

<u>No:</u>	BH2022/02281	<u>Ward:</u>	Withdean Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	St Marys Church Surrenden Road Brighton BN1 6PA		
<u>Proposal:</u>	Change of use of part of the building from church pastoral centre (F.1) to nursery (E).		
<u>Officer:</u>	Ayscha Woods, Tel: 292322	<u>Valid Date:</u>	14.07.2022
<u>Con Area:</u>		<u>Expiry Date:</u>	08.09.2022
<u>Listed Building Grade:</u>		<u>EOT:</u>	14.10.2022
<u>Agent:</u>	Parker Dann S10 The Waterside Centre North Street Lewes BN7 2PE		
<u>Applicant:</u>	Mr Gareth Zaver St Marys Church Surrenden Road Brighton BN1 6PA		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location Plan	SP-0339.01	-	14 July 2022
Proposed Drawing	SP-0339.02	-	14 July 2022
Proposed Drawing	SP-0339.05	-	14 October 2022

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. Notwithstanding the provision of Class E of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended) the unit hereby approved shall be used as class E (f)(Nursery) only, and shall not be used as Class E (a, b, c, d, e or g) (or any other purpose in any provision equivalent to Class E in any statutory instrument revoking and re-enacting the Order with or without modification).

Reason: To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

4. The outdoor rear play area shall be used for play purposes, and only between 09:30 to 12:00 and 14:30 to 17:00 hours Monday-Friday, and not any time on Sundays, Bank or Public Holidays.
Reason: To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.
5. Within three (3) months, the approved cycle parking facilities and buggy store shown on the approved plan SP-0339.05 received on 14th October 2022 shall be fully implemented and made available for use. The cycle parking/buggy store facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy CP9 of the City Plan Part One and SPD14 Parking Standards.
6. Within three (3) months, a Noise Management Plan shall be submitted in writing to the Local Planning Authority, detailing the measures to be taken to minimise the noise impact of the use of the rear garden area, and the drop off and collection process. The approved Noise Management Plan shall thereafter be implemented in strict accordance with the agreed details.
Reason: To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. In order to be in line with Policy TR14 Cycle Access and Parking of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient, accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22. Or will also consider other proprietary forms of covered, illuminated, secure cycle storage including the 'slide cycle in' type cycle store seen in railway stations, the 'lift up door' type cycle store, the metal Police approved 'Secure-By-Design' types of cycle store, the cycle 'bunker' type store and the 'two-tier' type system again seen at railway stations where appropriate. Also, where appropriate provision should be made for tricycles, reclining cycles and 'cargo bikes'

2. SITE LOCATION

- 2.1. The application site relates to St Mary's Church which is located on the corner of Preston Drove and Surrenden Road, in the Withdean ward of the City. The site is close to the north-eastern entrance to Preston Park, and opposite the Park View public house.
- 2.2. The Church is located in the Preston Park Conservation Area and is a Grade II Listed Building, however, the listing details set out by Historic England clearly show that the listing applies only to the older original part of the building. The newer additions, including the extension in which the nursery would be located, are not included. It states: "Structures attached to or within the curtilage of the listed building are not to be treated as part of the listed building".
- 2.3. There is an Article Four Direction in place within the Conservation Area removing 'permitted development' rights, but it relates to works being carried out to alterations to windows and doors, and other changes to dwellings and is not applicable to this scheme.
- 2.4. The site relates specifically to the Cassidy Centre, a single storey structure of modern design erected at the rear of the main church building which was approved in 2006 and opened in 2007. It is accessed by a path that runs down the north side of the church and is set behind a secure gate.

3. RELEVANT HISTORY

- 3.1. **BH2005/06823** - Proposed extension to provide new pastoral centre - Approved - 10/04/06
- 3.2. **BH2002/00811/FP**: Replacement of hardwood windows with brown uPVC double glazed - Approved - 20/06/02
- 3.3. **BH2000/02775/FP** - Installation of a 7m flagpole mast with three integral cross polar antennae and large equipment cabin with ancillary development - Approved - 1/2/2001
- 3.4. **BH1999/01850/FP** - Illumination by flood lighting of west face of church tower - Approved - 20/10/1999

4. APPLICATION DESCRIPTION

- 4.1. This application is seeking permission for a change of use of part of the building from a church pastoral centre (Use Class F1) to nursery (Use Class E). The change of use relates solely to a part of the Cassidy Centre, not the church itself.
- 4.2. The proposal seeks to change the use of part of the Cassidy Centre and its exterior garden to allow for its use as a nursery. The plans submitted indicate that one room within the Cassidy Centre would be occupied by the nursery, in addition to the atrium, kitchen and toilet. The remaining rooms, such as the meeting and interview rooms would remain in uses associated with the church.

- 4.3. There is a long-established history of playgroups/preschool children being present on the site. No physical alterations to the exterior of the building are proposed.

5. REPRESENTATIONS

- 5.1. Ten (10) letters have been received objecting to the proposed development on the following grounds:
- Additional traffic / impact on parking
 - Adverse effect on listed building
 - Detrimental effect on property value
 - Noise impact
 - Residential amenity
 - Other nurseries in local area
 - Poor design
 - Child protection concerns
- 5.2. Eight (8) letters have been received supporting the proposed development on the following grounds:
- Positive public benefit
 - Education space
 - Most people would walk to the site
 - Help meet the demands of nursery spaces
 - Family friendly area
 - Safe/secure environment
 - Site already in use

6. CONSULTATIONS

- 6.1. **Heritage:** No objection
St Mary's Church is mostly significant for the external gothic revival church. The more modern extension is of minor significance, and the proposed development should not require any substantial alteration being made to that part of the building. For this reason, there is no objection to the change of use on conservation grounds.
- 6.2. **Planning Policy:** No objection
The partial loss of floorspace resulting from the change of use from F1(f) to a community use within class E(f) is supported in principle, in accordance with policy DM9, subject to other DM considerations including compatibility with adjoining and nearby uses.
- 6.3. If the application is permitted, planning conditions should be applied to limit the use of the area used for nursery purposes as 'community uses' within Class E (such as E(f)) in order to prevent the use of this part of the building for Class E commercial uses, such as shops, food and drink outlets etc.

- 6.4. **Environmental Health:** No objection subject to condition
It is clear from the planning statement that a nursery has operated from the site for some time and through checking departmental complaint records, it would appear that to date, no noise complaints have been received by the Environmental Health department. It is noted that a new provider is to host the nursery. It is also apparent that children will not be outside all of the time and unsupervised. The outdoor area management plan states that the local park is also favoured in terms of outdoor space and this demonstrates that the operators are aware of the impact that children can have in a residential setting.
- 6.5. Not all children will play outdoors at once, as they will be separated by age and activities, and core hours have been stated for the garden when external play might occur. These are 09:30 to 12:00 and 14:30 to 17:00 hours. It is relevant to note that the nursery operates only during weekdays and only in term time.
- 6.6. Given the site history and the information presented, Environmental Health has no objections to the proposal subject to two conditions, namely requiring a Noise Management Plan for the outside area, and a restriction on the hours of use of the outdoors garden area.
- 6.7. **Sustainable Transport:** No objection - Further comment received 27/10/22
As stated within the first response, the Local Highway Authority (LHA) has no objections to this application, subject to the inclusion of a cycle parking condition. Following the original comment provided, the applicant has prepared a drawing (SP-0339.05 - St Marys Church Brighton - Cycle Store), which shows the location of a proposed cycle and buggy store for the proposed development, in response to the LHA's first response. The cycle store is situated within a hardstanding courtyard, and whilst it has open access (no doors/gates), the access gates into the courtyard can be secured/locked. The proposed covered cycle store provides two Sheffield stands, accommodating four bicycles and space to park scooters and buggies, which is welcomed by the LHA and considered accepted.
- 6.8. There are no further outstanding highway issues subject to the implementation of the proposed cycle and buggy store.
- 6.9. **City Early Years:** No Comment received

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)

- Brighton & Hove City Plan Part Two (adopted October 2022);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour JAAP (adopted October 2019).

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

SS1 Presumption in Favour of Sustainable Development
 CP9 Sustainable transport
 CP10 Biodiversity
 CP15 Heritage

Brighton & Hove City Plan Part Two:

DM9 Community Facilities
 DM20 Protection of Amenity
 DM26 Conservation Areas
 DM27 Listed Buildings
 DM33 Safe, Sustainable and Active Travel
 DM40 Protection of the Environment and Health - Pollution and Nuisance

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, impact on amenity of neighbouring properties, sustainability, and related traffic implications.
- 9.2. When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.3. Case law has held that the desirability of preserving the character or appearance of a conservation area must be given "considerable importance and weight".
- 9.4. It should however be noted that no external alterations are proposed as part of the present application, though a cycle/buggy store would be secured by condition.

Principle of Change of Use:

- 9.5. The operation of the day nursery is not associated with the church, so is not considered to be ancillary to its use. It would therefore be a material change of use or a mixed use requiring consent. The existing use of the building as a church falls within Use Class F1(f) and Nursery Use within Class E (commercial, service and business). Prior to the most recent amendments to the Use Classes Order on 1st September 2020 both operations were previously within the same

use class D1. Therefore whilst it is noted that the site has been used to operate a nursery in previous years, given that the nursery is not an ancillary operation of the church, the cessation of the nursery use for a period (including during the Covid 19 pandemic) and the changes to the Use Classes Order planning permission is now required for a resumption of the use.

- 9.6. The proposed plans offer a broadly similar internal layout to that existing. The majority of the building would still be used as a Church (F1) and both the existing and proposed uses are considered to be community facilities. The proposed use is similar to the existing, with a community use retained on the site, and therefore is not in conflict with policy DM9 of the Brighton and Hove City Plan Part 2.
- 9.7. Notwithstanding the above, the applicant has confirmed that Cassidy Centre currently provides rooms for meetings and community activities, some of which are being retained for such uses. The applicant states the space in the Cassidy Centre is currently under-utilised with extensive periods of being vacant, with the area assigned for the nursery use not in continual use. Furthermore, the applicant has explained that there is sufficient space either within the Cassidy Centre or within the main church to cater for these uses when required.
- 9.8. The applicant has also confirmed that the operational needs of the church will not be impacted by the partial loss of floorspace.
- 9.9. The aims and objectives of policy DM9 are therefore considered to be met and the change of use from F1(f) to a community use within class E(f) is supported in principle.

Proposed Nursery Use:

- 9.10. The proposed nursery use would fall under use Class E(f). Approximately half of the Cassidy Centre is proposed to be used as a nursery. The provision of new nursery facilities is supported by City Plan Part Two policy DM9.
- 9.11. The main thrust of these policies are brought forward into policy DM9 which supports new community facilities where:
- a) the proposed use is compatible with adjoining and nearby uses;
 - b) the site is close to the community it serves and is readily accessible by walking, cycling and public transport; and
 - c) where feasible and appropriate, community facilities are co-located to maximise accessibility.
- 9.12. The site is considered to be in an accessible location and close to the community it would serve, meeting the requirements of DM9(b). Although the applicant states the church building previously contained a nursery use up until 2019 it remains important to consider whether the proposed use will be compatible with adjoining and nearby uses, particularly adjacent residential dwellings which is discussed in the amenity section of this report.
- 9.13. In this instance, it is considered appropriate to recommend a planning condition to limit the use of the area used for nursery purposes as 'community uses' within Class E (such as E(f)) in order to prevent the use of this part of the the building

for Class E commercial uses, such as shops, food and drink outlets etc where very different considerations and impacts may apply.

Heritage Impact:

- 9.14. The property is Grade II listed and falls within the Preston Park Conservation Area. St Mary's Church is mostly significant for the external gothic revival church and. The late C20 presbytery extension is of minor significance, and the proposed development would not require any external alterations to the building, though a cycle/buggy store would be secured by condition. For this reason, the heritage team has raised no objection to the change of use on conservation grounds. The scheme is not considered to harm the wider conservation area. It is therefore considered in accordance with policies DM26 and DM27 of the City Plan Part One.

Impact on Amenity:

- 9.15. Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.16. The proposed change of use could result in different impacts to that of the existing use, particularly in terms of noise from children playing in external spaces.
- 9.17. The site is located in close proximity to neighbouring residential properties. It is noted that the garden area was previously used by the former nursery. Compared to the existing use of the building, it is unlikely that the proposed change of use would give rise to a noise increase or disturbance significant enough to warrant refusal of this application. However, it is noted that noise concerns have been raised as objections to the application.
- 9.18. As with any nurseries, the sounds generated from children playing outdoors is very subjective and can be a cause of complaint to the City Council so will require careful management on a day to day basis to prevent unacceptable harm to amenity. It is stated in the submission that the site would accommodate up to thirty children from 3 months to 5 years of age, but given this age range, they will use external spaces to play in different groups rather than all at once.
- 9.19. The new operator "Little Shoes" states that it is their intention to keep nursery numbers small, and this is likely to have a knock on effect on the number of children and indeed adults employed at the site to supervise the children, especially when outdoors. It is clear from the Planning Statement that a nursery has operated from the site for some time and through checking departmental complaint records, it would appear that to date, noise complaints have not been received by the Environmental Health department. It is also apparent that children will not be outside all of the time or unsupervised at any time.
- 9.20. The Outdoor Area Management Plan supplied as part of this application notes that the local park is also favoured in terms of outdoor space and therefore sole reliance on the garden space at the premises is not expected to occur. The

Management Plan also identifies that children will be supervised at all times when playing outside and that respect for the community is a core value for the operation. Additionally it provides further information on the daily routine showing that external noise, should it occur, would be limited to specific time periods.

- 9.21. Notwithstanding the submitted information, in order to suitably mitigate against potential harmful impacts upon residential amenity it is recommended that two conditions imposed, one requiring an ongoing Noise Management Plan to identify methods and measures to reduce noise impact and mitigate against unnecessary disturbances at the beginning and end of the day pick ups and drop offs, and another to limit the hours of use of the outside space, as is the case with other local nurseries.
- 9.22. On this basis and subject to conditions no significant harm to the amenities of existing/future residents in the vicinity of the site or occupiers of adjacent buildings would arise and the development would comply with policy DM20 and DM40 of the Brighton and Hove City Plan Part Two.

Sustainable Transport:

- 9.23. The Highway Authority considers the scheme to be acceptable subject to condition for the provision of cycle, and buggy and scooter parking.
- 9.24. The site is in the Key Public Transport Corridor and is therefore considered to generally have very good access/connectivity to public transport services and cycle routes.
- 9.25. The area in front of St Mary's Church can be used for short-term parking (i.e., drop-off and pick-up activity associated with the site).
- 9.26. Given the expected operational hours of the proposed nursery site, it is not anticipated that there will be conflicting demand for the area in front of the church site. Furthermore, the proposed nursery's drop-off and pick-up peak periods are expected to occur outside of on-street parking restriction periods, and so parents/carers/guardians could park on-street whilst dropping-off/picking-up nursery pupils.
- 9.27. Throughout the course of the application, the applicant submitted proposed cycle parking and a buggy store. The LHA have confirmed this is acceptable and its implementation would be secured by condition.

Sustainability:

- 9.28. Policy CP8 of City Plan Part One requires non-residential development to meet BREEAM Excellent Standard. However, as a conversion within an existing building, these standards do not apply in this instance.
- 9.29. Policy CP8 also requires all development to demonstrate various sustainability measures including climate change mitigation, emission reduction, energy and fabric efficiency, provision of renewable energy technology. Given there are no external alterations and relatively minimal internal alterations, the proposal

presents few opportunities for sustainability enhancements. The reuse of the existing building is considered to be an efficient use of the site.

- 9.30. The conditions requiring details of cycle parking storage and a Travel Plan will ensure sustainable travel to and from the site, and therefore reducing carbon footprint of students and other users of the education use.

Waste Management:

- 9.31. Policy WMP3e of the WMP requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste, e.g. location of bin stores and recycling facilities. The location of waste storage has been shown through photographic evidence throughout the course of the application and is considered acceptable.

10. CLIMATE CHANGE/BIODIVERSITY

- 10.1. The proposed works would allow for continued community use of the existing building and reducing the need for more intensive development elsewhere. The site is within a highly sustainable location with regards to public transport and cycle parking is proposed to encourage travel by means other than private motor vehicles. The site is not designated for nature conservation interest and there are unlikely to be any harmful biodiversity impacts.

11. EQUALITIES

- 11.1. The Cassidy Centre has disabled access and a disabled parking space immediately outside of the building, with level access to the rear area.