highway safety issues or on-street parking problems.

The site is unable to offer any off-street parking for staff instead relying upon on-street parking. With regard to space for drop off and pick up of children, this is also expected to take place on the surrounding highway.

Drop off and Collection

The drop off and pick up of children is proposed to take place on the surrounding highway. During the course of assessing the proposal, the applicants have confirmed that the nursery is not proposed to operate fixed session times rather it will provide for the individual requirements of the parents/carers. This will result in staggered drop-off and pick up times throughout the day in order to mitigate congestion and the impact on highway safety. However consideration must be given to the possibility that peaks could occur given that the majority of visits to the nursery are likely to form linked trips as parents drop off or pick up on their way to work.

LCC Highways have confirmed that the drop off and collection of children could be adequately accommodated on the existing highway.

The site is situated within a highly sustainable and accessible location within easy walking distance from surrounding residential areas where there are regular bus services. It is also within walking and cycling distance of a substantial number of residential properties in the local area. There are no Traffic Regulation Orders restricting on-street parking of vehicles on Tunnel Street and the surrounding streets which also have low vehicle speeds due to being 20mph zones and appear to have low vehicular movements. Additionally there is a public parking bay on Cotton Street, within x metres of the application site, which will accommodate approximately 25 cars.

Accordingly it is considered that there is sufficient on-street and public parking spaces in close proximity to the site to enable the drop off and pick up of children in a responsible, legal and safe location without resulting in any unacceptable impact upon highway safety or local highway conditions that would be so detrimental as to justify refusal of the application.

Staff Parking

The Council's parking standards require 6 parking spaces for the proposed staffing levels. The proposal makes no on-site provision for staff car parking instead relying upon on-street parking.

The site is situated within a highly sustainable and accessible location within easy walking distance from surrounding residential areas where there are regular bus services. For those staff members that travel to work by private motor vehicle, it is considered that there is sufficient on-street and public parking spaces in close proximity to the site for staff to park in a responsible, legal and safe location without resulting in any unacceptable impact upon highway safety or local highway conditions that would be so detrimental as to justify refusal of the application.

It is considered that parking for cycles could adequately be provided on site and this should be controlled by a condition. Additionally, the imposition of a condition requiring a green travel plan would also seek to encourage staff and users of the nursery to travel to and from the site by alternative methods of transport to the private car. This would further limit any effect upon local highway conditions.

Taking into account the scale and nature of the proposal and other local circumstances as set out above it is considered that, subject to the imposition of relevant conditions, the proposal would not cause or exacerbate congestion, highway safety issues or on-street parking problems. It would satisfy the relevant local plan policies IC1 and IC3 and the NPPF which aims to only prevent or refuse development on highway grounds where there is an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Conclusion:

The proposed change of use to a children's nursery would bring this vacant building back into a sustainable and beneficial long term use as a community facility, which is welcomed. The proposed change of use to a nursery is considered to be an appropriate use for the area and does not raise any significant concerns in terms of visual and residential amenity and is considered to be acceptable in relation to highway safety and parking. Subject to conditions the development is considered to accord with the relevant plan policies as set out above

Recommendation:

That planning permission be granted subject to the following conditions:

Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Ground Floor Layout (1:100 scale) dated 17.04.19; and Proposed First Floor Layout (1:100 scale) dated 12.06.19.

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity

3. The number of children attending the day nursery use hereby permitted shall not exceed 42 at the premises at any one time.

Reason: To safeguard the amenities of nearby residents and in the interests of highway safety in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

4. The day nursery use hereby permitted shall not be operational except between 07.30 hours and 18.00 hours on Mondays to Fridays inclusive, and it shall not be operational on Saturdays, Sundays, Bank Holidays or Public Holidays.

Reason: To safeguard the amenities of nearby residents in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

5. The outdoor play area in connection with the day nursery use hereby permitted shall only be used between 09.00 hours and 17.00 hours on Mondays to Fridays inclusive, and shall not take place on Saturdays, Sundays, Bank Holidays or Public Holidays.

Reason: To safeguard the amenities of nearby residents in accordance with Policies SP5 and NE5 of Burnley's Local Plan (July 2018).

6. Prior to the commencement of the day nursery use hereby permitted, an acoustic boundary enclosure shall be erected to the outdoor play area in accordance with details which shall have previously been submitted to and approved in writing, or granted planning permission as necessary, by the Local Planning Authority. The approved fencing shall be retained thereafter for the lifetime of the permitted use.

Reason: To safeguard the amenities of nearby residents in accordance with Policies SP5 and NE5 of Burnley's Local Plan (July 2018).

7. Prior to the commencement of the day nursery use hereby permitted, a scheme for the storage of refuse and recyclables shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full, as approved, prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained in perpetuity.

Reason: To ensure adequate provision the storage of refuse and recycling in the interests of the visual amenities of the area, in accordance with the Policies SP5 and HS4 of Burnley's Local Plan (July 2018).

8. Prior to the commencement of the day nursery use hereby permitted, secure cycle parking facilities for staff and visitors to the development shall be provided at the site in accordance with details which shall have previously been submitted to and approved in writing by the Local Planning Authority. The approved bicycle parking facilities shall be retained thereafter for the lifetime of the permitted use.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with Policies IC1 and IC3 of Burnley's Local Plan (July 2018).

9. Within 3 months of occupation of the day nursery use hereby permitted a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented as approved. The travel plan should examine the various modes of transport used to access the site and set out detailed measures and commitments tailored to the needs of the development in order to promote and encourage the use of alternative modes of transport to the car for trips generated to and from the nursery.

Reason: To promote and encourage sustainable methods of transport as an alternative means of travel to the private car in accordance with Policies SP5, IC1 and IC3 of Burnley's Local Plan (July 2018).

10. Unless otherwise approved in writing by the Local Planning Authority, all works and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 08.00 hours and 17.00 hours on Mondays to Fridays and between 08.00 hours and 13.00 hours on Saturdays and at no time on

Sundays, Bank Holidays or Public Holidays. Where permission is sought for works to be carried out outside the hours stated, applications in writing must be made with at least seven days' notice to the Local Planning Authority.

Reason: To safeguard the amenities of nearby residents in accordance with Policies SP5 and NE5 of Burnley's Local Plan (July 2018).

EEP 04.11.19