

<b>APPLICATION NO.</b>	<a href="#">P18/S4100/FUL</a>
<b>APPLICATION TYPE</b>	FULL APPLICATION
<b>REGISTERED</b>	6.8.2020
<b>PARISH</b>	KIDMORE END
<b>WARD MEMBER</b>	Peter Dragonetti
<b>APPLICANT</b>	Mr W. Mahoney
<b>SITE</b>	Kerak, Chalkhouse Green Road, Kidmore End, RG4 9AS
<b>PROPOSAL</b>	Retrospective change of use of land and buildings from C3 (dwellinghouses) to Sui Generis (mix of residential and childcare) (additional information concerning Ofsted and access details received 24th May 2019 and access, parking and waste collection details updated as shown on amended and additional documents received 4th February 2020 and revised application form and site area and additional transport statement and travel plan received 6th August 2020)
<b>OFFICER</b>	Paul Lucas

**1.0 INTRODUCTION AND PROPOSAL**

- 1.1 Officers recommend that planning permission is granted. This report explains how officers have reached this conclusion. The application is referred to the Planning Committee due to the recommendation being a significant departure from the views of the Local Highway Authority, a statutory consultee.
- 1.2 The application site is shown at **Appendix A**. It comprises a two storey dwellinghouse and three outbuildings, which are in a mixed residential and childcare use, operated by Chalkhouse Childcare Services. It is in a backland location on the east side of Chalkhouse Green Road at the south-eastern edge of the settlement of Kidmore End. The site is served by a 75-metre-long driveway, 60 metres of which runs alongside the side elevation of Pentewan, a semi-detached dwelling. The front of the access is a shared driveway that serves four other dwellings. The site also adjoins the rear gardens of Pentewan, Lilacs, Firenze, Cynisca and Bramdean and is bordered on two other sides by undeveloped land in the ownership of Vines Farm, located about 250 metres to the south-east. The Chilterns AONB washes over the site and the settlement.
- 1.3 The application seeks to regularise the existing dual-use of the site by obtaining full planning permission for the day nursery element. The nursery commenced operating in 2011, with an average of 20 children in attendance per day. In 2015, the nursery obtained a 'GOOD' Ofsted rating and since March 2016 has operated at current levels with a maximum of 26 children in attendance per day. The plans show that part of the ground floor of the house, Outbuilding 'A' at the north-western end of the site and Outbuilding 'B' in the north-eastern corner of the site are used for childcare, with play areas in between. The south-western end of the site remains in residential use, which adjoins most of the aforementioned gardens, with only part of the rear garden of Bramdean directly adjacent to the childcare areas.

- 1.4 A transport statement and travel plan have been submitted in support of the application. The plans can be found at **Appendix B**. Other supporting documents can be found on the Council's [website](#).

2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

- 2.1 Kidmore End Parish Council - The red line on drawing 3069/200 rev C does not accord with title ON160240 at the Land Registry. The access rights asserted by the applicant are not recorded at the Land Registry.

Highways Liaison Officer (Oxfordshire County Council) – The application should be refused:

1. Visibility - The proposal would intensify the use of the access to the highway which lacks appropriate visibility, to the detriment of the safety of highway users.
2. Layout and Circulation – The accessway, turning and parking provision is impractical; and would result in excessive manoeuvring and parking within the site and on the adjacent highway network to the detriment of the safety and convenience of highway users.
3. Accessibility – The accessibility of the site is poor, being highly dependent upon car use; there is not any separate provision for pedestrians or cyclists other than the unlit carriageway, and there is no practical opportunity to use public transport. The location of the site is, therefore, considered unsustainable in transport terms.

Env. Protection Team – No records of complaints: no objection.

Third Parties – Four original representations of objection and concern; one representation of objection and concern having regard to the additional information supplied in the transport statement and travel plan, summarised as follows:

- Not a sustainable location for a business of this size;
- Maintains that access partly reliant on land owned by Vines Farm and reinstatement of boundary would reduce space for access and parking;
- Disagree with the applicant's assertion that the car traffic would be below the levels in the TRICS database;
- Many customers live outside Kidmore End where driving is the only option;
- Insufficient parking provision;
- Travel plan would be unenforceable;
- Concern over access arrangements;
- Concern about potential increased traffic if numbers of children were to increase;
- Concern about future maintenance of part of the access subject to shared access rights [this is a private matter];
- Obstruction of shared access has resulted in a 'scrape' incident in January 2019.

Third Parties – 72 representations expressing support for the application on the basis of the public benefits to the local population of the nursery continuing in this location, including existing and former customers of the nursery living within the village and nearby settlements.

These representations can be viewed in full on the Council's [website](#).

3.0 **RELEVANT PLANNING HISTORY**

3.1 [SE18/325](#) - Current enforcement investigation without planning permission the material change of use of property from residential to childcare nursery and the erection of related buildings

[P08/E0177](#) - Approved (14/04/2008)  
Erection of detached replacement dwelling.

4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 Whilst located in a sensitive area, the proposal is not of a scale that would require an Environmental Statement.

5.0 **POLICY & GUIDANCE**

5.1 **Development Plan Policies**

South Oxfordshire Local Plan 2035 (SOLP) Policies:

DES1 - Delivering High Quality Development

DES2 - Enhancing Local Character

DES3 - Design and Access Statements

DES6 - Residential Amenity

DES7 - Efficient Use of Resources

DES8 - Promoting Sustainable Design

DES10 - Carbon Reduction

EMP10 - Development in Rural Areas

ENV1 - Landscape and Countryside

ENV12 - Pollution - Impact of Development on Human Health, the Natural Environment and/or Local Amenity (Potential Sources of Pollution)

STRAT1 - The Overall Strategy

TRANS4 - Transport Assessments, Transport Statements and Travel Plans

TRANS5 - Consideration of Development Proposals

5.2 **Kidmore End Neighbourhood Plan**

The parish council recently ran the statutory pre-submission consultation on the draft plan, which ended on 16 January. The local community and statutory consultees were invited to offer their comments on the draft neighbourhood plan. The parish council are reviewing comments received and making changes to the draft plan before formally submitting it to the district council. Once the plan has been submitted, the district council will organise a further six-week publicity period, inviting comments from the public and statutory consultees. All documents and comments received are then submitted for independent examination. The draft KENP carries very limited weight at this early stage in its preparation.

5.3 **Supplementary Planning Guidance/Documents**

South Oxfordshire Design Guide 2016 (SODG 2016)

South Oxfordshire Landscape Assessment – Character Area 10

5.4 **National Planning Policy Framework and Planning Practice Guidance**

5.5 **Other Relevant Legislation**

Human Rights Act 1998

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Equality Act 2010

In determining this planning application, the Council has regard to its equalities obligations including its obligations under Section 149 of the Equality Act 2010.

6.0 **PLANNING CONSIDERATIONS**

6.1 **The relevant planning considerations are whether the proposed retention of the day nursery use is:**

- **acceptable in principle;**
- **impacting on the landscape setting of the village within the Chilterns AONB;**
- **safeguarding adjoining residential amenity;**
- **resulting in conditions prejudicial to highway and pedestrian safety; and**
- **giving rise to other material planning considerations.**

6.2 **Principle of Development**

The SOLP 2035 Policy STRAT1 sets out the overall strategy for the District. It seeks to focus most major new development at the growth point of Didcot, with Henley, Thame and Wallingford also being a focus for development and regeneration. The SOLP 2035 Policy EMP10 states that proposals for sustainable economic growth in rural areas will be supported. The day nursery is located on the edge of the built-up area of Kidmore End, which is classified as a 'smaller village' in the SOLP 2035 settlement hierarchy. The Settlement Assessment Background Paper explains that Kidmore End achieves this classification through the facilities and services that it contains and through those available at Sonning Common (the crossroads in the centre of Kidmore End lies about 1.2 kilometres from the village centre on Wood Lane in Sonning Common).

6.3 The SOLP 2035 Policy H16 supports new housing in the form of residential infill development of a scale appropriate to its location in smaller villages. It is likely that the KENP would also make some housing allocations. In spite of the objection from the Local Highway Authority on transport sustainability grounds, it is difficult to argue that Kidmore End is not a sufficiently sustainable location to continue to support the day nursery, given that more housing growth is expected and planned for within the settlement. Whilst the day nursery does increase vehicular trips into the village from customers living elsewhere, conversely there are Kidmore End residents whom would otherwise have to make trips to other settlements to access alternative childcare services. On this basis, officers consider that the location is sufficiently sustainable to be able to support the continued use as a day nursery and the proposal is acceptable in principle.

6.4 **Visual Impact**

The built form of the existing dwelling and the garage known as Outbuilding C was established through planning permission [P08/E0177](#), which replaced a previous dwelling in this location. Outbuildings A and B have been subsequently added to the site. Whilst these have increased the built footprint on the site, these are both of a domestic scale and appearance with three and four-metre-high roofs, respectively and do not appear disproportionate to the size of the plot. The site boundaries contain a mixture of hedging and much of the plot remains open, split evenly between play areas, residential garden and the frontage parking. In the light of the above site circumstances, the existing use of the site does not have any discernible physical impact on its edge of settlement surroundings. Whilst this mixed use is a more active use than the previous use as a single family dwellinghouse, the day nursery hours of operation do not extend beyond normal working hours on weekdays. As such, officers consider that the proposal does not detract from the tranquillity of the surrounding Chilterns AONB countryside. In the light of the above assessment, officers consider that the proposal conserves the landscape setting of this part of the village within the

Chilterns AONB and that the proposal would be in compliance with the SOLP 2035 Policies DES1, DES2 & ENV1.

6.5 **Residential Amenity Impact:**

Outbuilding B has been positioned at the end of the site furthest from adjoining gardens. Outbuilding A is located close to the site boundary with Bramdean's rear garden, with an intervening boundary hedge and at a distance of 44 metres from the rear of that dwelling. The outdoor play areas are located a similar distance from the rear of the closest dwellings, with the domestic garden being retained in between. This level of separation combined with the hours of operation, aligning with typical working hours, has meant that the day nursery has been able to operate in a manner that enables adjoining residents to continue to enjoy their residential amenity without suffering undue noise nuisance issues. This is demonstrated by the absence of any complaints to the Council's Environmental Health Officer, who has raised no objections to the application. It is also notable that whilst adjoining residents have raised concerns, none of these relate specifically to loss of privacy from noise nuisance. As such the proposal would have an acceptable impact in relation to light, outlook or privacy in accordance with the SOLP 2035 Policy DES6.

6.6 **Access and Parking**

The Local Highway Authority (LHA) has reviewed the submitted Transport Statement and Travel Plan. At the access to the highway, the submitted plans demonstrate visibility along the carriageway of 25m at a setback of 2.0m. A 25m visibility splay would only meet the guidance set out within the document 'Manual for Streets' where passing traffic is traveling at a speed of 20mph or below, 25m being the calculated stopping site distance at 20mph. Although the access lies within a 20mph speed limit zone, starting 100 metres to the south, no speed surveys have been provided for consideration to corroborate this and the LHA's on-site observations suggest the majority of vehicles are travelling above 20mph.

6.7 Visibility splays are demonstrated from the centre point of the access, which is standard practice, however, in this instance a telegraph pole is sited at the centre of the access. Given the location of the telegraph pole, on egress a driver's position would be to the left of the pole, nearer the boundary hedge, therefore reducing the visibility available to the left. Visibility splays have been measured to the centre of the major carriageway. Standard practice is to measure to the nearside kerb or running channel, however, a centre line approach is advocated by Manual for Streets 2, where vehicles approaching from the left would be unlikely to cross the centre line. From the LHA's observations on site it is apparent that many vehicles straddle the centre line with the driver's position to the right of it and therefore the inter-visibility of drivers approaching the site and those egressing would be less than the quoted 25m visibility splay.

6.8 This proposal would significantly increase the number of vehicular movements generated from the development. The permitted residential use would be expected to generate 6-8 vehicle trips per dwelling per day whereas the submitted documents suggest the proposals would provide childcare for 26 children and 11 staff on site. The submitted Transport Statement provides a record of pick up and drop off trips for Monday 6<sup>th</sup> and Tuesday 7<sup>th</sup> January 2020. The record shows 60 car trips associated with 18 children on the Monday and 76 car trips associated with 23 children on the Tuesday. This suggests a daily car trip rate per child of approximately 3.3, which would equate to 86 car trips for 26 children. The Transport Statement clarifies the total of eleven staff equate to 7 full time employees. It is assumed; therefore, 7 staff are on site at any time but there is no information regarding shift patterns to determine the likely trip generation. Applying a travel mode share similar to that of the pupils would equate to 18 daily car trips. Using the recorded data and assuming similar modal share for staff

travel results in a total of 104 daily car trips. The LHA also calculates that full attendance could potentially result in a maximum of 126 daily car trips. The LHA objects to this intensification of use of what they regard to be a substandard access.

The Transport Statement (TS) detailed that each drop off would last 4½ minutes, this figure is a result of 13 trips over an hour time period, however the LHA states this would not be the case as the nature of a child day care facility would result in an intense level of movement within a narrow timeframe rather than an even spread. Furthermore, this does not take into account matters such as, but not limited to, discussions between parents and staff, 'settling in' children, or children/parents arriving late.

- 6.9 The LHA comments that the existing private access way is relatively narrow and runs for approximately 60m from the access to the highway to the parking and manoeuvring area adjacent to the nursery buildings. The vegetation along one side of the access way further constrains the width available and two cars are unable to pass along its length, as the Transport Statement notes, 'access drive works as a single vehicle width access'. The submitted visibility splays plan identifies the shared driveway as being the area where vehicles can pass. The applicant indicates that there is parking for two domestic vehicles and six spaces for nursery staff and customers. Given the narrow width of the private access drive which does not allow for two vehicles to pass without alterations and the limited space available for parking spaces available, the LHA considers that this is likely to result in vehicles parking indiscriminately and or obstructively within the access. This would result in conflict with existing accesses and an increased risk to Highway Safety and to the safety of other users within the vicinity.
- 6.10 In the light of the above assessment, officers conclude that the retention of the day nursery would result in an increased risk to highway and pedestrian safety to the extent that there would be conflict with the SOLP 2035 Policy TRANS5 and the relevant paragraphs in the NPPF.
- 6.11 **Other Material Planning Considerations**  
Officers acknowledge that the deficiencies in both the access and parking arrangements and the intensification of use brought about by the day nursery is increasing the risk to pedestrian and highway safety. However, the day nursery has been operating since 2011 and at current child and staff numbers since 2016. In that time, officers have been made aware of only one reported incident which involved a parked customer vehicle being scraped by an adjoining resident's vehicle.
- 6.12 The submitted Travel Plan aims to reduce the future risk of incidents occurring through instigating measures to promote car sharing, walking and cycling and a drop off/collection regime. The Travel Plan as currently submitted is in a draft format, but the programme and targets could be formally adopted through liaison with Oxfordshire County Council Travel Plans Team. This could be achieved through the completion of a unilateral undertaking to secure payment to OCC to cover the costs of travel plan monitoring before planning permission is granted and then a planning condition requiring the Travel Plan to be formally submitted and agreed within a set period of time along with a monitoring regime. Officers consider that the adoption of a Travel Plan would be a significant measure in reducing any risk to highway and pedestrian safety from the continued operation of the day nursery.
- 6.13 Officers have also weighed the harm to highway and pedestrian safety against the benefits that the day nursery is bringing to the local community. In this regard, the Council has received significant correspondence in support of the application, some from village residents and key workers. The local pre-school closed in summer 2019, which appears to have increased the importance of the day nursery to the local community. Officers consider that the benefits of the continued operation of the

business should carry significant weight in favour of the application. Officers have concluded that, on balance, the benefits of retaining the day nursery would outweigh the reduced risk to highway and pedestrian safety with the Travel Plan in place. The adjoining landowner to the south-east of the site has raised a boundary issue and considers that their rights to erect a boundary fence and planting would further reduce the space available along the driveway. However, the applicant disputes that there would be any reduction in the width of the driveway as shown on the plans. However, in any event, it is already acknowledged in the Transport Statement that vehicles should pass on the wider shared part of the access or within the parking and turning area rather than on the narrow section of the driveway, so any reduction would not limit the ability of vehicles to safely pass in those areas to any significant degree.

- 6.14 Kidmore End Parish Council have raised the issue of some land on the frontage shown to be within the red edge area to be outside of the applicant's ownership. This is correct; however, the actual ownership is unknown and for the purposes of this application, the applicant has taken the correct steps in completing a Certificate D and placing an advertisement in the Henley Standard to advertise this to any owner of the land. This means that the application is valid.
- 6.15 Officers consider that planning conditions are necessary and reasonable to restrict the number of children to current maximum levels and to restrict the hours of operation to those stated in the application to address any concerns about intensification in the future. It is also considered necessary and reasonable to impose conditions requiring the submission of a revised parking layout and details of cycle parking for agreement with the Local Highway Authority within a set period of time.
- 6.16 **Community Infrastructure Levy**  
This type of application is not CIL liable.

7.0 **CONCLUSION**

- 7.1 Officers consider that the application site lies in a sustainable location, therefore the retention of the day nursery use is acceptable in principle. Whilst the Local Highway Authority consider that the intensification of use of the substandard access and parking arrangements pose a continued risk to highway and pedestrian safety, officers consider that this risk could be reduced through the adoption of a formalised Travel Plan for the business. Officers then consider that the benefits to the local community of having the day nursery located within the village would, on balance, outweigh the risk to highway and pedestrian safety. The retained use of the site also conserves the landscape setting within this part of the Chilterns AONB and is not resulting in any significant loss of residential amenity. On this basis, officers consider that the proposal would comply with the Development Plan when taken as a whole.

8.0 **RECOMMENDATION**

- 8.1 **Resolve to delegate the Grant of Planning Permission to the Head of Planning subject to the completion of a unilateral undertaking to pay the costs of Travel Plan monitoring.**

- 1 : Development in accordance with the approved plans**
- 2 : Existing vehicular access to be improved**
- 3 : Vision splay protection**
- 4 : Plan of Car Parking Provision details to be agreed**
- 5 : Cycle Parking Facilities details to be agreed**
- 6 : Green Travel Plan details to be agreed and monitored by OCC**

- 7 : Limit of 26 children at any time and no change of use to other uses within Class E**
- 8 : Hours of operation only between 7:30am and 6pm weekdays**

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