

Proposed Nursery Development

KEY INFORMATION

Ward Maryfield

Address

Proposed Children's Nursery

Applicant

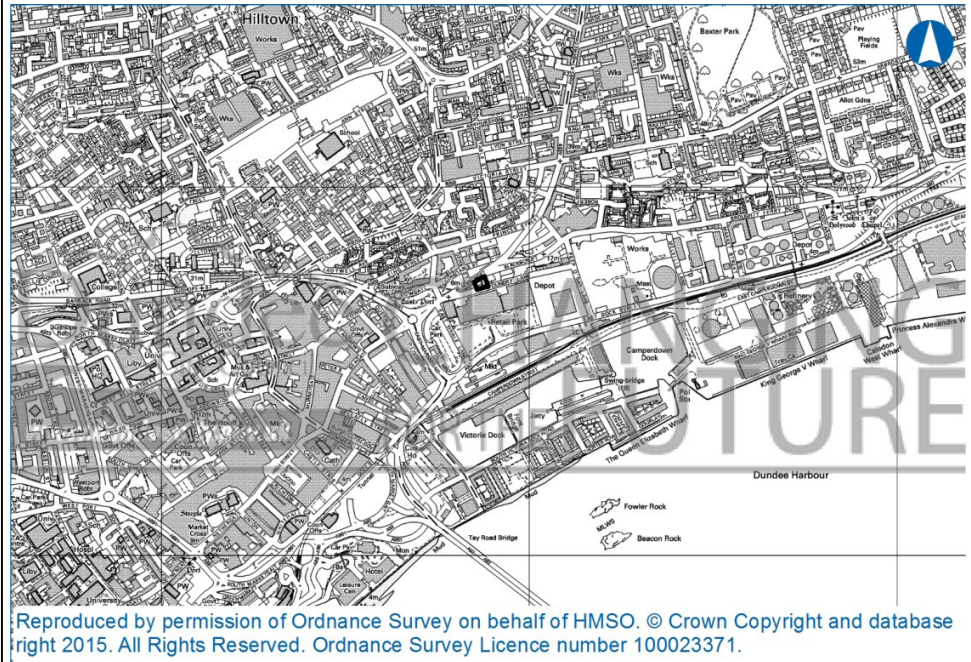
Blackscroft Property Company
Ltd
57 Blackscroft
Dundee. DD4 6AT

Agent

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FAO Mark Walker
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Dundee. DD2 1RZ

Registered 17 Dec 2014

Case Officer David Niven



SUMMARY OF REPORT

- This application seeks planning permission for a change of use to a children's nursery.
- Policies 7 (High Quality Design), 18 (Private Day Nurseries), 40 (Waste Management Requirements for Development), 44 (Air Quality) and 45 (Land Contamination) of the Dundee Local Development Plan are relevant to the proposed development.
- 6 letters of objection have been received.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=NGMK7BGCME100>.

RECOMMENDATION

The application fails to comply with Policies 7 and 18 of the Dundee Local Development Plan 2014. There are no material considerations that would support the approval of planning permission. Therefore, the application is recommended for REFUSAL.

1 DESCRIPTION OF PROPOSAL

1.1 This application seeks planning permission for a change of use of the upper floor of the existing two storey office building at 57 Blackscroft to a children’s nursery.

1.2 The proposed development will comprise of the conversion of the upper floor of offices that are accessible from street level from Blackscroft to provide nursery accommodation over one level. Internally the layout of the building will remain largely unaltered with only minor changes to room partitions. The proposed nursery will accommodate up to 33 children between the ages of 0 to 5 years old and will employ 12 staff (including 3 modern apprenticeships).

1.3 Externally the applicant is proposing to erect a large raised deck to the west of the building that will partially extend over the existing park, creating a secure outdoor play area measuring 281m² enclosed by 1.8 metre high timber fencing.

1.4 In terms of parking and vehicular access, the nursery is to be served by a small car park accessed from Foundry Lane. The car park will comprise of 2 parking bays for staff and 4 drop off/collection parking bays. In addition, the applicant also proposes to provide an area of accessible parking immediately to the north of the building, accessible from Blackscroft.

1.5 In accordance with the Council's Scheme of Delegation this application is being reported to the Development Management Committee as an elected member has requested that it is referred to the committee.

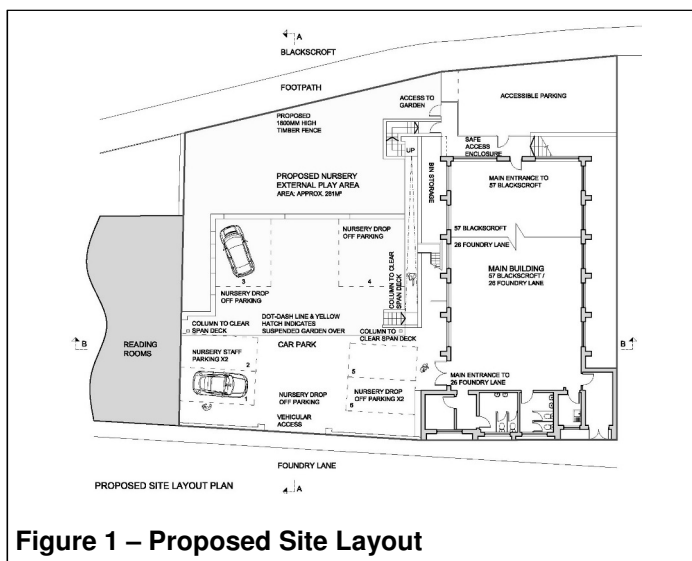


Figure 1 – Proposed Site Layout

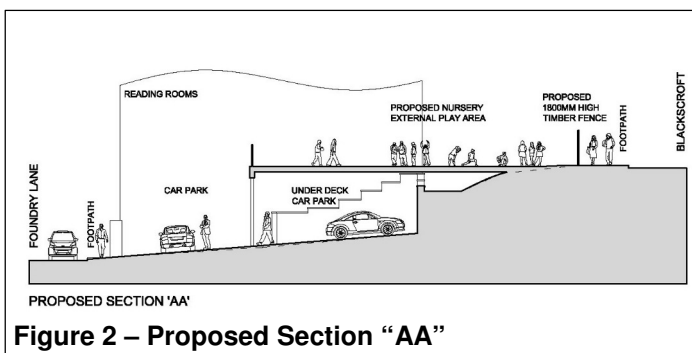


Figure 2 – Proposed Section “AA”

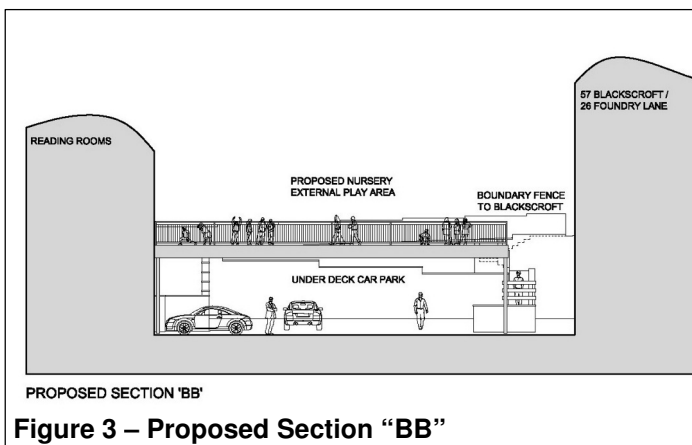


Figure 3 – Proposed Section “BB”

2 SITE DESCRIPTION

2.1 This application relates to the two storey commercial offices located within the sloping site at 57 Blackscroft between the Reading Rooms nightclub and a glazing workshop building on Foundry Lane. The building was formerly a church but was converted to offices at some

time in the past. The upper floor of the building is presently vacant but the ground floor appears to be presently occupied as offices. To the west of the building there is a small sloping area of landscaped ground which then drops down to a car park, accessible from Foundry Lane. A combination of a ramp and stairs presently provides access from the car park to the upper floor offices. There is also a small, restrictive area of parking containing 5 bays to the north of the building which is accessible from Blackcroft.



Figure 4 – Photo From the North



Figure 5 – Photo From The South

3 POLICY BACKGROUND

3.1 The following plans and policies are considered to be of direct relevance:

DUNDEE LOCAL DEVELOPMENT PLAN

Policy 7: High Quality Design

Policy 18: Private Day Nurseries

Policy 40: Waste Management Requirements for Development

Policy 44: Air Quality

Policy 45: Land Contamination

3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

4.1 There is no planning history of specific relevance to this application. However, pre-application discussions took place with the applicant in December 2013 and September 2014 where the applicant was advised that the Council would not be supportive of the proposals due to concerns regarding access/parking, proximity to an existing nursery, and the lack of an attractive, usable and safe area of outdoor play space.

5 PUBLIC PARTICIPATION

5.1 The Council has followed the statutory neighbour notification procedures. This application has also been advertised in the Dundee Evening Telegraph.

5.2 6 letters of objection have been received from local residents, 5 of which are valid. The concerns raised relate to:

- impact on road safety and pedestrian safety;

- lack of adequate parking facilities;
- contrary to Local Development Plan; and
- inadequate outdoor play area.

5.3 Members will already have access to the letters of objection and the issues raised are considered in the Observations section below.

6 CONSULTATIONS

6.1 **Environment Department** – the Head of Environmental Protection has advised that the site may be contaminated due the history of industrial uses in the area and the proximity of an old quarry. As such, it is recommended that the applicant undertakes and submits a preliminary land risk assessment in order to identify any potential contamination within the site. In addition, concerns have been raised regarding air quality due to the level of traffic at this location and it is recommended that the applicant undertakes and submits an Air Quality Impact Assessment.

7 DETERMINING ISSUES

7.1 **Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.**

THE DEVELOPMENT PLAN

The provisions of the development plan relevant to the determination of this application are specified in the Policy Background section above.

DUNDEE LOCAL DEVELOPMENT PLAN

7.2 **Policy 7: High Quality Design** – is supportive of development that contributes positively to the quality of the surrounding built and natural environment. The design and siting of development should respect the character and amenity of the place and should create and improve links within the site and into the surrounding area beyond the site. Proposals should also incorporate new landscape and planting works appropriate to the local context and the scale and nature of the development.

7.3 The proposals will involve the erection of a large raised area of decking which will provide an outdoor play area for the proposed nursery. This outdoor play area will also be enclosed by a 1.8m high fence that will run alongside the public footpath on Blackscroft. The indicative photomontages contained within the supporting statement demonstrate that the proposed fencing will be a construction of multi-colour vertical slats, shaped to give the appearance of pencils. The main elevation of building will also be painted in a range of bright colours to reflect the proposed use of the building.

7.4 In assessing the potential visual impact of the proposed fencing and colour scheme, it is recognised that the proposals are reflective of the proposed use. However it is considered that the proposed fence and colour scheme will appear incongruous within the wider context and would result in an unacceptable impact on the visual amenity of the area. It is also

considered that the proposals would have a negative impact on the character and setting of the neighbouring Reading Rooms which is an attractive Category B Listed Building.

7.5 It is therefore considered that the proposed fencing and colour scheme for the exterior of the building would fail to contribute positively to the quality of the surrounding built environment and would result in an unacceptable impact on the visual amenity of the area.

7.6 **The proposal is contrary to Policy 7.**

7.7 **Policy 18: Private Day Care Nurseries** – is supportive of proposals involving the creation of nurseries where they meet the following criteria:

- 1 outdoor play space of 100m² for up to 10 children and 5m² per additional child will be provided (note – outdoor play space must be attractive, useable, safe and enjoy a sunny aspect);
- 2 staff parking of one dedicated space per 3 members of staff will be provided;
- 3 where on street parking restrictions exist, dropping off provision of 3 spaces for up to 25 children and 4 spaces for more than 25 children (up to a maximum of 50) will be accommodated within the curtilage of the premises, where a car can enter and leave in a forward gear.
- 4 they are situated wholly or predominantly on the ground floor.

However, proposals will not be supported where they are:

- 1 within tenement buildings/flatted accommodation;
- 2 accessed from a cul-de-sac or residential street of less than 4.8 metres width; and
- 3 with a radius of 250 metres from an existing private nursery.

7.8 In general Policy 18 is not supportive of nursery developments providing more than 50 full time spaces for children.

7.9 Whilst the site presently has no useable area of outdoor amenity space, the applicant is proposing to overcome this issue by erecting a large raised garden area which will be supported by a single steel structure that extends partially over the parking area. This raised platform will provide approximately 281m² of external play area, which exceeds the minimum requirements as set out in Policy 18. However, the policy also requires that the outdoor play area must provide an attractive, useable, safe space and enjoy a sunny aspect and in this respect it is considered that the proposals fail to satisfy the policy.

7.10 In considering whether an area of outdoor space is attractive as an area of outdoor amenity space the quality of the surrounding environment is of significant importance. In this case the proposed site is located immediately adjacent to Blackscroft which is a very busy arterial route with continuous movement of traffic to and from Dundee City Centre. To the south, the play area will also look onto the rear service yards of the retail units within the Gallagher Retail Park and to the west the site is bound by the imposing gable wall of the neighbouring Reading Rooms nightclub. It is therefore considered that whilst the applicant may be meeting the requirements of open space provision in terms of size, the proposals do not provide an acceptable level of environmental quality.

- 7.11 In addition to the issues relating to outdoor space, it is also considered the proposals fail to provide adequate parking as per the criteria set out in the policy. Policy 18 states that staff parking of one dedicated space per 3 members of staff must be provided within the site. The supporting statement outlines that the proposed nursery will have 12 members of staff which, based on the policy requirements, generates the need for four staff parking bays within the site. However the proposed layout plan only has provision for two staff parking bays and given the extremely small size of the site it is difficult to envisage how the applicant could accommodate any additional staff parking spaces without severely compromising the ability to enter and leave the car park in a forward gear. As the proposal provides the minimum requirements of Policy 18 in terms of drop off bays a reduction in the number of drop off bays to create additional staff parking would further contravene the requirements of Policy 18.
- 7.12 It is therefore considered that the proposed development fails to meet the requirements of Policy 18 in relation to both the provision of outdoor amenity space and the provision of staff parking.
- 7.13 **The proposal is contrary to Policy 18.**
- 7.14 **Policy 40: Waste Management Requirements for Development** – Policy 40 requires development proposals to demonstrate that they adequately address the Council’s waste strategy to reduce, collect, sort, recycle and re-use waste.
- 7.15 The applicant has not indicated on either the plans or within the supporting statement how refuse will be handled within the site but having assessed the plans it would appear that there is adequate space for the provision of refuse and recycling facilities. However, for the avoidance of doubt, if this application is approved details should be requested by condition.
- 7.16 **The proposal satisfies Policy 40.**
- 7.17 **Policy 44: Air Quality** - Policy 44 outlines that there is a presumption against development proposals that could significantly increase air pollution or introduce people into areas of elevated pollution concentrations unless mitigation measures are adopted to reduce the impact to levels acceptable to the Council.
- 7.18 The Head of Environmental Protection has advised that they have concerns regarding air quality at this location. Whilst the Council has not previously monitored air quality in this location, it is considered that air pollution may be an issue given that the site is located on a main arterial route where traffic is known to queue past the site on a regular basis. As a result it is recommended that the applicant undertakes and submits an Air Quality Impact Assessment in order to identify if air quality is an issue at this location.
- 7.19 However, given that the principle of the proposed development is consider contrary to the Local Development Plan, it was determined that to request this information at this stage would be unreasonable given the costs of undertaking the assessment. However, should this application be approved it is considered that this matter could be adequately controlled by condition.
- 7.20 **The proposal satisfies the requirements of Policy 44.**
- 7.21 **Policy 45: Land Contamination** - this policy requires development proposals for potentially contaminated brownfield land to be accompanied by a site investigation report with a satisfactory remediation strategy to treat and mitigate against the effects of the contamination identified by the site investigation report.

- 7.22 The Head of Environmental Protection has advised that the site may be contaminated due the history of industrial uses in the area and the proximity of an old quarry. As such, it is recommended that the applicant undertakes and submits a preliminary land risk assessment in order to identify any potential contamination within the site. However, given that the principle of the proposed development is considered contrary to the Local Development Plan, it was determined that to request this information at this stage would be unreasonable given the costs of undertaking the assessment. However, should the Committee grant planning permission this matter could be adequately controlled by condition.
- 7.23 **The proposal satisfies Policy 45.**
- 7.24 **It is concluded from the foregoing that the proposals fail to comply with the provisions of the Development Plan.**

OTHER MATERIAL CONSIDERATIONS

The other material considerations to be taken into account are as follows:

A – PARKING PROVISION

- 7.25 In addition to the issues raised above regarding the provision of staff parking, it is considered that the general parking arrangement is unsatisfactory both in terms the existing uses within the site and road safety.
- 7.26 In assessing the provision of parking within the site it is important to highlight that the ground floor office unit directly below the proposed nursery which is accessible from Foundry Lane will continue to be occupied and operated as a separate unit. At present this lower floor office unit uses the existing parking bays within the site that are accessible from Foundry Lane. However under the current proposals the applicant will dedicate all the parking spaces within the site to the nursery, leaving the lower floor office with no parking whatsoever. Whilst it is acknowledged that the site is located in close proximity to the city centre and a number of car parks, given the nature of the site and the lack of on street parking on Foundry Lane, it seems apparent that the site lacks sufficient space to not only accommodate the proposed nursery but also the existing offices within the lower floor unit.

B – ROAD SAFETY

- 7.27 As outlined earlier in this report, the proposed site is located on a very busy arterial route into the city centre and traffic regularly backs up in the morning and evening in this area due to the volume of traffic. This was an important issue that was raised during the initial pre-application discussions. The applicant was advised against the use of the parking area adjacent to Blackscroft other than for disabled parking.
- 7.28 In order to address this issue the applicant is proposing that the majority of children will be picked up and dropped off using the bays accessible from Foundry Lane, with the parking area in front of the nursery accessible from Blackscroft only used as a level drop off area for individual cars and disabled access. Nevertheless, it is highly likely parents will inevitably attempt to pick up and drop off children at the Blackscroft entrance given the convoluted access arrangements relating to the Foundry Lane parking. This would then result in further pressure in this area during the peak times of traffic flow which would not only have an adverse impact on traffic movement but also raises concerns in relation to traffic safety.

C – PRECEDENT AT ROSEANGLE

- 7.29 The applicant has acknowledged in the supporting statement that the proposals are contrary to Policy 18 due to being less than 250 metres from the existing nursery at Kiddycare. However it is their contention that the Council has already set a recent precedent which serves as a justification for a departure from the Local Development Plan in this instance.
- 7.30 The application that the applicant is referring to relates to the new nursery at 27 Roseangle (Planning Ref: 13/00144/FULL). This application was approved contrary to Policy 18 of the Local Development Plan despite being within 250 metres of an existing nursery. The justification for this departure was based on there being sufficient demand for another nursery in the area and it also provided care for a wider range of age groups that is not catered for by other existing nurseries in the area. It is applicant's contention that this same relaxation should be applied in this case as there is a high demand for private childcare in Dundee and they too will provide care for a wider range of age groups than is presently provided at the nearby Kiddycare nursery.
- 7.31 Having reviewed the plans for the nursery on Roseangle it is considered that it does not provide sufficient material grounds for the approval of this application. Whilst the applicant may be providing care for a wider range of age groups than the nearby nursery at Kiddycare, it is considered that the access arrangements and the quality of the surrounding environment provided at the Roseangle nursery is far better than the proposals for Blackcrofts. It must also be highlighted that there are no planning restrictions in relation to the range of age groups that can be cared for by Kiddycare.
- 7.32 Furthermore, as previously outlined, the site on Blackcrofts is located on a very busy access road and has poor access and parking arrangements. Whereas the site on Roseangle is located within a far more quiet area that is predominantly residential and provides an acceptable access arrangement where cars can enter and leave in a forward gear. They are therefore not considered to be comparable sites.
- 7.33 It is therefore considered that the approval of the nursery on Roseangle does not provide sufficient grounds to justify a departure the Local Development Plan in this instance.

D – VIEWS OF OBJECTORS

- 7.34 Six letters of objection have been received from local residents, five of which are valid. The concerns of the objectors have been addressed in the assessment of the proposal against the requirements of the Dundee Local Development Plan above. It has been concluded that the objectors have raised valid reasons for the refusal of the application on the grounds that the proposed development would fail to provide an acceptable area of outdoor play space and would have an unacceptable impact on pedestrian and traffic safety.
- 7.35 The concerns of the objectors are supported.
- 7.36 **It is concluded from the foregoing that the material considerations are not of sufficient strength to support the approval of planning permission.**

8 CONCLUSION

- 8.1 The proposal fails to satisfy the requirements of the Development Plan. The concerns of the objectors regarding access and outdoor amenity are upheld. There are no other material considerations that would justify approval of planning permission. Therefore, it is recommended that planning permission be refused.

9 RECOMMENDATION

9.1 It is recommended that consent be REFUSED for the following reasons:

REASONS

- 1 The proposed development is contrary to Policy 7: High Quality Design of the Dundee Local Development Plan as it would result an unacceptable visual impact on the character and amenity of the area. There are no material considerations that would justify laying aside the provision of the Development Plan to grant planning permission.
- 2 The proposed development is contrary to Policy 18: Private Day Nurseries of the Dundee Local Development Plan as it fails to meet the requirements of the policy in that the proposed outdoor play space does not provide an acceptable level of environmental quality and the proposed parking arrangements are unacceptable and do not provide sufficient bays for staff parking. There are no material considerations that would justify laying aside the provision of the Development Plan to grant planning permission.