



## Garioch Area Committee Report – 29 May 2018

Reference No: APP/2018/0409

**Description: Full Planning Permission for Change of Use from Office to Nursery (Class 10) at Unit 6B, Peregrine Road, Westhill Business Park, Westhill, Aberdeenshire, AB32 6JL**

**Applicant: Bananamoon Day Nursery Limited**  
**Agent: MAC Architects**

Grid Ref:	E:381914 N:806495
Ward No. and Name:	W13 - Westhill And District
Application Type:	Full Planning Permission
Representations:	3
Consultations:	3
Relevant Proposals Map	Within Westhill settlement
Designations:	
Complies with Development Plans:	No
Main Recommendation:	Grant



**NOT TO SCALE**

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## **1. Reason for Report**

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.9.1 of Part 2A List of Committee Powers and Section C.3.1c of Part 2C Planning Delegations of the Scheme of Governance as the application for development is a departure from the Development Plan and is recommended for approval.
- 1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make.

## **2. Background and Proposal**

- 2.1 This application seeks full planning permission for a change of use of an existing office (Use Class 4) to form a nursery (Use Class 10) at Unit 6B Peregrine Road, Westhill Business Park.
- 2.2. The application site is located within Westhill Business Park in the southwest of the settlement. It comprises the western portion of an existing office and its curtilage, which is one of two units resulting from the subdivision of 'Unit 6, Westhill Business Park' in July 2016. Unit 6A lies to the immediate east, comprising the eastern portion of the office and its curtilage, and is occupied by Trittech International Ltd.
- 2.3. Both of the business units lie immediately outwith the portion of Westhill Business Park that is designated as existing employment land within the Local Development Plan. Both, however, are subject to existing employment uses and must therefore be treated as existing employment land.
- 2.4 Neighbouring premises to the east and south consist of offices within the remainder of Westhill Business Park which take access from Peregrine Road. Most of those which neighbour the site are vacant at the time of writing. The rear garden grounds of dwellinghouses on Carnie Drive and Carnie Place lie beyond the western site boundary, where common boundaries are defined by 1.8m high timber or wire fencing and a 2m-3m high leylandii hedgerow immediately within the application site boundary spans the entire western and northern site boundaries. There is also a line of mature/semi-mature trees within the site along grass verges near the western and northern boundaries.
- 2.5 The proposal would see the existing internal space fitted with new partitions to provide age-segregated play rooms for a total of 108 children (requiring 22 staff), with ancillary reception/office space, a staff room with kitchen space, changing/washing areas, sleeping areas, toilets and storage space.
- 2.6 An existing external store to the west of the building is proposed to be retained within an enclosed yard. The yard comprises the areas of curtilage immediately north and west of the building, and is proposed to be enclosed by means of new 1.8m high Scottish larch fencing. This fencing would separate the rear yard from the remaining car park within the south of the application site, and from the curtilage of Unit 6A to the north of the building.

2.7 It is assumed that the enclosed yard space would be used for purposes ancillary to the proposed Class 10 use, such as for outdoor play. The formation of the yard would result in the loss of four existing car parking spaces. The remaining car park would consist of fourteen car parking spaces, two of which would be spaces for the disabled.

2.8 The site and immediate area has the following relevant planning history:

93-1428-01: Erection of Building for Business Use (Class 4) – Original permission for the erection of the office (now Unit 6A) and current use of the site for Class 4 business purposes.

98-1050-01: Alteration and Extension of Offices – Permission resulting in the erection of the main section of Unit 6B.

APP/2006/1327: Erection of Workshop – Permission granted 12 June 2006, resulting in erection of the external store west of Unit 6B, that is proposed to be retained in this case.

APP/2007/1988: Alterations and Extension to Existing Office and Workshop Building – Approved 31 October 2007, resulting in the erection of the north wing of Unit 6B.

2.9 The following supporting information has been provided with this application:

Arboricultural Assessment (drawing BMP-1805-AA), Astell Associates, 07 May 2018.

Marketing Overview and Interest Summary, Savills 02 April 2018.

Supporting Statement on Parking, Staff Travel and Recruitment, MAC Architects (agent), 03 April 2018

Tree Report, Astell Associates, 07 May 2018

2.10 The proposed nursery would be served by existing connections to public water supply and combined connection to public sewers. The nursery would also be served by existing access arrangements, excluding the loss of four parking spaces as described. It is assumed the nursery will be served either by the Council's Trade Waste Service or by a private waste handler.

### **3. Representations**

3.1 A total of three valid representations (3 objections) have been received as defined in the Scheme of Governance. All issues raised have been considered. The letters raise the following material issues:

- *Noise impact and associated nuisance and impact on well-being;*
- *Proposed use of outdoor space; and*
- *Retention and maintenance of existing leylandii hedging.*

### **4. Consultations**

4.1 **Infrastructure Services (Environment Team)** commented that trees to be retained should be accurately plotted on a plan showing the position of

necessary fencing to protect trees during the construction phase. The fence will prevent storage of any materials adjacent to trees and ensure that they are retained. A statement should be provided on a proposed landscape plan regarding the maintenance of the existing hedge and trees. With reference to the supporting information by Astell Associates, the proposed landscaping and tree/hedge maintenance may be considered acceptable subject to a standard condition and that the implementation of tree protective fencing may be ensured subject to a condition.

4.2 **Infrastructure Services (Environmental Health)** has no objections to this application, but has highlighted informatives to be included in the decision notice if permission is granted regarding the registration of the business and matters the applicant will be required to provide with any application for a Building Warrant.

4.3 **Infrastructure Services (Roads Development)** has no objection subject to a condition concerning the provision of no fewer than 14 car parking spaces. The consultee originally objected to the application due to a lack of information on staffing requirements with regards to necessary car parking, but withdrew its objection on review of a supporting statement provided by the applicant's agent.

## 5. Relevant Planning Policies

### 5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

### 5.2 Aberdeen City and Shire Strategic Development Plan 2014

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to

the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

### 5.3 Aberdeenshire Local Development Plan 2017

Policy B1: Employment and Business Land

Policy P1: Layout, Siting and Design

Policy P4: Hazardous and Polluting Developments and Contaminated Land

Policy PR1: Protecting Important Resources

Policy RD1: Providing Suitable Services

### 5.4 Other Material Considerations

None.

## 6. Discussion

6.1 The main planning considerations to be made in this case are:

- whether the proposed development is acceptable in principle;
- how the proposed alternative use shall impact upon the character and amenities of neighbouring land uses and the surrounding area, including noise impact and potential for nuisance;
- landscaping associated with the proposed change of use, including the retention and maintenance of planting; and
- whether the proposed alternative use would be provided with suitable access and servicing arrangements, primarily car parking.

6.2 Three valid representations have been received, as noted in Section 3 of this report, and material planning considerations raised therein must be considered.

### Principle

6.3 As the proposed change of use would result in the loss of an existing employment use, the safeguarding criteria of Policy B1 applies. The glossary of the Local Development Plan defines employment uses as normally being those within Classes 4, 5 and 6 of The Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended).

6.4 Among other things, Policy B1 of the Local Development Plan states that existing land used for business will be retained for this use unless there is a constraint on the site whereby there is no reasonable prospect of it ever becoming marketable for business development or it is poorly located for employment use. It also states that alternative uses must benefit the local community, respecting the character of the area and being compatible with nearby uses, and must not prejudice the strategic employment land requirement. Proposals for the change of use of a business use will not normally be permitted if it removes all business land opportunities within the settlement.

6.5 A statement provided in support of the application by Savills, on behalf of the applicant, provides an overview of the marketing of the premises and

summary of the interest received. It also offers an analysis of the existing office market in the North East of Scotland. The information provided does not sufficiently demonstrate that there is no prospect of Unit 6B ever becoming marketable for business development. Also, given the location of the site within Westhill Business Park, immediately adjacent to an area of designated existing employment land, it would be difficult for the Planning Service to accept that the site is poorly located for employment use.

- 6.6 However, the Planning Service accepts the considerations of the supporting statement. Also, it was noted upon a visit to the site, that at this time, several business/industrial units nearby are vacant. This includes the former Baker Hughes office to the immediate south, Elrick House (formerly occupied by Technip UK LTD and Subsea 7), and several units further to the southeast along Peregrine Road.
- 6.7 The Planning Service does not therefore consider it would be prudent to resist this proposal on the basis that it would lead to loss of employment land. Several neighbouring business/industrial units are evidently available for use; the scale of the lost employment would not undermine the strategic employment land requirement; and a grant of planning permission in this case would not preclude the future business/industrial use of Unit 6B.
- 6.8 The proposed alternative use would provide clear community benefit, in the form of new childcare opportunities. Also, as discussed later in this report, it is considered that the proposed alternative use would not be to the detriment of the character and amenities of the area. The alternative use is therefore considered to be compatible with nearby uses.
- 6.9 The Planning Service considers, in principle, that the proposed change of use and resultant loss of existing employment land may be treated as an acceptable departure from Policy B1 of the Local Development Plan.

#### Layout, Siting and Design / Noise Impact and Nuisance

- 6.10 Policy P1 of the Local Development Plan considers the layout, siting and design of proposals, ensuring that they show the six qualities of successful places, as outlined in Scottish Planning Policy. It may generally be used consider the impact of proposals on the character and amenities of neighbouring land uses and their surrounding more generally.
- 6.11 No external alterations are proposed, and the proposal would primarily involve the reinstatement of a vacant unit to an alternative use. It is considered, on this basis, that the proposal would contribute to the character of the area, and does not present any undue or unacceptable visual impacts.
- 6.12 The main consideration is whether noise associated with use of the proposed nursery would unduly affect nearby domestic properties, west of this site. This has been considered under Policy P4 of the Local Development Plan in consultation with the Council's Environmental Health Service.
- 6.13 The Environmental Health Service has confirmed it has no objection to this application and as a result, it is considered that the proposed use does not present a risk of causing nuisance. The Planning Service can therefore also be satisfied the proposal is compliant with Policy P4 of the Local Development Plan

- 6.14 Concerns raised in the letters of representation about noise impact and the use of the proposed enclosed yard have been fully taken into consideration by the Planning Service. It is accepted that the proposed reinstatement of Unit 6B to an alternative use will result in some additional noise impact.
- 6.15 However, it should be noted that any complaints made to the Environmental Health Service of alleged nuisance would be fully investigated under separate legislation. Further to the position of Environmental Health, it is also noted, in principle, that the vacant units within Westhill Business Park could feasibly be occupied by Class 5 (General Industrial) or Class 6 (Storage and Distribution) uses which would give rise to additional noise impact. The Planning Service could not therefore reasonably recommend that planning permission be refused on the basis of potential noise impact.
- 6.16 Further to considerations made later in this report regarding proposed landscaping and the retention/maintenance of existing planting, the proposal is considered to be compliant with Policy P1 of the Local Development Plan.

#### Landscaping / Existing Planting

- 6.17 During the site visit it was noted that several semi-mature and mature trees spans areas near the western and northern site boundaries. Policy PR1 of the Local Development Plan therefore applies, where it concerns the protection of significant landscape or shelter value.
- 6.18 Each of the submitted letters of objection also raise concern over the retention and maintenance of existing leylandii hedging which defines the mutual site boundaries with the rear gardens of dwellinghouses on Carnie Drive and Carnie Place. Financial expense and private rights of access associated with the maintenance of the hedging are not a material planning considerations. However, means of retaining the hedging as to maintain a form of screening may be considered by the Planning Service.
- 6.19 Consultation on these matters was undertaken with the Council's Environment Team, as noted in Section 4 of this report. It has been agreed that compliance with Policy PR1, regarding the retention of trees, may be achieved through the use of a condition. This shall require the implementation of tree protective fencing, in accordance with BS 5837:2012, until the proposed nursery is brought into use (i.e. during works).
- 6.20 It has also been agreed that a basic landscaping condition should be applied, which shall require details of proposed hard landscaping, any new planting, and how it is proposed maintain existing planting.

#### Access and Servicing

- 6.22 The adequacy of existing connections to public water supply and public sewers would be a matter for the consideration of Scottish Water, and is outwith the scope of planning control in this case.
- 6.23 Roads Development did not object to the application, subject to a condition requiring the provision of fourteen car parking spaces within the site before the nursery is brought into use.

- 6.24 Subject to compliance with this condition, the Planning Service can be satisfied the nursery shall be provided with suitable services, in accordance with Policy RD1 of the Local Development Plan.

### Conclusion

- 6.25 For the reasons discussed, the proposed change of use is considered to be an acceptable departure from Policy B1 of the Local Development Plan with regards to the proposed loss of existing employment land. This proposal would bring Unit 6B back into use, under a viable alternative use during a challenging time in the office / industrial property market in the North East of Scotland.
- 6.26 Several letters of objection have been submitted which raise material planning considerations, which have been considered. However, on balance, the Planning Service considers this proposal is acceptable, subject to compliance with conditions, when considered using the other relevant policies of the Local Development Plan. No material considerations which indicate this application should be refused.
- 6.27 It is therefore recommended that full planning permission be granted to this proposal, subject to the discussed conditions.

## **7. Area Implications**

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

## **8. Implications and Risk**

- 8.1 An equalities impact assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.
- 8.2 There are no staffing and financial implications associated with this proposal.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

## **9. Sustainability Implications**

- 9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

## **10. Departures, Notifications and Referrals**

- 10.1 Strategic Development Plan Departures

None

10.2 Local Development Plan Departures

Policy B1: Employment and Business Land

- 10.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.
- 10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.
- 10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

**11. Recommendation**

**11.1 GRANT Full Planning Permission subject to the following conditions:-**

- 01 No works in connection with the development hereby approved shall commence unless a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority.

Details of the scheme shall include:

- a) Existing landscape features and vegetation to be retained;
- b) The location of new trees, shrubs, hedges or grassed areas with details of species, plant sizes and proposed numbers and density, as applicable;
- c) The location, design and materials of all hard landscaping works including surfacing, walls, fences, gates, street furniture and play equipment;
- d) A programme for the implementation subsequent management of the proposed landscaping, and existing planting to be retained in accordance with Condition 2 of this permission.

All soft and hard landscaping proposals, as approved subject to this condition, shall be carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the planning authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of visual amenity, and to ensure the appropriate management of existing and proposed landscape features in the interests of both the amenity of neighbouring dwellinghouses and the biodiversity of the area.

- 02 No works in connection with the development hereby approved shall commence unless a tree protective fencing, in accordance with BS 5837:2012 ('Trees in relation to design, demolition and construction - Recommendations') has been provided around the root protection areas shown in drawing no. BMP-1805-AA. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the planning authority and no fire shall be lit in the position where the flames could extend to within five metres of foliage, branches or trunks. The approved tree protection measures shall be retained in-situ until the approved change of use has been implemented.

Reason: In order to ensure adequate protection for the trees and hedges on the site during the construction of development, and in the interests of the visual amenity of the area.

- 03 The nursery hereby approved shall not be brought into use unless a minimum of fourteen off-street parking spaces have been provided within, in accordance with the details shown on the approved plans, and surfaced in hardstanding materials. Once provided, all parking spaces shall thereafter be permanently retained as such.

Reason: To ensure the timely completion and retention of parking arrangements that accord with Aberdeenshire Council Car Parking Standards.

**11.2 That the Committee agree the reason for departing from the Aberdeenshire Local Development Plan 2017.**

There is considered to be limited prospect of the site being reinstated for use under Classes 4, 5 or 6 at the present time, and the site would benefit from a more viable, alternative use which would be compatible with neighbouring land uses, not undermine the character and amenities of the area, and not preclude a future grant of planning permission for the business or industrial use of the site. The proposed development complies with all other relevant policies of the Aberdeenshire Local Development Plan 2017 and there are no other material considerations which suggest that permission should be refused.

**Stephen Archer**  
**Director of Infrastructure Services**  
**Author: Ian Scott (Planner)**  
**Date: 16 May 2018**