

REPORT OUTLINE FOR AREA PLANNING COMMITTEES**Report No.**

Date of Meeting	29 th September 2020
Application Number	20/05322/VAR
Site Address	18 Burford Road, Harnham, Salisbury, Wiltshire, SP2 8AN
Proposal	Variation of condition 5 of planning permission 18/00376/FUL [Condition 4 of Variation of condition approval 18/10898/VAR] to allow the hours of play in garden nursery from 09:00 to 18:00 Monday to Friday
Applicant	Kiddi Galore Nursery
Town/Parish Council	SALISBURY CITY
Electoral Division	Salisbury Harnham - Councillor Sven Hocking
Grid Ref	414764 128628
Type of application	Full Planning
Case Officer	Christos Chrysanthou

Reason for the application being considered by Committee

Councillor Hocking has called in the application citing concerns regarding the relationship to adjoining properties.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

2. Planning History

18/10898/VAR Variation of condition 3 of planning permission 18/00376/FUL to allow an increase in the permitted number of children attending the nursery AC

18/00376/FUL Single storey flat roof extension AC

S/2012/0574 Retrospective application for the erection of a log cabin in garden for use by nursery school APP

S/2008/0825 Single storey rear extension, front entrance porch and conversion of existing loft area to form office space AC

S/1987/1849 Change of use from private dwelling to use by Montessori school and alteration of access APP

3. The Proposal

Variation of condition 5 of planning permission 18/00376/FUL (Condition 4 of Variation of condition approval 18/10898/VAR) to allow the hours of play in garden nursery from 09:00 to 18:00 Monday to Friday

4. Planning Policy

National Planning Policy Framework

2. Achieving Sustainable Development

4. Decision-making

12. Achieving well-designed places

Wiltshire Core Strategy

Core Policy 1 Settlement Strategy

Core Policy 2 Delivery Strategy

Core Policy 57 Ensuring high quality design and place shaping

Core Policy 49 Protection of rural services and community facilities

Saved policy PS5 Educational Facilities

5. Summary of consultation responses

Salisbury City Council - Objection

SCC objects to this application.

WC Highways – No objection

I refer to the above mentioned application, to which, no Highway objection is raised.

WC Public Protection – No objection (subject to conditions)

I write with reference to a variation application for the above premises which proposes to Variation of condition 5 of planning permission 18/00376/FUL (Condition 4 of Variation of condition approval 18/10898/VAR) to allow the hours of play in garden nursery from 09:00 to 18:00 Monday to Friday

to allow the hours of play in the garden nursery from 09.00 to 18.00 Monday to Friday.

Currently the condition states 'The garden shall not be used for children's play outside the hours of 09.30 and 11.30, and between 14.30 to 16.00 Mondays to Fridays. The number of children able to play outside at any one time shall be restricted to a maximum of 15 at any one time.'

Whilst this department has not received any noise complaints following the initial condition variation application in 2018, given that the nursery garden is surrounded by residential properties we would recommend (if possible) that a condition is imposed to continue to restrict the amount of children outside at one time to 15 to minimise any noise disturbance to local residents and protect amenity levels, but that the garden can be used between the hours of 09.00 to 18.00 Monday to Friday.

A Noise Management Plan was originally suggested by Environmental Health. However, following subsequent discussions, this was considered to be difficult to enforce. The Environmental Health has also indicated that it does not wish to see amplified music played outdoors. Subsequently, the conditions suggested to Members at the end of this report have been agreed with Environmental Health.

6. Publicity

Neighbour / Third party representations

The application was advertised by neighbour notification letters. A petition letter citing concerns regards noise and the impact on residential amenity received 25 signatures. A further letter of objection was received citing concerns regards the justification of the proposal and regards to noise and the impact on residential amenity.

7. Planning Considerations

- Principle of development
- Planning history including relevant appeal decisions
- Noise and impact on residential amenity

8. Assessment

The current use of the site is a community facility, and the proposal may be considered acceptable in principle and in accordance with national planning policy regards sustainable and healthy communities, and the aims of local plan policies, particularly PS5 and CP49, provided the proposal does not unduly impact on residential amenity including the impact of noise, and provided highways/parking considerations are addressed.

The application site is a detached building which operates as a nursery and is situated within an established residential area in Harnham, Salisbury. The site has a varied planning history including appeal decisions. In 2013 the Planning Inspectorate allowed the erection of a log cabin to be used as ancillary school accommodation (appeal ref. APP/Y3940/A/12/2185530).

More recently, planning permission was granted for the erection of a single storey flat roof extension (LPA ref: 18/00376/FUL) which replaced the log cabin that was sited in the garden area. The application for the single storey extension (LPA ref: 18/00376/FUL) was assessed on the basis that there would not be an increase in pupil numbers.

A subsequent variation of condition application was submitted under LPA ref: 18/10898/VAR proposing an increase in pupil numbers to a maximum of 65. In the absence of any objections from WC Highways and WC Public Protection, the variation to increase pupil numbers was determined to be acceptable in principle and the application was approved with conditions.

The condition subject of this variation of condition application restricted the times of use of the garden and the number of children allowed to play outside at any one time. Condition 04 of the variation of condition application approved under LPA ref: 18/10898/VAR states:

04 The garden shall not be used for children's play outside the hours of 09.30 and 11.30, and between 14.30 to 16.00 Mondays to Fridays. The number of children able to play outside at any one time shall be restricted to a maximum of 15 at any one time.

REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.

This variation of condition application proposes to allow the hours of play in the garden nursery from 09.00 to 18.00 Monday to Friday. It is noted that planning approval under LPA ref: 18/00376/FUL for the extension to the building that replaced the log cabin in the garden had a similar condition (05), which reads:

05 The garden shall not be used for children's play outside the hours of 0900 to 1800 hours Mondays to Fridays.

REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.

The above condition actually originated from the Appeal Decision Letter (PINS Ref: APP/Y3940/A/12/2185530) and was imposed by the Planning Inspectorate having allowed the appeal of the refusal of planning permission under LPA ref: S/2012/574/FULL for the log cabin to the rear of the existing school to be used as ancillary school accommodation. The same condition was subsequently copied over to the decision notice of planning permission LPA ref: 18/00376/FUL for the extension that replaced the log cabin.

It is noted that preceding planning conditions originating from the appeal decision would have allowed unrestricted outside play time for up to 45 children at any time between 09:00hrs and 18:00hrs.

WC Public Protection have been consulted on this variation application and do not raise an objection subject to (in particular) a revised condition that would restrict the amount of children outside at one time to a maximum of 15 children, and restrict outdoor music.

In officers view such restrictions represents a benefit to neighbour amenity compared to the previous condition attached to the appeal decision by the Planning Inspectorate. The conditions at the end of this report have been agreed with the Environmental Health Officer.

The applicant has also stated that:

- There will be no more than 15 children in the garden at any one time.
- At all times the children are supervised and any increase in noise is dealt with straight away.
- All children will be staggered for the use of the garden.
- There will be no music at any time in the garden.
- All necessary actions will be taken to limit noise as this is a very important part of the childrens day and outside play is required for their health and wellbeing.

With regards to the alleged noise related complaints, officers are aware that since the 2018 planning approvals, two planning enforcement cases were opened in May 2019 and another in September 2019 which were dealt with accordingly. There does not appear to be any record on the WC Public Protection database of any complaints from local residents concerning noise from the nursery in recent years.

9. Conclusion (The Planning Balance)

The objections made by the neighbours are noted and have been taken into full consideration during the planning process. In the absence of an objection from WC Public Protection, and the ability to use conditions to control the use, the Local Planning Authority considers a refusal would be difficult to justify, particularly when this variation would provide a restriction on the number of children allowed outside play at any one time.

Consequently, subject to a suitable conditions as outlined below, the proposed variation of condition is considered to accord with the objectives of saved policy PS5 and core policies 49 and 57 of the Wiltshire Core Strategy and the aims of the NPPF. Therefore, the Local Planning Authority considers that this variation of condition application should be granted.

RECOMMENDATION:

Approve subject to conditions:

1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan Date rec. 24/06/2020

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

2 The maximum number of children permitted to attend the nursery at no. 18 Burford Road at any one time shall not exceed a maximum of 65.

REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.

3 There shall be no operational use of the nursery outside the hours of 07:00hrs and 19:30 hrs Mondays to Fridays, and none at all on Saturdays, Sundays and Public Holidays.

REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.

4 The garden and other outdoor space shall not be used by children outside the hours of 09:00hrs to 18:00hrs Mondays to Fridays. The number of children able to use the garden and other outdoor space at any one time shall be restricted to a maximum of 15 at any one time.

REASON: In the interests of the amenity of the area and to protect the living conditions of nearby residents.

5. No amplified music shall be played outside the main building or anywhere within the garden/amenity area serving the building.

REASON: In the interest of amenity.