



# Appeal Decision

Site visit made on 1 October 2010

by **C J Tipping MA(Cantab)**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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**Decision date:**  
**20 October 2010**

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## Appeal Ref: **APP/R3325/A/10/2130241**

### **The Honeypot Nursery, 127 St. Michael's Avenue, Yeovil BA21 4LW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Ian Robson against the decision of South Somerset District Council.
- The application, Ref 09/03760/FUL dated 24 September 2009, was refused by notice dated 4 February 2010.
- The development proposed is the erection of a two storey extension.

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## Decision

1. I allow the appeal and grant planning permission for the erection of a two storey extension in accordance with the application, Ref. 09/03760/FUL dated 24 September 2009, and the drawings submitted, namely Nos. 238-01B, -02C and -03, and subject to the conditions set out in paragraph 21.

## Main issues

2. The main issues in this case are:
  - (a) The impact of the proposed extension on traffic and highway safety; and
  - (b) Its impact on the living conditions of the occupiers of neighbouring properties.

## Reasons

### **Issue (a)**

3. In its decision notice, the Council concluded that the proposals did not incorporate sufficient on-site parking and turning space. The development would therefore impact adversely on highway safety. This would be contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011, which requires development proposals to be compatible with the existing transport infrastructure. It would also be contrary to Policy TP6 of the South Somerset Local Plan, adopted in April 2006, which provides that parking provision for smaller scale developments should be no more than necessary to enable the development to proceed. These Policies have both been saved by direction of the Secretary of State.
  4. The Appellant's evidence is that there are currently 36 child places at the nursery and 8 full-time equivalent staff. The proposal would create 16 more child places and require two further staff. At present, the child places are
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- shared between a total of 86 children since the nursery operates morning and afternoon sessions and children attend part-time. This results in staggered drop-off and collection times. The appellant's survey evidence indicates that only about half of the children are dropped off at the peak am period before 0830, or are collected during the peak pm period after 1700. 75% of children arrive by car, and 25% on foot. Most staff come to work on foot.
5. Access to the nursery from St. Michael's Avenue is across a plot of land ("the access land") to the north of the nursery. The Appellant states that parking is available on-site, on the access land, and on the western side of St. Michael's Avenue, where parking is unrestricted. He acknowledges that the access land is not in his ownership, and this is confirmed by a letter from the landowner, the Yarlinton Housing Group. The Appellant has a right only of passage and re-passage over this land. He states that there has for many years been unrestricted use of the access land for parking and turning.
  6. I have had careful regard to the extensive traffic and parking evidence submitted on behalf of the Appellant. A parking survey conducted in January 2010 records the parking spaces available for use by those dropping children off or collecting them at 10-minute intervals at peak times, and at hourly intervals throughout the day. Included are the appeal site spaces, those on the access land and nearby in St. Michael's Avenue. This survey shows that at no time during the day were there fewer than 13 parking spaces available in these three locations, net of those occupied at the relevant time whether by those dropping or collecting children or otherwise. Even if the access land parking space is discounted, there were never fewer than 9 such spaces. Plainly, dropping children off or collecting them generally requires parking for only a brief period.
  7. There is no evidence that either St. Michael's Avenue or the access land is particularly congested or hazardous. St. Michael's Avenue in the vicinity of the appeal site is a residential street, subject to a 20mph speed limit and with speed humps. Parking is unrestricted, though with a parking restriction across and on either side of the entrance to the nursery.
  8. Somerset County Council as highway authority objects to the proposal. Since the appeal premises were converted from a doctors' surgery, the parking area agreed at that time to be kept available for use by the nursery had been reduced in size, because the access land was not reliably available for this purpose. The parking and turning area was therefore inadequate for the current level of use of the premises and militated against the intensification now proposed. A failure to provide sufficient on-site space would lead to vehicles parking on St. Michael's Avenue, causing additional obstruction and traffic hazards. While the submitted plan showed 9 on-site parking spaces, some of these were not of the necessary minimum size of 2.4 metres by 4.8 metres and the proposed configuration provided inadequate space to manoeuvre into some of the spaces. Realistically, there was space to park only seven vehicles on-site.
  9. The Appellant's traffic and parking evidence formed part of the grounds of appeal submitted in May 2010. There is nevertheless no detailed response to it from either the District or the County Council. It was open to either Council to prepare and submit evidence to rebut that of the Appellant. The County Council

states that since the access land is not reliably available, parking and turning space is not as originally envisaged. Nevertheless, there is no evidence that, even excluding the access land from the assessment, the existing level of use of the nursery causes unacceptable local traffic congestion or safety hazards; nor, given the evidence of the Appellant's survey, is there evidence from which I could conclude that such congestion or hazards would result from the expansion of the nursery that erection of the extension would enable. Neither the District nor the County Council states what number of parking spaces are required, or sets out the basis on which this requirement falls to be calculated. The development therefore appears to me to be compatible with the existing transport infrastructure and therefore in accordance with Structure Plan policy.

10. Local Plan Policy TP6 appears to be directed to ensuring that new developments are not provided with an excessive number of parking spaces, but that the number of spaces provided is not greater than that necessary to enable the development to function. I have considered carefully the additional number of traffic movements and the additional need to park that are likely to be generated by the expanded use of the premises. I do not accept that these would unacceptably increase highway congestion or impact on highway safety generally. The extent of parking available therefore seems to me to be no more than is necessary to enable the nursery to be expanded and thus for the proposed development to proceed, and therefore to comply with Local Plan Policy SP6.
11. It is my view accordingly that the appeal does not fall to be dismissed on highway grounds.

***Issue (b)***

12. This issue is not relied on by the Council in its decision, but is addressed in its appeal statement, in which it is recorded that there are objections from local residents in part based on a claim that the extension would have an overbearing impact on their living conditions, resulting in overlooking, and loss of light and views. Some of the objectors were present at the site visit.
13. The nursery is located behind the dwellings on the western side of St. Michael's Avenue. It is a single storey building. The proposed extension would be two-storey, with a pitched roof. It would rise some 8 metres above ground level to the roof ridge and would present an eastern elevation to the rear façade of the St Michael's Avenue dwellings some 6.5 metres wide. However, the roof ridge of the extension would be only some 1.5 metres higher than the roof ridge of the existing building. The rear façade of the nearest property in St. Michael's Avenue, No. 113, is some 25 metres from the eastern elevation of the proposed extension.
14. As pointed out by the District Council, the main orientation of the dwellings in St. Michael's Avenue is eastward. Only the rear elevation of the rear extensions of these properties and their rear gardens could be affected. As far as overlooking is concerned, the two windows proposed on the ground floor of the eastern elevation of the extension would not add materially to the degree of overlooking of the St Michael's Avenue dwellings from the existing single-storey building. Overlooking from the two small windows proposed at first floor level would be limited because they would be located at high level for the purpose of

lighting the internal stairs, and overlooking could be further mitigated by the imposition of a condition requiring the installation of obscured-glass windows.

15. As far as the St. Michael's Avenue properties are concerned, I do not accept that the lateral extension of the nursery by some 6.5 metres or its vertical extension by about 1.5 metres would have any significant impact on natural light. There is no intrinsic right to a view, but in any event, the proposed extension would not to my mind interrupt any local view of significance. Saved Local Plan Policy ST6 provides that development will be permitted where it does not unacceptably harm the residential amenity of the occupiers of adjacent properties. In my view, the harm, if any, to the living conditions of the occupiers of the dwellings in the vicinity arising from the proposed extension would be at worst marginal, and fall far short of being unacceptable.
16. It is also claimed that the extension would affect the amenities of the users of an allotment area to the west of the nursery, though no express objection has been lodged by any such user. I do not believe that the intensification of use of the nursery or the construction of the proposed extension would have more than a marginal impact on allotment users.
17. I do not accept therefore that this is a ground on which planning permission should be refused.

### ***Other matters***

18. I have had regard to the other matters raised by objectors, including that relating to the claimed generation of rubbish by the nursery. Photographs of an excess of rubbish apparently taken on a single occasion have been submitted. These show rubbish alongside one of the external walls of the nursery building. There is no evidence to suggest that an overflow of rubbish from the nursery is a regular occurrence or that it affects local residents. Intensified use of the premises may well generate additional rubbish. If a public problem exists or arises by reason of the proposed development, this would seem to me to be a matter for control under the relevant legislation rather than a reason for refusing planning permission.
19. It is claimed that rainwater run-off from the site causes a problem at 67 Grass Royal to the south. There is no cogent evidence as to this, and no complaint from the occupiers of this property. The extension would take the place of an area that is currently hard-standing, and I do not therefore believe that replacing the hard-standing with a roof of similar area would materially increase the volume of run-off. There are garages to the rear of some of the St. Michael's Avenue dwellings, accessed from a driveway. Some objectors fear that the proposed extension might obstruct access to these garages, but as I note from the submitted plans and confirmed in the course of my site visit, no encroachment on this driveway is proposed.

### **Conditions**

20. I have considered in the light of the guidance in Circular 11/95 whether any conditions save for one ensuring timely implementation is required. This is an application for full planning permission and details of the siting, access, layout and external appearance of the proposed extension have been submitted. I propose to impose a condition with regard to windows, in accordance with my

conclusion in paragraph 14 hereof. I accept that, in the interests of limiting disturbance, the construction of the extension should proceed only during normal working hours. The County Council invited me to impose a condition requiring a scheme dividing the parking spaces between staff and parents, but in my view such a scheme would reduce the flexible use of the available parking, and moreover I do not believe that such a scheme would prove enforceable.

21. The conditions which I propose to attach to the grant of planning permission are therefore as follows:
- (i) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;
  - (ii) Before the first occupation of the extension hereby permitted the windows in the first storey of the eastern elevation of the extension shall be fitted with obscured glazing and shall be permanently retained in that condition thereafter; and.
  - (iii) Construction works shall not take place outside the hours of 0800 to 1800 on Mondays to Fridays and 0800 and 1300 on Saturdays, or at any time on Sundays or Bank Holidays.

### **Conclusions**

22. For the reasons set out above, I conclude that the impact of the proposed extension on traffic and highway safety or on the living conditions of the occupiers of neighbouring properties would not be such as to render the development counter to development plan policy or to warrant dismissal of this appeal, which is accordingly allowed.

*C J Tipping*

Inspector