

Planning Application: Supplementary Report



Reference No. 20/0368/PP

Renfrewshire
Council

KEY INFORMATION

Ward (1):
Renfrew North &
Braehead

Applicant:
Mr Hamilton
192 Duntocher Road
Clydebank
Glasgow
G81 3NG

Registered:
10 July 2020

Report by Head of Economy & Development

PROSPECTIVE PROPOSAL: Change of use from office to nursery with external play area, single storey front extension and external alterations and formation of community garden

LOCATION: Barratt Homes Sales Office, Mulberry Square, Renfrew

APPLICATION FOR: Full Planning Permission

SUPPLEMENTARY REPORT

The Communities, Housing and Planning Policy Board at its meeting on 19 January 2021 considered the attached Report of Handling and decided to continue consideration of the report for more clarity on the planning process, implementation of the condition related to the temporary sale suite, the enforcement of planning control at the site as well as options for ensuring the ongoing maintenance of the open space for community use.

RECOMMENDATION

Grant subject to conditions / Section 75 Agreement/Direction

Planning History

Consent was granted for this temporary building as a sales suite and associated car parking in 2007, as part of the overall residential development of the area. A condition of this consent was that the building be removed and the land restored with landscaping before 1 May 2010.

Due to the recession of 2007/2008, the sales suite was still being actively used for such after 2010 and continued to be in use until the last remaining houses were sold on the site.

Planning at this stage did not seek to undertake formal enforcement proceedings in relation to the breach of condition, given that the use had previously been given consent and that the reason for the use still being active was due to the recession which was out with the control of the applicant. Planning were given reassurance from the house builder that as soon as the last house was sold that they would comply fully with the condition.

Planning periodically sought clarification from the house builder on the timescales for compliance with the planning condition to remove the sales suite and restore the land with landscaping.

In 2016/2017, Planning started to receive enquiries regarding an alternative use of the site. Planning tried to discourage any potential proposal on the basis of the planning history as set out above. Planning at several points during this time attempted to contact the selling agent as well as Barratt Homes to prevent the land from being sold on.

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Despite the Planning Authority contacting the original applicant and subsequent landowners reminding, encouraging, and then instructing each party that the building was to be demolished, this action was never completed.

During this period of uncertainty and change in ownership, formal enforcement action could not be initiated as it was legally challenging to ascertain the owner of the land to formally serve an enforcement notice on, given that the land changed owners several times during this phase.

It should be noted that the breach of planning control in relation to the original consent can no longer be pursued. Formal enforcement action in relation to a breach of a condition requires to be undertaken within 10 years of the breach. The development is therefore immune from enforcement action and there is no legal recourse to have the building removed.

The current proposal seeks a hybrid development, allowing the continued use of the building for a nursery use, giving it a permanent status, whilst allowing the remainder of the site to be used as open space / community garden area for local residents.

Ongoing and Long Term Maintenance

The site has recently been purchased by the applicant and any responsibility for maintenance at this time falls to him.

Should planning be granted, then the applicant has confirmed in writing that he will enter into a legal agreement to ensure that the long term maintenance of the open space / community garden area as identified within the applicant's plans be tied to the operation/ownership of the nursery facility (including any subsequent land owners).

This agreement can also set out a requirement for the land to be made available for use as a public space for use by all, including local residents in perpetuity.

Conclusion / Recommendation

The proposal complies with the Policies of both the Adopted Renfrewshire Local Development Plan (2014) and the Proposed Renfrewshire Local Development Plan (2019) and that on balance this proposal supports sustainable mixed communities and '20 minute neighbourhoods' where there is considered to be no significant adverse impact on amenity.

It is therefore recommended that members grant the application subject to conditions and the successful conclusion of a Section 75 Legal Agreement to secure the provision and implementation of the open space / community garden area and that these areas shall be maintained for the lifetime of the development, by the owner of this land.

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LOCATION: Barratt Homes Sales Office, Mulberry Square, Renfrew

APPLICATION FOR: Full Planning Permission



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IDENTIFIED KEY ISSUES

- The proposals are in accordance with Policy P1 'Renfrewshire's Places' of both the Adopted Renfrewshire Local Development Plan (2014) and the Proposed Renfrewshire Local Development Plan (2019).
- There have been 36 representations, 30 against and 6 in favour of the proposals.
- There have been no objections from consultees.
- The principle of the development is considered to be acceptable as the proposals provide an area of open space / community garden in accordance with the overall indicative masterplan covering the wider area.

RENFREWSHIRE COUNCIL
 REPORT OF HANDLING FOR APPLICATION 20/0368/PP

AGENT:	Severino Design Limited
APPLICANT:	Mr Hamilton
SITE ADDRESS:	Barratt Homes Sales Office, Mulberry Square, Renfrew
PROPOSAL:	Change of use from office to nursery with external play area, single storey front extension and external alterations and formation of community garden
APPLICATION FOR:	Full Planning Permission

INTRODUCTION	<p>This report relates to an application for planning permission which proposes the change of use from office to nursery with external play area, single storey front extension and external alterations and formation of community garden. This is a matter which falls within the Council's Scheme of Delegation, to be determined by an Appointed Officer.</p> <p>However, a request has been submitted by three Members, within 21 days of an application appearing on the Weekly List, that the matter be removed from the Scheme of Delegation for determination by the Board.</p> <p>This request was submitted in line with the Scheme submitted to Scottish Ministers and approved by Council on March 1st 2018 and has been subject to discussion between the Convenor of the Communities Housing & Planning Board and the Head of Planning & Housing who have agreed that in this instance it would be appropriate for the Board to consider this application.</p>
NUMBER OF REPRESENTATIONS AND SUMMARY OF ISSUES:	<p>36 representations have been received, 30 raised objection while 6 expressed support for the development.</p> <p>The substance of which can be summarised as follows:-</p> <p>1.The proposal does not address issues relating to noise and foot or car traffic which could affect the amenity of residents. This is not the right location for such a facility.</p> <p>Response: Following consultation with the Director of Environment and Infrastructure (Roads/Traffic), no objections have been raised against the proposals in relation to access via, foot, cycle, public transport or private vehicle.</p> <p>In terms of noise, the Environmental Protection Section raise no issues with potential impact from noise associated with the proposals. A Noise Assessment was submitted by the applicant, which was found to be satisfactory.</p>

In relation to the Development Plan, the area is covered by land use zoning of Policy P1 – Renfrewshire’s Places, in general nursery provision is found within residential areas and are considered compatible with this use.

2. Garden space would not be of much benefit given that it would be obscured by the building which should have been temporary and its removal should be enforced.

Response: The open space / community garden area to be provided is not considered to be obscured by the existing single storey structure.

3. Barratt Homes sold these properties on false pretences; this was meant to be a landscaped area and a park/community garden. Residents do not want the prospect of looking onto a nursery or other business developments. A commercial development would not be acceptable.

Response: The sale of properties is not an issue that can be addressed through Planning legislation.

The proposal includes a landscaped area of open space / community garden area for the use of the surrounding residents.

A nursery, although a commercial operation in this case, is considered to be compatible with a residential area.

4. The proposals would cause further parking problems in the area, making the area unsafe for pedestrians and traffic.

Response: Following consultation with the Director of Environment and Infrastructure (Roads/Traffic), no objections have been raised against the proposals in relation to parking or the traffic associated with the nursery proposals. Additional parking is proposed with the development.

5. If there is a shortage in nursery provision this should be considered when granting planning permission for residential developments.

Response: All developments for residential use take into consideration the requirement for education provision and enhancement as necessary.

6. The planting proposed would block light into properties and could attract vermin.

Response: The proposals are unlikely to impact on sunlight or daylight afforded to surrounding properties and the maintenance of planting will ensure this is addressed as planting matures.

The planting of bushes and the associated potential to attract

vermin due to the tree planting is not a material planning consideration that can be taken into account.

7.The proposals would reduce the value of our homes and impact on privacy.

Response: The value of property is not a material consideration in the assessment of planning applications.

There is not considered to be an unacceptable impact on privacy due to the use of the premises as a nursery.

8.The grassed area is not currently being maintained so what hope is there if permission is granted.

Response: A condition can be attached to any consent given to ensure maintenance is ongoing in association with the operation of the nursery facility going forward.

9.Planning permission has previously been refused, the application does not address the reasons for refusal.

Response: The inclusion of an area of open space / community garden area in accordance with the overall indicative masterplan for the area is considered to assist in addressing the reasons for refusal on the previous planning application.

The proposal provides a balance of uses which is compatible with the Local Development Plan Policies.

11. As the road is not yet adopted would this application have any bearing on it getting adopted.

Response: Adoption of the road is not a material planning consideration that can be controlled under current planning legislation.

12. This is a green area for children to play, it should not be taken away. The area is already void of green space for children to play.

Response: The proposal includes an area of open/amenity space outwith the nursery facility to serve as a community garden/space for the surrounding area.

In relation to the representations in support of the proposals, the following points were raised:

1.A nursery would be a fantastic use of the building and a positive effect on the local area, creating a safe educational environment for local children and jobs for local residents.

2. A nursery would benefit the residents who have young families in the area. The proposal would be good for the area rather than another park.

	<p>Response: Noted.</p>
CONSULTATIONS:	<p>Environment and Infrastructure Services (Roads / Traffic) - No objections.</p> <p>Response – Noted.</p> <p>Environmental Protection Section - No objections.</p> <p>Response – Noted.</p> <p>Glasgow Airport Safeguarding - No objections.</p> <p>Response – Noted.</p>
SUPPORTING STATEMENTS	<p><u>Access and Design Statement</u> – An Access and Design Statement has been submitted which details the proposed access arrangements and layout of the facility, for use as a nursery.</p> <p>The statement also describes the amendments to the proposal since the refusal of a similar development last year, which include the provision of an open space / community garden area for the residents of Ferry Village.</p> <p>Response – The content of the applicant's Supporting Statement is considered to be adequate address the main issues related to such proposals.</p>
DEVELOPMENT PLAN POLICIES/ OTHER MATERIAL CONSIDERATIONS	<p><u>Adopted Renfrewshire Local Development Plan 2014</u> Policy P1: Renfrewshire's Places</p> <p><u>New Development Supplementary Guidance</u> Delivering the Places Strategy: Places Checklist Delivering the Infrastructure Strategy: Fastlink Delivering the Environment Strategy: Noise</p> <p><u>Proposed Renfrewshire Local Development Plan 2019</u> Policy P1: Renfrewshire's Places Policy I5: Waste Management</p> <p><u>Proposed New Development Supplementary Guidance</u> Delivering the Infrastructure Strategy: Provision of Waste Recycling in New Developments Delivering the Environment Strategy: Noise</p> <p><u>Material considerations</u> Renfrewshire Council Children's Nurseries Policy Guidance</p>
PLANNING HISTORY	<p>06/0235/PP - Erection of residential development comprising 437 flats and 13 townhouses and divisible commercial unit at ground floor of a residential block. Granted subject to conditions April 2006.</p>

	<p>06/1306/PP - Erection of temporary sales suite with associated car parking facility. Granted subject to conditions April 2007.</p> <p>17/0771/PP - Use of building as Class 2 office. Refused January 2018.</p> <p>19/0172/PP - Change of use from temporary office to nursery, erection of single storey extension to front, boundary fencing and external alterations. Refused July 2019.</p> <p>It should be noted that whilst consent was granted for this temporary building as a sales suite with associated car parking in 2007, a condition of this approval was that the building be removed and the land restored with landscaping before 01 May 2010, in compliance with the indicative masterplan for the wider Renfrew North redevelopment.</p> <p>Despite the Planning Authority contacting the original applicant and subsequent landowners reminding them that the building was to be demolished, the site has been sold on numerous times with applications including this one being submitted, with a view to giving the building a permanent status.</p> <p>The site is designated for use as an open play area and amenity space featuring a grass river view lookout pyramid, timber deck benches, one raised gabion planter and perimeter tree planting as part of the original planning approval in 2006.</p>
DESCRIPTION	<p>Planning permission is sought for the change of use of a temporary office/sales cabin building, situated at Mulberry Square, Renfrew, to a nursery, with an area of open space to the rear to serve as open space / community garden area.</p> <p>A single storey extension to the front creating a lobby area, boundary fencing and external alterations are also proposed in association with the proposed use.</p> <p>The building is a single storey structure, constructed in facing brick, of a modern design and is situated within a new housing estate in Renfrew North.</p> <p>The open space/community garden would feature a walkway, slide, raised sensory flower beds, benches which are surrounded by native trees and bushes.</p>
ASSESSMENT	<p>The proposal site is covered by Policy P1 of the Adopted and Proposed Renfrewshire Local Development Plans. This policy seeks to safeguard and give prime consideration to the protection of the amenity of the area, by only permitting uses which will not have a detrimental impact.</p> <p>The Council will seek to maintain and, where possible, enhance the character of all the existing residential areas, by resisting any developments which will be detrimental to the amenity of these areas.</p> <p>Non-residential proposals will only be permitted where the</p>

proposal will not have an unacceptable adverse effect on the amenity of the area.

In terms of the policies of the Local Development Plan, it is considered that nursery establishments are very common in residential area and are considered compatible uses to residential.

In this case the building was built and operated as a commercial office for the sale of new homes for a number of years. It is considered that a nursery is a commercial use which is compatible with residential.

Given the existing build's position on site, equidistant from residential homes, the use is not considered to be significantly detrimental in terms of impact to amenity of surrounding homes.

In relation to the use of the children's sensory and play area associated with the nursery use, the hours of use can be controlled through a condition associated with any approval.

Although an initial Noise Assessment was submitted by the applicant and accepted by Renfrewshire Council's Environmental Protection Team, who have no objections to the proposed nursery, the restriction on the hours of operation of the outdoor play would allow control over potential noise from the nursery operation.

The provision of the open space / community garden area as part of the proposals is considered to implement, in part, the landscaped proposals that were outlined in the original 2006 planning consent and features all of the items included in this consent. It is though noted that the existing building on the site takes up a third of the original space given over to this amenity/open space. However, in this case the proposal presents on balance two uses compatible with the residential area and provide for sustainable mixed communities.

It should be noted that the land subject to this proposal is not in the ownership of any of the residents surrounding the site and is completely in the applicant's ownership.

Whilst a previous application was refused for the change of use to a nursery in 2019, this current proposal includes the provision of an area of open space, which would include a sensory garden and would be DDA compliant to a degree to ensure it could be utilised by all residents. The provision of a range of facilities to serve the community is therefore considered to be appropriate for the location.

The minor entrance extension and external alterations to the building would also have no negative impact on the area.

In response to the comments raised by the majority of the representations received, the Director of Environment and Infrastructure (Roads / Traffic) has raised no objections to the

	<p>proposals subject to conditions, in terms of access and parking arrangements.</p> <p>With regard to noise, the applicant has submitted an initial noise assessment, which is to the satisfaction of the Environmental Protection Section. An additional condition can be placed on restricting the hours of the outdoor children's sensory and play area associated with the nursery from 8:00am to 6:00pm.</p> <p>Conclusion The proposal complies with the Policies of both the Adopted Renfrewshire Local Development Plan (2014) and the Proposed Renfrewshire Local Development Plan (2019) and that on balance this revised proposal supports sustainable mixed communities and '20 minute neighbourhoods' where there is considered to be no significant adverse impact on amenity.</p>
RECOMMENDATION	Grant subject to conditions

Reason for Decision

The proposal accords with the provisions of the Development Plan and there were no material considerations which outweighed the presumption in favour of development according with the Development Plan.

Conditions

- 1 Prior to the commencement of use of the nursery operation hereby permitted, the open space / community garden area also hereby approved shall be completed and brought into use. Any trees, shrubs, or areas of grass which die, are removed, damaged, or diseased within 5 years of the completion of the development, shall be replaced in the next planting season with others of a similar size and species;

Reason: In the interests of residential amenity.

- 2 A maintenance plan for the open space / community garden area hereby approved shall be submitted for the written approval of Renfrewshire Council as Planning Authority within one year of the implementation of the open space / community garden area and shall be maintained for the lifetime of the nursery development, by the owner of this facility.

Reason: In the interests of residential amenity.

- 3 That the use of the Children's Play Area associated with the nursery use shall be restricted to 8:00am a.m. to 6:00 p.m.

Reason: In order to preserve the amenity of residential property in the vicinity.

Local Government (Access to Information) Act 1985 - Background Papers
For further information or to inspect any letters of objection and other background papers, please contact Sharon Marklow on 0141 618 7835.

