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| APPLICATION NO. | P11/E2083 |
| APPLICATION TYPE | FULL |
| REGISTERED | 16.12.2011 |
| PARISH | HENLEY-ON-THAMES |
| WARD MEMBER(S) | Mr Will Hall Mrs Jennifer Wood |
| APPLICANT | Mrs L Drage |
| SITE | 4 Norman Avenue Henley-on-Thames, RG9 1SG |
| PROPOSAL | Variation to condition 3 of planning permission P06/E1139 and condition 5 of planning permission P11/E653 to allow up to 18 children to be in care at the premises and variation to condition 5 of planning permission P06/E1139 and condition 7 of planning permission P11/E0653 to provide for use of the garden for no more than one hour between 9:15 - 12:15 and no more than one hour between 12:15 - 15:15. |
| AMENDMENTS | None |
| GRID REFERENCE | 476103/182274 |
| OFFICER | Emma Bowerman |

1.0 INTRODUCTION

- 1.1 The application is referred to the Planning Committee at the request of one of the local Members, Mrs Jennifer Wood.
- 1.2 The application site (which is shown on the OS extract **attached** as Appendix A) contains a detached Grade II listed building which falls within Henley's main Conservation Area. Norman Avenue is a primarily residential road characterised by large historic buildings. The private road is accessed via a traffic light system from a junction with Reading Road and is a dead end, with no through route for vehicles.
- 1.3 The ground floor of the application property is used as a nursery, with the remainder of the property being used as a single dwelling. The nursery use started in 2005 when a temporary permission was granted for the change of use of part of the ground floor of the building from residential to a children's nursery. The temporary nature of the permission was to monitor whether the change of use would result in any impact on neighbours in terms of noise and disturbance and to assess the impact on the highway.
- 1.4 The temporary permission was extended for a further year in 2006 and a third application (Planning Permission P06/E1139) granted permanent permission for use of part of the ground floor as a nursery in December 2006. An application in 2011 (Planning Permission P11/E0653) permitted an additional ground floor room to be used as part of the nursery.
- 1.5 The permanent planning permission granted in 2006 (P06/E1139) and the recent permission increasing the number of rooms to be used for the nursery (P11/E0653) were subject to a number of planning conditions. These conditions included restrictions on the number of children and the amount of time the garden can be used for.

2.0 **PROPOSAL**

2.1 This application seeks to vary the following conditions on planning permission P06/E1139 and P11/E0653:

That the number of children who may be in care at the premises shall not exceed 12 at any one time on any one day.

Reason: To safeguard the character of the area and to safeguard the amenities of the neighbours.

That the garden is to be used in connection with the nursery for a maximum period not exceeding 2 hours on the days specified.

Reason: To safeguard the character of the area and to safeguard the amenities of neighbours.

2.2 The applicant has requested the variation to the conditions to increase the number of children allowed at the premises from 12 to 18. The change to the condition restricting the use of the garden would break up the two hour limit on the use of the garden to only one hour of play in the garden between 09:15 and 12:15 and one hour between 12:15 and 15:15 with a minimum gap of one hour between the outdoor play times. This greater restriction on outdoor play hours has been proposed by the applicant to break up the duration of outdoor play time to reduce the impact on neighbours.

2.3 The application is accompanied by a detailed letter containing the background of the site, the rationale for the development and the Agents analysis of the issues involved and this can be viewed on-line at www.southoxon.gov.uk.

3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

3.1 Henley-on-Thames Town Council – Considers the application should be refused as the proposal is considered to be inappropriate for a residential area, by virtue of creeping development for business use within a residential road; would be unneighbourly on grounds of noise pollution and the increase in traffic at an already dangerous turning point.

3.2 Henley Society – While supporting the concept of this child-care facility, we do not accept that these premises, in a residential area and a private road, are suitable for the expansion proposed.

3.3 OCC Highways – No objection subject to a condition requiring a Travel Plan to encourage sustainable modes of transport.

3.4 Environmental Protection – No objection on the basis that there is an hours gap between morning and afternoon sessions.

3.5 Neighbour Representations – 29 received in support of the application.

The comments made include:

- The high quality of service offered by the nursery
- The high demand for additional spaces
- Its central location
- The site is easily accessible on foot (many consultees commented that they do / would walk to the nursery)

8 received in objection to the application including one signed by nine residents in Norman Avenue and Norman House. The comments made include:

- The reasons for the conditions on the previous permissions are still relevant
- The impact on the character and setting of the listed building and conservation area
- The use is incompatible with the residential road
- Over-development – the infrastructure is already overwhelmed
- Increase in noise levels / disturbance – from children playing and additional traffic
- Impact on highway safety

4.0 **RELEVANT PLANNING HISTORY**

4.1 [P11/E0653](#) - Approved (21/07/2011)

Use of living room in connection with nursery use permitted by planning permission P06/E1139

[P06/E1139](#) - Approved (19/12/2006)

Removal of condition 1 to allow permanent Nursery use and variation of condition 5 to allow an extension to opening hours and condition 6 to allow flexible times for use of garden of planning permission P06/E0681.

[P06/E0681](#) - Approved (25/08/2006)

Continued use of part of ground floor as a children's nursery for a period of one year.

[P05/E0070](#) - Approved (19/05/2005)

Change of use of part of ground floor from residential to nursery.

5.0 **POLICY & GUIDANCE**

5.1 South Oxfordshire Local Plan 2011 policies;

CF2 - Provision of additional community facilities

CON4 - Change of use of listed buildings

CON7 – Proposals affecting a conservation area

D2 - Safe and secure parking for vehicles and cycles

EP2 - Adverse affect by noise or vibration

G2 - Protect district from adverse development

T1 - Safe, convenient and adequate highway network for all users

T2 - Unloading, turning and parking for all highway users

5.2 Government Guidance;

PPS1 – Delivering Sustainable Development

6.0 **PLANNING CONSIDERATIONS**

6.1 The main issues to be considered are:

1. Whether the principle of the development is acceptable and whether there is a need for additional child care facilities in this location
2. Whether the proposal would impact on the character of the conservation area or the setting of the listed building
3. Whether the proposal would be an unneighbourly form of development that would result in unacceptable levels of noise and disturbance to occupiers of nearby properties
4. Whether the proposal would result in conditions prejudicial to highway safety

Principle and demand:

- 6.2 The ground floor of the building is currently in use as a nursery and the principle of the use is therefore already established. However, the previous permissions were subject to a number of conditions as the use was only considered to be acceptable within certain limits. Local Plan Policy CF2 states that the provision of additional community facilities or services within settlements will be permitted providing that there are no overriding amenity, environmental or traffic objections. The text supporting the policy CF2 advises that day nurseries for young children are generally appropriate in residential areas but states that one of the factors to be considered is the noise disturbance to neighbours.
- 6.3 A large number of representations have been received from the parents of children currently at the nursery and also from parents who would like their children to attend the nursery in the future. The nursery is undoubtedly popular and the applicant has advised that there is a long waiting list for future spaces. Officers accept that there is a demand for additional spaces at this nursery and this should be taken into consideration. However, officers do not consider that the demand for additional nursery spaces outweighs other planning considerations, such as the impact on neighbours.

Character of the Conservation Area and Setting of the Listed Building:

- 6.4 The proposal would not increase the amount of the building which is used as a nursery and would not include any internal or external alterations to the building. The proposal would increase the number of people visiting the site but given that the use is already established, officers do not consider that this would have a significant impact on the character of the conservation area or setting of the listed building and as such, the proposal would not conflict with Local Plan policies CON5 and CON7.

Impact on neighbouring properties:

- 6.5 Local Plan Policy EP2 states that proposals that would by reason of noise or vibrations have an adverse effect on existing or proposed occupiers will not be permitted. Policy CF2 also requires proposals for additional community facilities and services to not have any overriding amenity objections. A number of surrounding residents have raised strong objections to the proposed increase in the number of children due to the increase in noise and disturbance. Neighbours primarily consider this additional noise and disturbance would be created by the increased number of children playing in the garden and further traffic movements, but have also raised concerns about other activities associated with the use, such as parents meeting in the front garden at drop off / pick up times.
- 6.6 There is only a small separation between the nursery and the neighbours either side and with the property at the end of Albert Road which is positioned up to the rear boundary of the application site. There is a separation of around 23 metres from the rear wall of the application property and the side wall of 57 Albert Road. Given the close proximity of these neighbouring properties, officers consider that a 50% increase in the number of children playing in the garden would result in a material increase in the level of noise experienced by neighbours. In addition, during warmer months when windows and doors are open, the additional noise could cause disturbance when the children are inside.
- 6.7 The planning conditions on the previous permissions currently restrict the amount of outside play time to two hours a day. The application proposes to vary this condition so that the outdoor areas are only used for one hour in the morning and one hour in the afternoon. By breaking up the outdoor play times into two separate sessions, the length of the disturbance would be decreased but the overall time that children are in

the garden would not alter and for any neighbours that are at home during the day, the difference would not be significant. Officers have no objection to the variation of this condition but do not consider that breaking up the outdoor play time would be sufficient to overcome the concerns about the level of additional noise from the proposed increase in the number of children.

- 6.8 Officers consider that an increase in the number of children at the site would also be likely to result in an increase in the number of vehicular movements and an increase in noise and disturbance from these additional vehicular movements. Norman Avenue is an unmade and informal private road and given that it is a dead end, the background noise level from traffic is low. Officers are concerned that increasing the number of children at the nursery would result in further noise and disturbance from engines running, vehicles manoeuvring, car doors slamming, parents chatting etc at peak drop off and pick up times.
- 6.9 The agent has proposed that a travel plan would limit the number of journeys to the site and the measures put forward to be included in the travel plan include:
- The enrolment form being worded to prohibit parents from driving except in emergencies or if required for mobility impairments, plus a three stage warning process and subsequent termination of contract for breach of this requirement
 - New places only being offered to parents with postcodes in Henley-on-Thames
 - A Travel Plan Co-ordinator to encourage sustainable transport options, monitor car usage and activate the three stage warning process
 - Provision of a secure area for parents to leave prams, bicycles, etc.
- 6.10 Officers accept that these measures may help limit the number of journeys to the site. However, the measures would be very difficult for the council to monitor and enforce and it would not be reasonable for the council to insist that a child leaves nursery if, for example, the parents move house. Although the travel plan could help reduce noise and disturbance from car movements, officers do not consider that the measures outlined are sufficient to overcome concerns regarding additional noise and disturbance from further vehicles visiting the site.
- 6.11 The council's environmental health team have not raised an objection to the proposal but it is important to note that the environmental health officer is only required to assess whether the noise generated would represent a statutory nuisance. Although the level of noise generated is unlikely to result in a statutory nuisance, officers do consider that the additional noise would be disruptive to neighbours' enjoyment of their own property, particularly given that representations have been received commenting that the current number of children at the site cause disturbance to neighbours.

Highway safety:

- 6.12 Policy CF2 permits additional community facilities on the basis that there are no traffic objections. The Council's Highways Liaison Officer has not raised any objections to the proposal but a number of objectors, including the Town Council, mention the risk to highway safety from the increased number of vehicular movements associated with this proposal. This is a separate issue to the noise impact already discussed. As Norman Avenue is a private road, the council could not raise an objection to any additional parking within the road and can only consider the impact on the wider highway network. Although the junction with Reading Road is busy, it is signal controlled, with pedestrian crossings and with these measures in place, officers consider that any additional trips generated by the increase in children would not be prejudicial to highway safety. In highway safety terms, the additional trips generated by the proposal would not be significant.

Other issues:

- 6.13 The Agent for the application has advised that the applicant would be willing to accept the imposition of a condition restricting the permission to a period covering 4 full Oxfordshire school terms. This ‘trial run’ would then enable the actual impact of the increase in the number of children to be considered at a later date. Given that the officers consider the impact of the proposal to be unacceptable, it is not considered that a temporary permission would be appropriate in this case.

7.0 CONCLUSION

- 7.1 In determining this application, officers central consideration has been the balance between supporting a successful local business, which provides an important community facility, and the impact of the operation of that business on its neighbours. Policy CF2 is a permissive policy that supports the provision of community facilities, but the policy is clear that this should not be at the expense of neighbour amenity. The strength of the objections received from immediate neighbours indicates that there is some disruption caused by 12 children travelling to and from the site and playing in the garden. Officers consider that the proposed 50% increase in the number of children attending the nursery would not be compatible with the quiet residential setting of the nursery.

8.0 RECOMMENDATION

- 8.1 **Refuse** planning permission for the following reason:

That having regard to the proposed increase from 12 to 18 children, the sites relationship with neighbouring properties and its quiet residential location, the proposal would cause material harm to neighbouring properties' amenities, through the increased number of children utilising the external areas of the application site, the noise and disturbance caused by additional traffic movements and the wider intensification of activities associated with the nursery use. As such, the proposal would be contrary to the South Oxfordshire Local Plan 2011, particularly Policies G2, EP2 and CF2.

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