

APPLICATION NO.	P20/S2504/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	18.11.2020
PARISH	HENLEY-ON-THAMES
WARD MEMBERS	Ken Arlett, Kellie Hinton & Stefan Gawrysiak
APPLICANT	Mr Can Sengunes
SITE	46 King James Way, Henley-on-Thames, RG9 1XL
PROPOSAL	Change of use of ground floor of existing building from residential to a mixed use of residential and childcare purposes and addition of a temporary wooden structure to the garden to provide a covered area.
OFFICER	Paul Lucas

1.0 INTRODUCTION AND PROPOSAL

- 1.1 This report sets out the justification for officers' recommendation to grant planning permission having regard to the development plan and any other material planning considerations. The application is referred to the planning committee due to a difference between officers' recommendation and the views of Henley Town Council.
- 1.2 The application site is shown at **Appendix A**. It comprises a residential plot, consisting of an end of terrace two-storey dwelling and its garage on the end of a block, in a residential cul-de-sac constructed in the 1980s within the built-up area of Henley. There are no special designations on the site.
- 1.3 The application seeks planning permission for the change of use of the ground floor of the dwelling to a mixed use of residential and childcare and the erection of a single storey wooden structure for use as a garden room attached to the rear elevation of the dwelling. Offsted-registered childminding, run by the tenanted occupiers of the property, has lawfully taken place at the property since 2011 without the need for planning permission. However, when the garden room was erected in 2019 the intensification of the childcare use brought about by the additional floorspace has triggered the need to apply for planning permission retrospectively for a material change of use as well as for the structure. The business operates with two full-time members of staff and caters for a maximum of six children on any given weekday. Occasionally they may take a temporary / emergency cover child as they are listed with Oxfordshire Family Services. The hours of operation are from 7:30am to 6pm.
- 1.4 The current plans can be found at **Appendix B**. Other documents can be viewed on the Council's [website](#)

2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

- 2.1 Henley-on-Thames Town Council - Recommend refusal on the grounds that this is a commercial scheme in a residential location which could be permanent and would lead to an increase in traffic and excessive noise.

South -Highways Liaison Officer (Oxfordshire County Council) – No objection

Environmental Protection Team – No noise complaints received – no objection

The Henley Society (Planning) - We question whether this 'temporary' extension for commercial use is appropriate in this residential area, especially as it occupies almost the whole garden. It would certainly be unneighbourly.

Third Parties – 17 neighbours consulted, no representations received.

3.0 RELEVANT PLANNING HISTORY

3.1 [SE19/621](#) - Without planning permission the erection of an outbuilding (PD restriction)

4.0 ENVIRONMENTAL IMPACT ASSESSMENT

4.1 The proposed development is not Schedule 1 or 2 development as defined by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 so an Environmental Impact Assessment is not required.

5.0 POLICY & GUIDANCE

5.1 Development Plan Policies

South Oxfordshire Local Plan 2035 (SOLP) Policies:

CF2 - Provision of Community Facilities and Services

DES1 - Delivering High Quality Development

DES2 - Enhancing Local Character

DES5 - Amenity areas

DES6 - Neighbouring amenity

EMP2 - Range, Size and Mix of Employment premises

ENV12 - Pollution - Potential Sources of Pollution

H20 - Extensions to Dwellings

STRAT1 - The Overall Strategy

TRANS5 - Consideration of Development Proposals

5.2 Joint Henley & Harpsden Neighbourhood Plan – made 14 April 2016

DQS1 - Local Character

T1 - Impact of development on the transport network

Review Neighbourhood Plan – limited weight at this stage:

Henley-on-Thames Town Council has submitted a reviewed neighbourhood plan to South Oxfordshire District Council. If adopted, the reviewed plan will replace the Joint Henley and Harpsden Neighbourhood Plan adopted on 14 April 2016.

The publicity period on the draft plan concluded on 16 March 2022. The draft plan documents and comments received during the publicity period have now been submitted for independent examination. Please see [Response Report A](#) and [Response Report B](#).

Andrew Ashcroft has been appointed by the district council to carry out the examination. The examiner's role is to make recommendations on the draft plan, and ultimately on if the plan should proceed to referendum.

The [district council's Modifications Statement](#) has been submitted to the examiner.

The examiner issued a [Clarification Note](#) on 30 March 2022. The response from the town council will be published in due course.

5.3 Supplementary Planning Guidance/Documents

South Oxfordshire Design Guide 2016 (SODG 2016) - Section 7 Plots & Buildings

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 the following:

- Principle of Development
- Visual Impact
- Residential Amenity Impact
- Access
- Planning Balance

6.2 **Principle of Development**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan currently comprises the South Oxfordshire Local Plan 2035 (SOLP 2035) and the Joint Henley & Harpsden Neighbourhood Plan (JHHNP 2016).

6.3 Policy STRAT1 of the SOLP 2035 sets out the overall strategy for the District. It seeks to focus most major new development at the growth point of Didcot and other allocated sites with Henley, Thame and Wallingford also being a focus for development and regeneration. Policy H20 supports the extension and alteration of residential properties, provided criteria are met relating to parking and amenity space.

6.4 The use of the premises for childcare is a private business that provides a public service and a level of employment. Policy CF2 explains that development proposals for the provision of new or extended community facilities and services will be supported, particularly where:

- i) they are located within or adjacent to the built-up area of an existing settlement;
- ii) they would clearly meet an identified local need; and
- iii) they are accessible for all members of the community and promote social inclusion.

6.5 Policy EMP2 states that proposals for employment use will provide a range of sizes and types of premises, including flexible business space to meet current and future requirements. The Council will support proposals for premises suitable for small and medium sized businesses.

6.6 These policies provide in principle support for the expansion of the childcare business, due to its sustainable location. However, the acceptability of the proposal is subject to an assessment against any site-specific impacts, as set out below.

6.7 **Visual Impact**

The SOLP 2035 Policy DES1 seeks to ensure that all new development is of a high-quality design subject to a series of criteria. The SOLP 2035 Policy DES2 states that all new development must be designed to reflect the positive features that make up the character of the local area and should both physically and visually enhance and complement the surroundings. These objectives are reinforced by the JHHNP 2016 Policy DQS1.

- 6.8 The garden room is 9.05 metres in depth and 4.5 metres wide, so it therefore takes up most of the original rear garden. It is constructed from timber, with a polycarbonate roof and perspex windows. Whilst these materials would not match the existing dwelling, conservatories and outbuildings in residential areas often have materials that are distinct from their host dwellings. In this instance, the contrasting appearance of the materials is offset by the fact that it allows the roof of the structure to have a low maximum height of 2.44 metres, which reduces its visual impact. It nonetheless projects above the boundary wall with the adjacent parking court to the east by about 0.5 metres. However, the parking court is a private area and there is intervening boundary hedging around the eastern and northern perimeter, separating it from the public highway. This means that the closest public views of the structure are over a distance of 15-20 metres, where it would be behind the hedge and the boundary wall and in between the blank two storey side elevation of No.46 and the three-bay garage block. There is also a backdrop of mature trees. In this context, officers consider that the garden room, in spite of its depth, does not appear unduly prominent and as such does not detract significantly from the character and appearance of this residential area. In the light of this assessment, the proposal would comply with the above policies.
- 6.9 **Residential Amenity Impact**
Policy H20 Criterion iii) explains that sufficient amenity areas should be provided for the extended dwelling. The SOLP 2035 Policy DES5 aims to provide adequate outdoor amenity space in line with Section 7 of the SODG 2016. The SOLP 2035 Policy DES6 relates to residential amenity and requires that development proposals should demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses, when considering both individual and cumulative impacts in relation to loss of privacy, daylight and sunlight, dominance or visual intrusion, noise or vibration, smell, dust, heat, odour or other emissions, pollution, and external lighting.
- 6.10 No.46 was constructed as a three-bedroom dwelling and the change of use has not altered the first-floor accommodation, so those bedrooms remain. The garden area was originally around 54 square metres, which was below the current recommended minimum standard of 100 square metres for a dwelling of this size, as set out in Section 7 of the SODG. There is a small area behind the garden room that provides pedestrian access to the rear of No's 42, 44 & 46 and is used for communal bin storage. Clearly, the garden room has meant the total loss of any usable outdoor amenity space, resulting in some harm to the residential amenity of the occupiers of No.46.
- 6.11 The garden room projects significantly beyond the rear elevation of the adjoining single storey rear extension at No.44. Although it is set in from the boundary by 0.5 metres and has a relatively low roof height at 2.44 metres, the depth of the structure means that it does cause some loss of light and outlook to the ground floor rear aspect and garden of the adjoining occupiers, thereby detracting from their residential amenity.
- 6.12 In relation to the dual use of the property, the Council's Environmental Health Team have confirmed there have been no noise nuisance complaints lodged against the business and they have raised no objections to the application. The childcare use could be restricted to the normal business hours of 7:30am to 6pm Monday to Friday only to prevent escalation of the use into evenings, weekends, and public holidays when neighbouring residents are more likely to be at home and enjoying their gardens.
- 6.13 Based on the above assessment, officers conclude that the garden room is resulting in some harm to residential amenity and therefore conflicts with the aims and objectives of the SOLP 2035 Policies H20, DES5 and DES6.

6.14 **Access and Parking**

The SOLP 2035 Policy TRANS5 and the JHHNP 2016 Policy T1 seek to ensure that development would not be prejudicial to highway and pedestrian safety. Henley Town Council has objected to the application on the grounds of traffic generation and lack of parking. However, the Highway Liaison Officer has commented that the maximum number of children contained within the extended dwelling is low and the number of movements associated with the proposal is considered to be relatively low. The provision of the garden room is unlikely to be significantly adding to the level of vehicle movements. Given the likely low number of vehicular movements associated with the dual use this is unlikely to significantly impact upon the highway. They also consider the existing two parking spaces within the garage and in front of the garage to be sufficient to support both residential and childcare elements, given that the business is run by the tenanted occupiers.

6.15 **Planning Balance**

The application has been found to result in harm to residential amenity due to the lack of garden space for current occupiers of No.46 and the loss of light and outlook to the rear aspect of No.44. This causes conflict with the SOLP 2035 Policies H20, DES5 and DES6. The occupiers took the decision to sacrifice their outdoor amenity space to construct the garden room, so that they could offer an improved facility for the childcare business. The occupiers can nonetheless use the garden room for residential purposes outside of the hours of operation of the business. Due to the translucent roof, it provides a covered space with good natural lighting. The site also lies within about 650 metres of Makins Recreation Ground, which gives the applicants good access to public open space to compensate somewhat for the loss of private garden space. The applicants state that the garden room was designed in cooperation with the owner/occupier at No.44 and made modifications to reduce its impact. The owner/occupier of No.44 has not objected to the application and any future occupiers of that property would be aware of the current situation beforehand. Under these circumstances, officers attribute moderate weight to the harm to residential amenity.

6.16 The expansion of the floor area available for childcare, through the erection of the garden room, enables this private business to sustain an improved service to the local community. This is because it is located in a built-up area and, having been operating since 2011, it is a well-established business, which strongly indicates that there is a demand for the public service provided. As such, it is in accordance with the aims and objectives of the SOLP 2035 Policy CF2. The business also continues to provide employment for the occupiers. This means that it is in line with SOLP 2035 Policy EMP2, which aims to provide a range of premises with flexible business space, including those suitable for small businesses. Officers attribute significant weight to the community and employment benefits.

6.17 Officers consider that the significant benefits to the community and employment are sufficient, on balance, to outweigh the moderate harm to residential amenity. Due to these exceptional circumstances, it is necessary to impose a planning condition to ensure that the planning permission is temporary in so far as once the childcare use ceases, the structure is to be dismantled and removed from the land.

6.18 **Community Infrastructure Levy**

The garden room is not CIL liable due to providing less than 100 square metres in floorspace.

6.19 **Pre-commencement conditions - None**

7.0 **CONCLUSION**

7.1 The development results in some harm to the residential amenity of the existing occupiers of No.46 through total loss of the rear garden and loss of light and outlook to the rear aspect of No.44. However, under these exceptional circumstances, this harm is outweighed by the community and employment benefits.

8.0 **RECOMMENDATION**

8.1 **Grant Planning Permission**

1 : Temporary building – removal on cessation of business use

2 : Restriction on number of children

3 : Hours of operation

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