

## **DEVELOPMENT CONTROL COMMITTEE**

**WEDNESDAY, 13<sup>th</sup> FEBRUARY 2013**

### **RECOMMENDATION OF THE DEVELOPMENT CONTROL MANAGER**

#### **FOR REFUSAL OF PLANNING PERMISSION**

**APPLICATION NO:** 12/01405/COU  
**PROPOSAL:** CHANGE OF USE OF GROUND FLOOR RETAIL SHOP  
AND FIRST FLOOR TWO BEDROOM FLAT TO A  
COMMUNITY DAY NURSERY FOR TWENTY 2-5 YEAR  
OLDS.  
**LOCATION:** 140 DALLOW ROAD  
**APPLICANT:** MR ZAID MOHAMMED  
**WARDS AFFECTED:** DALLOW

#### **RECOMMENDATION**

**1. Refuse for the reasons set out below:**

- (01) The failure to provide adequate provision for off-street parking in accordance with the Council's approved standards would result in vehicles being encouraged to park on the highway to the detriment of highway and pedestrian safety and the free flow of traffic. The proposal would thereby be contrary to Policies LP1 and T3 of the Luton Local Plan.**
- (02) The proposed development would injuriously affect the amenities of the adjoining property by reason of noise and general disturbance. The proposal would thereby be contrary to Policies LP1 and LC6 of the Luton Local Plan.**

#### **REPORT**

##### **INTRODUCTION**

- 2. The application is being considered by Committee as two letters and a petition, in support of the child care facility, have been received.**
- 3. The application site comprises a two storey end of terrace building located on the junction of Dallow Road and Shirley Road in the Dallow area.**
- 4. The ground floor of the premises is currently trading as an estate agent with living accommodation on the first floor.**
- 5. Pre-application advice has been provided on the basis that the change of use would detrimentally impact on the residential amenities of the adjoining occupiers, parking and highway safety.**

## LUTON LOCAL PLAN ALLOCATION

6. The site is within a designated Local Centre Frontage.

## POLICY IMPLICATIONS

### The National Planning Policy Framework (NPPF)

7. Para 51 states that local authorities should identify and bring back into residential use empty houses and buildings where there is an identified need for housing in an area.

### Luton Local Plan 2001-2011

8. Policy LP1 (Sustainable Development Strategy). This policy seeks to maximise any opportunity to improve the quality of life of its residents.
9. Policy H1 – Existing Housing. Planning permission involving the loss of residential accommodation will be refused except where small scale social, community or leisure facilities are proposed for which no suitable alternative site is available.
10. Policy LC6 – (Childcare Facilities). This policy supports new and extended nurseries provided there is no adverse impact on residential amenities, the change of use is subordinate to the main use of the premises and there is suitable vehicular access and safe dropping off and picking up areas.
11. Policy S4 – Local Convenience Shops – Outside of shopping policy areas the loss of existing shops selling convenience goods shall not be granted planning permission.
12. Policy T3 – (Traffic Implications of development) will only permit development where traffic generated by a proposal would not exacerbate road congestion or cause safety problems.

## PREVIOUS HISTORY

13. PREAPP/12/00161 Pre-application Enquiry - Conversion from commercial Ground Floor Estate Agent and 1st Floor 2 bed flat to a Nursery. - Category D. Concerns were raised regarding residential amenity, parking and highway safety.

## TECHNICAL CONSULTATIONS

14. Highway Engineering Services - The Highway Authority has the concern that the proposal will generate additional traffic and demand for on street parking that cannot be met in an area that already suffers traffic and parking congestion. The Highway Authority also has concern that inappropriate

parking will occur close to the existing zebra crossing, especially given the presence of the one way systems on the side roads, to the detriment of pedestrian and highway safety.

15. Police Architectural Liaison Officer – no comments received.

16. Children and Learning – no comments to make.

#### NEIGHBOUR CONSULTATIONS

17. Seventeen adjoining occupiers have been consulted on this application. There have been no letters of objection received.

18. Two individual letters of support have been received together with a petition with 39 signatures in favour of the child care facility.

#### MATERIAL PLANNING CONSIDERATIONS

19. The material planning considerations relate to the principle of the change of use and its impact on the streetscene, residential amenity, parking and highway safety.

#### PRINCIPLE OF CHANGE OF USE

20. No.140 Dallow Road is within a designated local shopping frontage, as set out in the Proposals Map of the Luton Local Plan 2001-2011. The premises have in the past operated as a Newsagents and Sub-Post Office. However, some time ago an unauthorised change of use occurred and the ground floor currently operates as an estate agent with one 2no bedroom flat on the first floor.

21. Outside of shopping policy areas, planning permission will not normally be granted for developments that entail the loss of existing shops selling convenience goods. However, in this instance the retail use no longer operates from the site, as such in terms of policy the change of use to a nursery would be acceptable on the ground floor.

22. With regard to the loss of residential accommodation on the first floor, this would be more difficult to justify, as there is equally as much demand for housing within the borough as there may be demand for nursery places. However, should this nursery use be permitted, it would leave the site empty during out of operating hours, and thus reduce the availability of much needed housing stock.

#### STREET SCENE IMPACT

23. No external alterations are proposed to the building. However, the change of use will result in a significant increase in activity to and from the site which will have an impact in terms of both pedestrian and vehicular traffic generation thereby increasing the general level of noise and disturbance.

## IMPACT ON ADJOINING OCCUPIERS

24. The application site is an end of terrace property as such only one property will be directly affected by the change of use and that is No142 Dallow Road which is the adjoining dwelling located to the west of the site. This is a mid terrace property in residential use and would be directly affected by the change of use in terms of noise nuisance and general disturbance. Although noise attenuation could be provided within the building itself to provide some level of mitigation, the scale of the proposal, given that not all of the children would be there for the whole day, is such that the amenity currently enjoyed by the adjoining occupiers would be significantly affected.
25. Whilst it is noted that the applicant is also the owner of the property, this fact does not in itself address the detrimental impact on quality of life that the adjoining occupiers will be subjected to.

## LAYOUT

26. In the description of development, the proposal states that the community day nursery will provide places for twenty 2-5 year olds. However, it is clear from the Childcare Advice and Support Officer Visit Summary that one toilet per 10 children is a statutory requirement for all childcare facilities. From the plans submitted with the application a total of 6 toilets will be provided, which would suggest that a greater number of children may be catered for at the site especially at the change over period during the lunch time period.
27. The layout of rooms signifies that the 2-3 year olds will be looked after on the ground floor with the 4-5 year olds catered for on the first floor. There is to be an office, kitchen and toilets at first floor, with a reception area to the front and rear of the premises toilets and storage area on the ground floor. Apart from the creation of a reception area which will result in the widening of the existing door opening and installing a new window there will be no other external changes to the property.

## PARKING

28. This part of Dallow Road is a particularly busy thoroughfare with no off-street parking available. There is a pedestrian crossing directly outside No 146 Dallow Road and markings all the way to the junction of Shirley Road prohibiting any waiting or parking.
29. No140 is also located on the junction of Dallow Road and Shirley Road which is a one-way street. Therefore children will need to be dropped off in Shirley Road to access the rear of the site, resulting in vehicles being re-directed down either Vernon or Granville Roads to access the site in Shirley Road .
30. For these reasons, the Highway Development Manager has raised an objection to the scheme on the grounds that the dropping off and picking up of children in this location would increase vehicular movements and result in

inappropriate parking which would detrimentally impact on pedestrian and highway safety.

## **CONCLUSIONS**

31. Irrespective of the concerns raised regarding the loss of residential accommodation, the detrimental impact as a result of the increased level of activity on the character of the area is considered unacceptable. A change of use to a children's day nursery will inevitably have a detrimentally impact on the amenities of the adjacent occupier at No142 in terms of noise and disturbance. The lack of off street parking and the restrictions relating to parking and waiting within the immediate vicinity of the site would result in increased danger to both pedestrian and highway safety. Both of these issues were drawn to the applicants' attention through the pre-application process and they have not been addressed in the scheme being considered. The application is therefore recommended for refusal.