



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 19th December 2013

Subject: 12/03198/FU - Variation of condition 9 of planning permission 09/01417/FU for hours of opening at New Horizons Community School, Newton Hill Road, Potternewton, Leeds, LS7 4JE.

APPLICANT
Mr T Mahmood

DATE VALID
25 July 2012

TARGET DATE
19th September 2012

Electoral Wards Affected: Chapel Allerton

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

1. Development to commence within 3 years.
2. Approved plans.
3. The hours of use of the premises shall be restricted to 0800 hours to 2000 hours Monday to Friday and 0800 hours to 1400 hours on Saturdays and no opening on Sundays.
4. The hours of delivery to and from the premises, including refuse collection, shall be restricted to 0730 hours to 1700 hours Monday to Friday and 0900 hours to 1200 hours on Saturdays. No deliveries or collections shall take place on Sundays and Bank Holidays.
5. The acoustic fence as erected on the eastern boundary of the site adjacent to 2 Harehill Lane shall be maintained and retained for the lifetime of the use.
6. No assemblies or lessons shall take place outside the school building and no amplified sound or music shall be relayed from the school to any external areas associated therewith.
7. Lighting restrictions.
8. No more than 120 children shall be on the premises at any one time.

9. Within two months of the date of permission the car parking area to the east of the school building shall be laid out and marked out in accordance with plan 09 1F dated 20th November 2013. This area shall thereafter be retained for the parking of vehicles only and shall not be used as part of the outdoor play area for the school.
10. The building and extension shall be used as a school and for no other uses within Use Class D1 of the Town and Country Planning (Use Classes) (Amendment) Order 2005.

1.0 INTRODUCTION:

- 1.1 The original 2009 application (09/01417/FU) for the retention of use of building as a school and a two storey extension was determined by North and East Plans Panel on 19th November 2009 and 11th March 2010. It was therefore considered appropriate to report this current application to vary the hours of use condition back to Plans Panel for determination.

2.0 PROPOSAL:

- 2.1 The proposal seeks to vary condition 9 of planning permission 09/01417/FU approved on 16th March 2010 regarding hours of opening:

“The approved hours of use of the premises are restricted to 0800 hours to 1700 hours and 1800 hours to 2000 hours Monday to Friday and 0900 hours to 1200 hours on Saturdays and Sundays and the reason stated was in the interests of the amenities of neighbouring residents.”

- 2.2 The variation in the hours sought are:

Monday to Friday 0800 hours to 2000 hours and Saturdays 0800 to 1400 hours with no openings on Sundays.

- 2.3 This application was originally submitted for the retention of school and use of part of the ground floor as a day nursery with associated landscaping and alterations. This following negotiations and discussion has been amended to variation of hours and has been re-advertised accordingly, as explained in section 5 of this report (in essence it was considered that not all the works applied for required planning permission but the new hours of use does). The application originally sought the hours of opening for the premises as Monday to Friday 0800 hours to 2100 hours and Saturdays 0800 to 1400 hours with no openings on Sundays.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application relates to New Horizons Girls' school in Potternewton. The school is housed in a large stone building with a slate roof, which has formerly been used as a training centre, and has been in use as a school since 2000. The building has two large bay windows at ground floor level to the front and a single storey extension to the rear, constructed of concrete blocks with render panels and a tiled roof and has a two storey extension.

- 3.2 There is an area of hardstanding to the west of the building, which is used as an outdoor play area, and an area of loose gravel to the east used for car parking. The site boundaries along Newton Hill Road to the south, Chapeltown Road to the west and Harehills Lane to the north are marked by stone walls which vary in height, with trees behind. Five of the trees around the site boundaries are protected by Tree Preservation Orders (TPOs).

- 3.3 The site is in a predominantly residential area with residential properties to the east, at a lower level than the application site, No 2 and 4 Harehill Lane and on the opposite side of Chapeltown Road to the west. There is an area of open land to the north and a Polish Catholic community centre/social club to the south.
- 3.4 The site has a pedestrian access and a vehicular access, both of Newton Hill Road.
- 3.5 The building has one main access to the front of the building/east elevation.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 11/04489/FU - Variation of conditions 9 (hours of opening) and 15 (student capacity) of application 09/01417/FU – withdrawn
- 4.2 10/03230/COND - Consent, agreement or approval required by conditions 3, 4, 11 and 12 of Planning Application 09/01417/FU – pending at the time of writing this report.
- 4.3 09/01417/FU – Retention of use of building as a school and 2 storey extension – approved 16th March 2010. This application includes a condition which limits the number of children to 120 allowed on site at any one time.
- 4.4 34/75/02/FU - Alterations to increase the height of the boundary wall to the site - approved in April 2002
- 4.5 34/28/00/FU - The change of the use of the building to an educational facility with a further two prefabricated classrooms was approved in July 2000 for a temporary period until 31st December 2003
- 4.6 H34/189/91 - Permission for a detached prefabricated classroom unit to the training centre - approved in September 1991
- 4.7 H34/368/85 - The extension to the rear of the building - approved March 1986
- 4.8 H30/113/82 - the original change of use of the building from a house to an industrial training unit, including workshops and offices – approved April 1982

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 A meeting was held in June 2012 after the applicant was advised that 11/04489/FU - Variation of conditions 9 (hours of opening) and 15 (student capacity) of application 09/01417/FU – would not be supported due to the hours they were requesting (Monday to Friday 0800 hours to 2100 hours and Saturdays and Sundays 0900 hours – 1800 hours) and the increase in students numbers due to their implications and also lack of information supporting the application. At the meeting where representatives for the School and Council Officers discussed all issues relating to the site and it became apparent that the applicant wished to vary many of the conditions of the 09 permission and it was considered that a new application would be required particularly regarding a proposed nursery. The intention was also to tie up all outstanding issues together regarding the site.
- 5.2 Following the submission of the application long and protracted discussions took place on all the issues including the nursery, landscaping, bin store, parking and fence. Having discussed these matters and taken legal advice it was considered that the issues regarding landscaping, bin stores, car parking and acoustic fence would

be dealt with through discharge of condition. With regard to the nursery, after investigation and based on information provided to us and visiting the site that facility was set up as a prep-school as it provided an education element/activity and therefore there was no breach of the planning approval in this regard.

- 5.3 Therefore the applicant was advised of the Council assessment of the situation and advised of the above and that the application should be amended to varying of hours and that all other issues would be dealt with separately via condition discharge or if applicable enforcement action. The hours put forward in this report are suggested by Officers, taking into account discussions and views put forward and the lack of any supporting information from the applicant; it has been requested that a school calendar is provided which provides all the activities of the school in the hours requested, this has never been provided and is considered appropriate to condition this. The delay in dealing with the outstanding issues and determining this application is due to a lack of response by the applicant.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The original application for the retention of the school retention of school and use of part of the ground floor as a day nursery with associated landscaping and alterations was advertised by letter and site notice. A petition of 139 signatories was received stating:-

- that they object to further increase in noise and traffic congestion which will be caused by the new horizons schools proposed changes to status and opening hours

And

8 letters of representation were received raising the points:-

- busy road and busy junction already
- pupils use polish centre grounds
- already noisy and this will increase with longer hours
- will disturb their peace and quiet
- what goes on beyond the school day after 3.30pm
- always parking on Newton Hill Road

- 6.2 Ward Members: Ward Members briefing have been held and they been kept informed on the application and related issues and commented they wished to be kept informed.

- 6.3 The amended application was re-advertised by site notice and letters and emails posted and sent on 1st November 2013 and had a 21day consultation period.

- 6.4 Public/Local Response to amended proposal: 4 letters of representation have been received since the application was amended and re-advertised raising the points:-

- Breach of planning conditions
- Nursery requires planning permission
- Opening beyond the hours approved
- No enforcement action has been taken
- Wants guarantee conditions will be adhered to
- School and nursery operated by two different
- Covenant on site that states it must be used as an educational facility
- Nursery not run as a faith nursery.

6.5 A meeting was held on Friday 19th April 2013 2.30pm at Mr. & Mrs. Hughes premises on 2 Harehills Lane between Mr. and Mrs. and Hughes and Mr. Wood and Council Officers to provide an update of the issues relating to the site.

7.0 CONSULTATIONS RESPONSES:

Statutory:

None

Non-statutory:

Highways – no objection to variation of hours

Environmental Protection Team – raise no objection to the variation of hours and it is noted that the used would not be used at all on a Sunday which is reassuring and preserve amenities of the neighbours and will be safeguarded by conditions.

8.0 PLANNING POLICIES:

8.1 The development plan comprises the adopted Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste DPD along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage.

8.2 Development Plan - Leeds Unitary Development Plan (UDP) Review:
The application site is unallocated in the UDP.

Other policies are considered relevant to the proposal:-

GP5 – General planning considerations

T2 – New development and highway safety

8.3 Emerging Policy

The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 and the consultation period closed on 12th April 2012. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. On 26th April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State. The Inspector examined the Strategy during October 2013 and has yet to report back fully. The weight to be attached is limited where representations have been made. Regeneration initiatives and the delivery of new housing are nevertheless noted to be key objectives of the Core Strategy.

8.4 National Planning Guidance – National Planning Policy Framework (NPPF):

The National Planning Policy Framework (NPPF) was published on 27th March 2012 and replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.

8.5 The NPPF supports the centres first approach, and states that local planning authorities should 'recognise town centres as the heart of their communities and pursue policies to support their viability and vitality' (paragraph 23) and apply a sequential approach to the consideration of applications for town centre uses that are not in existing centres. It also advises that 'plans and decisions should ensure developments that generate significant movement are located where the need to

travel will be minimised and the use of sustainable transport modes can be maximised (paragraph 34) and that developments should be designed to 'give priority to pedestrian and cycle movements, and have access to high quality public transport facilities' (paragraph 35). The Framework places great emphasis on the importance of good design as a key aspect of sustainable development.

- 8.6 Paragraph 72 of the NPPF states 'The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:
- give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues...'

- 8.7 Planning Circular – 11/95 Use of conditions in planning permission

9.0 MAIN ISSUES

1. Impact upon highway
2. Impact upon residential amenity

10.0 APPRAISAL

Impact upon highway

- 10.1 Condition 9 states 'The hours of use of the premises shall be restricted to 0800 hours to 1700 hours and 1800 hours to 2000 hours Monday to Friday and 0900 hours to 1200 hours on Saturdays and Sundays': The application seeks to vary the hours of use to the premises to be restricted to 0800 hours to 2000 hours Monday to Friday and 0800 hours to 1400 hours on Saturdays and no openings on Sundays.
- 10.2 The application seeks that the premises remain open between the hours of 1700 to 1800. It is considered that including this hour within the school hours 0800 hours – 2000 hours would not have a material impact on the traffic movements that the site currently generates. In fact by not having to close each evening for an hour there could be an actual reduction in the amount of vehicles using the facility.
- 10.3 The application also seeks to open the premises at 0800 hours on a Saturday instead on 0900 hours and open till 1400 instead of 1200 hours. This creates an additional 3 hours and it is not considered to have a material impact on the traffic movements that the site currently generates.
- 10.4 The application finally seeks that there is no opening on a Sunday. This would result in no traffic movements generated at all in comparison to the existing hours of opening which are 0900 hours and 1200 hours which is considered acceptable and is supported.
- 10.5 It is considered that the proposed variation to the hours of opening for the premises are acceptable and would not result in adverse impact upon highway safety as the altered hours would reduce the number of vehicles movements to and from the site.

Impact upon residential amenity

- 10.6 The application site is located on the corner of Chapeltown Road and Harehills Lane and the nearest residential property is on the eastern boundary set at a lower level which is 2 Harehills Lane. There is a 2 metre boundary 'acoustic' fence which has

been approved by an Environmental Protection Officers following long discussion and negotiations.

- 10.7 The application seeks that the premises do not close up for the hour of 1700 to 1800. It is considered that including this hour within the school hours 0800 hours – 2000 hours is not considered that it would have a material impact on residential amenity that the site currently generates. In fact by not having to close each evening for an hour there could be an actual reduction in the amount of coming and goings to the premises.
- 10.8 The application also seeks to open the premises at 0800 hours on a Saturday instead of 0900 hours and to open till 1400 instead of 1200 hours. This creates an additional 3 hours which is not considered to have a significant adverse impact on residential amenity because even the though the hours of use are being lengthened the number of children on the site at any one time is not being increased and therefore the use of the site is not being intensified.
- 10.9 The application finally seeks that there is no opening on a Sunday: This would result in no movements at all to the premises as it would be closed in comparison to the existing approved hours of opening which are 0900 hours and 1200 hours and therefore the proposed no opening on Sundays is considered acceptable and is supported, providing a day of no-activity to nearby residential properties.
- 10.10 It is considered that on balance the proposed variation of hours are acceptable and would not have an adverse impact upon residential amenity and would improve on the existing hours on the whole.

Other Matters

- 10.11 All other outstanding matters have either been dealt with or are being dealt with outside the scope of this planning application and through other processes.

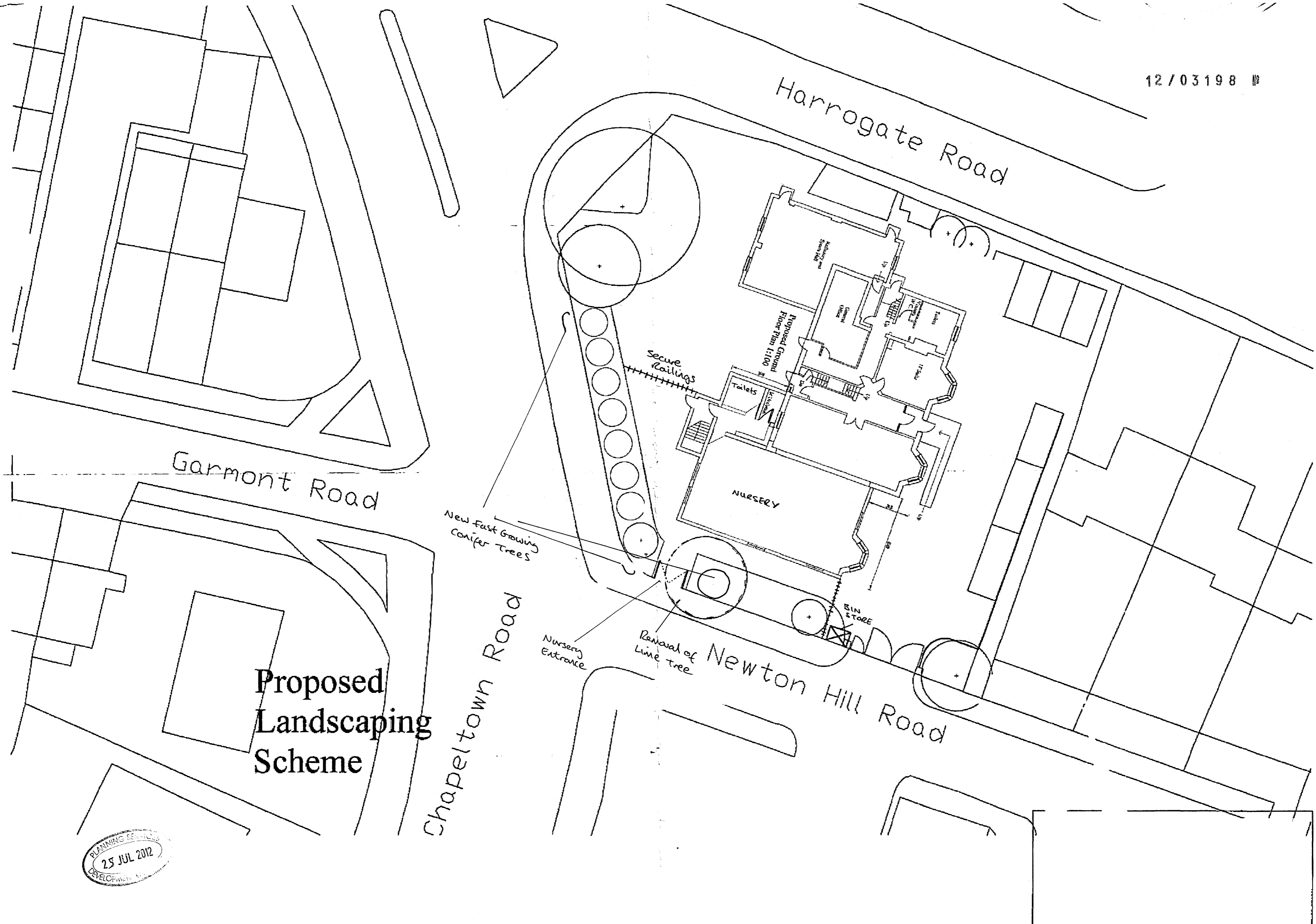
11.0 CONCLUSION

- 11.1 It is considered that the variation of hours proposed in comparison to what were previously approved are acceptable and an improvement and they are not considered to have an adverse impact upon highway safety or residential amenity.

Background Papers:

Application and history files.13/01398/FU, 11/0448/FU/09/01417/FU

Certificate of Ownership: signed as applicant



Garmont Road

Harrogate Road

Chapeltown Road

Newton Hill Road

Proposed Landscaping Scheme

New Fast Growing Conifer Trees

Secure Railings

NURSERY

Toilets

BIN STORE

Nursery Entrance

Removal of Line tree

Proposed Ground Floor Plan 1:100



