

## REPORT TO THE EASTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	26 <sup>th</sup> April 2012
<b>Application Number</b>	E/2012/0204/FUL
<b>Site Address</b>	13 Manor Bridge Court, Tidworth SP9 7NH
<b>Proposal</b>	Change of use of garage to form a play room for childminding
<b>Applicant</b>	Tashees Little Tear-A-Ways
<b>Town/Parish Council</b>	TIDWORTH
<b>Grid Ref</b>	423557 149333
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Tom Wippell

### Reason for the application being considered by Committee

This application has generated a significant level of public interest.

### 1. Purpose of report

To consider the above application and the recommendation that planning permission be granted subject to conditions.

### 2. Report summary

The main issues in the consideration of this application are as follows:

1. Principle
2. Private covenants
3. Noise/disturbance from children
4. Noise/disturbance from additional traffic
5. Highway safety/parking

### 3. Site Description

The application relates to a detached dwelling with front and rear gardens, located at the end of a residential cul-de-sac in Tidworth. The property's driveway can accommodate 2-3 cars, and is accessed via a private hardstanding (serving 4 dwellings) at the bottom of the road. There are a further 3 on-street parking spaces close to the site, available for use by visitors / general public.

### 4. Relevant Planning History

None relevant to this application.

### 5. Proposal

The proposed development (now retrospective) seeks to convert the double garage at the front of the dwelling into a childminding business, accommodating a maximum of 6 children at any one time.



Site Location Plan

## 6. Planning Policy

Kennet Local Plan 2011: Policy PD1.

## 7. Consultations

Wiltshire Council Environmental Health - no objection subject to conditions:

“To ensure that the child minding business does not expand to a level that would be inappropriate for a residential area I recommend that conditions controlling the following matters are included on any planning permission granted:

- The operating hours of the business are 07:30 – 17:30 Monday to Friday excluding Bank Holidays.
- The maximum number of children being child minded at the premises should not exceed 6 at any time.

“I had considered the potential for excessive noise from children playing outside during the operating hours. However the property is a family house and noise from children playing would be expected in a family residential area. I do not consider that (a maximum of) 6 children would create a level of noise that would be detrimental to the area.

“Noise disturbance from vehicles on the street does not come under the remit of the Environmental Protection Act 1990 and I am therefore unable to comment on this.”

Wiltshire Council Highways – no objection:

The site has been visited and the childminding operation discussed with the applicant. The property has 3 – 4 remaining parking spaces, and typically when the childminding operation is in use there is only one car owned by the applicants on the parking area. There are

therefore 2 - 3 parking spaces for clients clear of the highway. There are also nearby layby areas on the adopted road which are suitable for clients to briefly park in to pick up or set down children. The use is low key, with not many children on site at one time.

Given these points I consider that the use can take place without highway detriment. I have no highway objections.

Tidworth Town Council - no objections. It brings much needed child-minding and local employment to the area. We are aware that the other residents of the close have concerns about the extra traffic and parking this activity brings and trust they will all try a little harder to resolve it amongst themselves.

## **8. Publicity**

The application was advertised by site notice and neighbour consultation.

15 letters of objection were received, with the main points of objection summarised as follows:

- Private covenants apply to this estate, which would restrict this property being used as a business
- The number of additional cars using the turning area is detrimental to highway safety
- Greater risk of cars causing damage to nearby properties
- Noise and disturbance from vehicles dropping off/picking up children
- Lack of parking on applicant's driveway
- Lack of on-street parking in cul-de-sac
- Visiting cars reduce privacy and shine headlights into the immediate neighbours' living rooms in the early morning/late afternoons
- Vehicles cause noise/disturbance on nearby roads, with children being dropped off/picked up in Pennings Road and walking through to Manor Bridge Court
- Visiting vehicles often block access to the shared driveway
- Fumes from extra cars are detrimental to residential amenity
- An extra parking space should be created in the applicant's garden
- Noisy builders when garage was being constructed
- Speeding cars
- Noise from children playing outside
- Devaluation of nearby properties
- Impact on sewage system

## **9. Planning Considerations**

### 9.1 Principle

In planning terms, if someone looks after a neighbour's children on the basis of an informal arrangement, there is little room for doubt that such a limited level of use would be *de minimis* and would therefore not require planning permission. In this case, it must now be considered whether this childminding business (for 6 children) has resulted in any significant harm to residential amenity and/or highway safety, above-and-beyond that which could be expected from a single dwelling, which would warrant refusing the application.

### 9.2 Covenants

Whilst objections have been received regarding covenants on the land, Members should note that building covenants are regarded as civil matters, and cannot be taken into account as a material planning consideration. Any private covenants restricting businesses on the housing estate should be taken up with the original builders (believed to be 'Heron Homes Limited').

### 9.3 Noise / Disturbance from children visiting the property

It should be noted that the valid concerns raised by the local residents in regard to the potential for noise/disturbance occurring from the childminding business have been fully assessed. However, it

is considered that the proposal will not result in any significantly harmful impact on the amenities of nearby residential properties.

The childminding business has a relatively small floorspace, with the number of children visiting the property at any one time limited to a maximum of 6. Noise and disturbance arising from this relatively small number of children is not considered to be significantly greater than what may be expected from a typical family-sized property such as this (i.e. the 'fall-back position'), even if/when the children are playing outside in the garden.

The Environmental Health Team raise no objections to the scheme, subject to the following conditions being added to any approval:

- The operating hours of the business shall be 07:30 – 17:30 Monday to Friday excluding Bank Holidays.
- The maximum number of children being child minded at the premises shall not exceed 6 at any time.

These conditions will allow the applicant to operate the business in line with OFSTED's independent recommendations for childcare provision, whilst at the same time ensuring that the local planning authority retains control over the premises in the interests of residential amenity. The applicant has viewed the suggested conditions and is happy for them to be added to any approval.

#### 9.4 Noise / Disturbance from traffic picking-up/dropping-off children

In terms of noise/disturbance caused by vehicles dropping-off/picking-up children, whilst it is accepted that the childminding business will result in more cars entering/leaving the cul-de-sac in the early morning/late afternoons, it is considered that due to the restricted number of children allowed at the property, the limited hours of use (i.e. 07:30 – 17:30 Monday to Friday excluding Bank Holidays) and the practical layout of the cul-de-sac with ample turning / manoeuvring room, the impact on residential amenity will not be significant enough to warrant refusing the application.

Environmental Health raise no comment on this issue, as noise disturbance from vehicles on the street does not come under the remit of The Environmental Protection Act 1990.

#### 9.5 Highway Safety / Parking

The site has been visited by the Council's Highways Officer and the business operations have been discussed with the applicant. It is considered that as the property has 2-3 visitor parking spaces for clients clear of the highway and there are also nearby layby areas on the adopted road which are suitable for clients to briefly park (to pick up or set down children); no objections are raised in terms of the impact on highway safety. The use is low key, and the limited number of children on site at one time (max 6) will not generate significant amounts of traffic.

As the property is located close to sustainable transport links such as bus routes and within walking distance of a large number of residential properties, it is considered that the site is acceptable from a sustainability perspective, as additional trips generated by visitors will be much less than if the childminding business was located in an out-of-town location.

Members should note that the applicant has offered to create a pedestrian gate at the top of the garden, so that children can be dropped off at the public visitor parking bays without going right down to the bottom of the cul-de-sac. However, as this pedestrian access would not require planning permission (under Householder Permitted Development Rights), Officers cannot consider this proposal as part of the planning application.

#### **RECOMMENDATION:**

That planning permission be GRANTED for the following reason:

The proposed development (now retrospective) seeks to convert the double garage at the front of the dwelling into a childminding business, accommodating a maximum of 6 children at any one time. It is considered that due to the relatively small scale of the childminding business, its limited operating hours and the adequate amount of on-site / public parking spaces nearby, the proposal would be acceptable in principle, would not cause any harm to residential amenity and would not cause any harm to highway safety. The development would therefore accord with the aims and objectives of the development plan, having regard in particular to policy PD1 of the Kennet Local Plan 2011.

And subject to the following conditions:

1. The use of the premises for childminding shall be limited to a maximum of six children at any one time.

REASON: To limit the intensity of use of the premises, to safeguard the amenity of neighbours and in the interests of highway safety.

2. When the childminding use hereby permitted ceases, the use of the property shall revert to a single dwellinghouse (Use Class C3).

REASON: In the interests of neighbouring amenity.

3. The childminding use hereby permitted shall only take place between the hours of 07:30 – 17:30 Monday to Friday and shall not take place at any time on Saturdays, Sundays and Bank or Public Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

4. This development shall be in accordance with the submitted drawings deposited with the Local Planning Authority on 20/02/12, unless otherwise agreed in writing by the Local Planning Authority.

REASON: For the avoidance of doubt.

5. **INFORMATIVE TO APPLICANT:**

Any business operations at the site other than that specified in the application documentation provided may be in breach of planning control and liable to enforcement action. In addition to the planning conditions, Section 79 of The Environmental Protection Act 1990 (legislation that operates outside of the planning system) identifies noise as a statutory nuisance. If a complaint of statutory nuisance is justified an Abatement Notice can be served upon the person responsible, occupier, or owner of the premises requiring that the Nuisance be abated. Failure to comply with an Abatement Notice is an offence and legal proceedings may result.

**Appendices:** None

**Background Documents Used in the Preparation of this Report:** None