



RESPONSE TO LPA's STATEMENT OF CASE

Change of use and conversion of ground floor from nursery (Class D1) to self-contained residential flat (Class C3)

33 Cheriton Road, Folkestone, Kent, CT20 1BY

LPA Ref. Y18/0492/SH

Appeal Ref. APP/L2250/W/18/3208409

Prepared by Hume Planning Consultancy Ltd.

On Behalf of Northfield Nursery School Hythe Ltd

September 2018

- 1.1 Paragraph 38 of the National Planning Policy Framework (NPPF) states that LPA's should approach decisions on proposed development in a positive and creative way. Consistency in planning decision-making is also important, which has not followed through in this instance. NPPF (2018) guidance also focuses upon the need to make efficient use of underutilised land and vacant sites.
- 1.2 The LPA's Statement suggests on page 2 that circumstances are now different because when previously granting permission in 2010, a nursery use was continuing at No. 5 Millfield adjacent to the premises. This suggests that the localised provision for nurseries was relevant to the loss of the nursery premises at this time. As highlighted in the Appeal Statement, there are a number of existing nurseries nearby (including directly opposite is the church hall and No. 5 Millfield 'Smarty Tots' nursery which are currently operational). The Appellant's Planning Statement also highlighted wider nursery provision which the LPA has referred to this in their original delegated report, but the LPA suggest on page 3 that this was not provided with the submission and on this basis presumably not taken into account.
- 1.3 The LPA's suggestion that the material consideration of housing need was sufficient in 2006 and 2007 to outweigh the community use safeguarding policies being set aside is not considered a realistic explanation. At this time there were no five year housing land supply issues; the annualised housing requirement was much lower and Shepway had an up-to-date plan (adopted 2006) and significant brownfield land availability.
- 1.4 The LPA's Statement sets out the key objective which is to guard against the unnecessary loss of valued community facilities and services that would reduce the community's ability to meet its day to day needs (Paragraph 92 of the NPPF). This was effectively the same objective of saved Policy SC3, which the LPA were content was previously satisfied.
- 1.5 It is relevant that after 40 years of running the nursery business the Appellant, Nola Yarney, because of her retirement closed the business in March 2018. Since July 2018, the building has been marketed as a community facility (D1 use) with a local estate agency, Fell Reynolds, with no interest forthcoming. All the nursery children attending the premises were been placed elsewhere and there is no evidence that during the six month period the building has been vacant that the day to day needs of the community have been compromised because the nursery is not operating.

- 1.6 The strengthened policies of the NPPF2 regarding the use of brownfield sites and utilising land and vacant floorspace more effectively are also considered to be relevant when balancing the planning issues.
- 1.7 The LPA's Statement at page 2 suggests that no evidence was put forward with regard to the need. This was covered in the Planning Statement and e-mail exchanges with the case officer during the consideration of the scheme. The premises have been marketed since July 2018 as a response to the Council's reasons for refusal, but with the building being vacant and the Appellant liable to ongoing maintenance costs and business rates, a decision was taken to lodge the appeal at the earliest opportunity. There has been no interest in any community use to date during the marketing period.
- 1.8 The LPA's dismissive comments about the suitability of the premises for nursery occupiers as being "*speculative*" (stated on page 3 of their Statement) is refuted. The Appellant ran the nursery business for 40 years, during the most recent years the regulations governing nursery provision safely has significantly increased, which exposed the shortcomings of the fabric of the building for modern standards to be met (for instance the floor level changes).
- 1.9 At page 3 of the LPA's Statement, the LPA do not consider the allocation of a number of larger community facilities to residential use in the emerging 'Places and Policies' Local Plan is relevant. The point being made by the Appellant is that the appeal site is too small to be considered as an allocation. Given the designation of a number of larger community facilities to housing allocations, it is considered that;
- a) the supply of existing community facilities must be deemed to exceed the needs of the adopted Core Strategy requirement otherwise these existing community sites would not be allocated for housing,
 - b) if the appeal site was able to participate in the local plan process (which it cannot do due its size), it would have had a strong chance of being allocated for residential use.
- 2.0 These are factors which are considered to be relevant particularly when the guidance of Paragraph 38 of the NPPF2 is taken in account.