

Report

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Report to:	Cambuslang and Rutherglen Area Committee
Date of Meeting:	15 April 2008
Report by:	Executive Director (Enterprise Resources)

Application No	CR/07/0393
Planning Proposal:	Use of Dwellinghouse for Child Minding Purposes (Maximum Number of Children Being 12)

1. Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Julie Wengenroth & Jean Stewart
- Location : 51 Hillend Road
Rutherglen

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) Grant Detailed Planning Permission (Subject to conditions – based on the conditions attached)

2.2. Other Actions/Notes

The Area Committee has delegated powers to determine this application.

3. Other Information

- ◆ Applicant's Agent:
- ◆ Council Area/Ward: 11 Rutherglen South
- ◆ Policy Reference(s): **Cambuslang/Rutherglen Local Plan 2002, Policies:**
RES9 – 'Residential Land Use Area'
DC1 and SLP6 – 'Development Control General'

South Lanarkshire Local Plan (Final after Modification) 2007, policies:

RES6 – 'Residential Land Use Area'
DM13 – 'Working from Home Policy'

◆ Representation(s):

- ▶ 1 Objection Letters
- ▶ 0 Support Letters
- ▶ 0 Comments Letters

◆ Consultation(s):

Environmental Services

Roads and Transportation Services (North Division)

Care Commission

Planning Application Report

1. Application Site

- 1.1. At the southern end of Hillend Road, Burnside, close to its junction with Upper Bourtree Drive, the application site relates to a detached bungalow and its associated rectangular curtilage which extends to approximately 420 square metres and is relatively level. The bungalow itself has a sandstone frontage, red 'rosemary' roof tiles and roughcast side and rear walls painted white. The property has been extended previously, this being evident by a rear extension and an attached garage at the northern side of the house.
- 1.2. The rear garden associated with the house is generally enclosed on all sides by timber 'overlap' screen fencing approximately 1800 mm high. It contains various items of children's play equipment, a shed adjacent to the common boundary with No. 53 Hillend Road and a timber deck area with garden furniture. Grass and bark chippings are the predominant ground covering materials.
- 1.3. The area surrounding the site is residential in character. In particular, the neighbouring bungalow at Number 53 is at a slightly higher level, has one side window (opaque glazed) facing the application site with their driveway and garage 'separating' the rear garden areas. Furthermore the neighbour has an additional fence on the south side of the driveway which helps provided total enclosure to their rear garden.
- 1.4. An entrance to St Marks Primary school and a small play area is approximately 180 metres north east of the site.
- 1.5. At present a child minding service operates from the application property 5 days a week (Monday to Friday) between 08-00hrs and 18-00hrs. This service has operated from the house for the last four and a half years, is operated by J Wengenroth and caters for a maximum of 6 children up to age 12. Of these six children three will be under school age with one possibly being under 12 months. The three other children will be school age and as such the care provided is primarily before and after school provision, holidays excluded.

2. Proposal(s)

- 2.1. It is now proposed to increase the number of children being cared for at the property by 100 percent to a maximum of 12 children. This will require an additional child minder to be registered at the property (J. Stewart). No external alterations are proposed, but in support of the application it has been advanced that:
 - ◆ In respect of the additional service to be provided, it will operate between the hours of 08-00 and 17-30 Monday to Friday and the age range of the children will be similar to that looked after at present. The service however does not operate on public holidays and for another five/six weeks during the year due to annual holidays.
 - ◆ Full time and part time 'places' will be provided at the nursery covering a range of hours. As a result drop off times and pick up times are staggered throughout the 'working' day.
 - ◆ The existing child minding service at present does not run to capacity and the children usually spend part of their day away from the premises e.g. at a play group, nursery or other outing.

- ◆ Children will have access to the rear garden (weather permitting) where they will be adequately supervised to ensure noise levels are not an issue.
- ◆ The Care Commission have already inspected the premises and advised that they, along with the rear garden, are considered suitable.
- ◆ Two rooms within the 7-apartment house will be dedicated to the child minding operation along with communal rooms such as the downstairs toilet and dining room.

2.2. In addition to the above the applicant has highlighted the differences between a child minding service/nursery and provided a typical timetable/daily plan for each child presently attending the existing child minding service.

3. Background

3.1. Local Plan Status

In terms of the adopted Cambuslang/Rutherglen Local Plan 2002 the site is within a Residential Land Use Area, policy RES9 (applicable). This policy seeks to protect the character and amenity of such areas by resisting proposals which will detract from it whilst supporting development which satisfies a range of criteria. In amplification of this the local plan acknowledges that a range of compatible uses such as schools, local shops and community, health and social facilities can be accommodated in residential areas.

3.2. The South Lanarkshire Local Plan (Final after Modification) 2007 has a similar residential land use policy (RES6) to the adopted local plan in that it opposes the loss of houses to other uses and resists development (bad neighbour) that would be detrimental to the amenity of those areas. Again however it is acknowledged that developments of an ancillary nature may be acceptable e.g. guest houses, children's nurseries, medical or dental surgeries etc with each application being treated on its own merit. Particular consideration however is given to the impact on residential amenity and/or proposed servicing and parking arrangements, and an assessment of the contribution of the proposal to meeting an identified local need.

3.3. In addition the South Lanarkshire Local Plan also has a policy directly regarding Home Working (policy DM 13). Again this policy has a number of criteria which any home working proposal has to comply with, including:

- a) No adverse impact on the residential amenity of neighbouring properties in terms of noise, disturbance, smell, etc as a result of the business or by visitors;
- b) No adverse impact on traffic or public safety resulting from traffic generated by the use
- c) Provision of satisfactory parking and servicing facilities;
- d) No adverse impact on neighbours caused by activities taking place outside normal working hours and weekends, and
- e) Storage of materials/vehicles to be satisfactorily accommodated on site without adverse impact on neighbouring properties.

3.4. Relevant Government Advice/Policy

None directly applicable given the scale and nature of the proposal.

3.5. Planning Background

No previous planning applications within the last ten years.

4. Consultation(s)

- 4.1. **SLC Roads and Transportation Services** – The applicant has a driveway adequate to provide off street parking for two vehicles which will accommodate staff parking. No objections are therefore offered.

Response: Noted.

- 4.2. **SLC Environmental Services** – Provide comments on the internal floor plan relative to access and egress considerations. In addition highlight appropriate ‘advisory’ notes.

Response: Noted. The internal arrangements are not pertinent to the assessment and determination of this application and will be properly addressed by Environmental Services and the Care Commission. In addition the suggested ‘Advisory’ Notes can be imposed should the application be determined favourably.

- 4.3. **Care Commission** – No response to request for observations sent 10th December 2007.

Response: Noted.

- 4.4. Overall none of the various consultees have generated comments that are prejudicial to the proposal.

5. Representation(s)

- 5.1. Statutory neighbour notification was undertaken following which one letter of objection has been received. The issues raised can be summarised as:

(a) No previous notification of existing child minding operation.

Response: As highlighted in paragraph 3.4 above there have been no previous planning applications relating to the application site within the last ten years. Consequently there has been no associated ‘neighbour notification’ to adjoining land owners/proprietors. It must be emphasised however this does not imply that the existing child minding service has been operating contrary to the provisions of the appropriate planning legislation. In this regard the operation of a child minding service from a house with only one carer does generally not constitute a material change of use of the dwellinghouse. I am therefore confident that the absence of any previous notification can be adequately explained and justified.

(b) Noise when children are outside is loud and frequently excessive to the point of being intolerable making use of garden impossible. Increase in number of children will exacerbate this situation.

Response: I acknowledge that with children playing outside it is more than likely that there will be a degree of noise. Clearly the main consideration is whether the level of noise is excessive or continuous to a degree that is intolerable and unacceptable due to its impact on neighbours’ amenity. In this respect I accept that this judgment is not easy as an individual’s perception of noise nuisance varies considerably depending on a range of factors.

At present the rear garden area is used by the existing children and a range of outside play equipment is provided. In this respect the maximum number of children in the garden could be six although given the variation in the pattern of children’s attendance and their daily routines, it is likely that the number of children in the garden at any one time will be less than six and the main hours of occupation will be in the afternoon during the ‘normal’ Monday to Friday working week. Clearly the use of the rear garden is not constant and to a high degree will be weather dependent.

Over the four and a half years that a child minding service has operated from the dwellinghouse the planning service has received no complaints regarding noise or other concerns. Furthermore although four neighbours adjoining the rear garden area were notified of the application, only one has lodged representation. This itself does suggest that the generation of noise is not viewed as a common concern by all residents adjoining the rear garden.

The objector's property is to the south of the application site and at a slightly higher level. Between the respective rear garden areas there is a boundary fence, the side elevation of a garage and a further fence separating the neighbour's driveway from their rear garden. At present there are therefore a number of 'sound barriers' between the rear gardens. In addition the objector's rear garden adjoins Upper Bourtree Drive and it is therefore likely to experience a degree of traffic noise throughout the day. Clearly there are a number of factors that may either help mitigate noise from children playing or will themselves generate noise in the objector's rear garden which may dilute or mask (in whole or part) any noise from children playing.

Given the above factors I am of the view that on balance, the physical characteristics of the site and its surrounds, along with all other related matters, are sufficient to ensure that the existing use of the garden can co-exist satisfactorily without prolonged or excessive noise nuisance to neighbours. Clearly however a condition limiting the number of children over the age of two within the garden to a maximum of six at any one time would be practical and appropriate to ensure that whilst the number of children being looked after at the property increases, there is no corresponding intensification of use of the rear garden or impact on neighbours when compared with the existing situation.

(c) Increased vehicles associated with the dropping off or collection of children; likelihood of driveway being blocked.

Response: Again with the increased number of children proposed it is likely that there will be a corresponding increase in the number of vehicles arriving at and departing the site throughout the working day. In this respect arrival and departure times will be staggered (primarily in the morning and evening) thereby reducing further the level of impact. In addition the local road network is capable of accommodating the modest increase proposed without adverse traffic conditions arising. In this connection I acknowledge that the local roads surrounding the site are used as a 'rat run' to miss the traffic light controlled junction at Burnside/Blairbeth Road as well as being used by parents dropping children off at the nearby school. Nevertheless the road network does have capacity to accommodate the limited increase in use that would arise from the proposal. Indeed Roads and Transportation Services have offered no adverse comments in response to the proposal.

(d) Pavement parking with resultant effect on pedestrians.

Response: It is acknowledged that even although it is contrary to the Highway Code, some car owners habitually park their car with two side wheels on the pavement. This does reduce the width of the pavement but unless the driver has been totally insensitive to the needs of pedestrians it is usually possible to pass by the car without too much difficulty. Irresponsible parking such as this is however for other Regulatory Authorities to address.

- 5.2. Overall I am of the view that the issues raised in the representation received are not, on their own, of sufficient weight or merit to overcome the normal presumption that exists in favour of issuing consent where development accords with the Development Plan, especially as certain aspects can be satisfactorily addressed and controlled by the imposition of appropriate conditions.

6. Assessment and Conclusions

- 6.1. As with all planning applications there is a statutory requirement to consider and assess the proposal in relation to the provisions of the development plan and all other material planning considerations. In this respect the policies of the adopted local plan must be afforded greater weight than the South Lanarkshire Local Plan (Final after Modification) but nevertheless the latter local plan is still a significant material consideration.
- 6.2. The site is undoubtedly within a residential land use area. Consequently, local plan policy is geared, in the first instance, towards protecting residential amenity. Both local plans do however accept and acknowledge that uses compatible with residential areas could be accommodated. In this connection uses such as schools children's nurseries and other 'local' facilities are identified as being compatible.
- 6.3. Since 1996 the Council have approved a number of planning applications for children's nurseries in established residential areas; indeed one such application related to a large property in the adjoining street of Upper Bourtree Drive. With such applications it was not unusual to receive representation from neighbours and amongst such objections, similar issues to those raised with this application were lodged. In this regard and having monitored these consents, it would appear that the perceived concerns have not materialised to a significant extent or degree. On this basis I am persuaded that in principle the use of the property for childminding purposes can co-exist with other detached properties and therefore the principle of the development is acceptable.
- 6.4. Clearly the impact of the proposal on the amenity of the locality whether as a result of child noise or traffic, is a prime consideration and this will be directly related to the number of children attending the service. This has been discussed in detail with the applicant and in response to the concerns expressed in the representation received, it has been accepted that appropriate conditions limiting the number of children attending the house at any one time to a maximum of ten whilst limiting those in the garden to a maximum of six (babies under two years of age excluded) would help reduce the impact of the proposal. This in my opinion is significant and will help ensure that the intensification of use is contained within acceptable levels.
- 6.5. Policy DM 13 (Working From Home policy) is also important. Although this is not yet adopted as Council planning policy, significant progress has been made towards this and therefore it is an important material consideration. In this respect the applicants will essentially be working from their home and therefore their application must be considered against all the relevant criteria listed in paragraph 3.3. In this regard I am of the view that with appropriate conditions the proposal accords with this policy. In particular the impact on residential amenity will be contained within acceptable limits; no adverse traffic conditions will be generated; satisfactory off street car parking exists and the child minding service will operate 'normal' hours Monday to Friday only.

6.6. The representation received has received due and careful consideration and for the reasons highlighted in section 5, I am of the opinion that the provisions of the local plan must prevail and there are no other material planning considerations of sufficient weight or merit that would justify the refusal of consent. On this basis therefore I am of the view that the issue of planning consent is appropriate and entirely justified given all material planning considerations.

7. Reasons for Decision

7.1. The proposal accords with the relevant policies of both the adopted and replacement local plan and its impact in terms of residential amenity can be contained to an acceptable degree and extent by the imposition of the recommended conditions.

Iain Urquhart
Executive Director (Enterprise Resources)

8 April 2008

Previous References

♦ None

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ Neighbour notification certificate dated 26th November 2007
- ▶ Cambuslang/Rutherglen Local Plan 2002
- ▶ South Lanarkshire Local Plan (Final after Modification) 2007
- ▶ E-mail dated 7th January 2008 to Jean Stewart
- ▶ Letter received 16th January 2008 from applicants
- ▶ E-mail dated 6th March 2008 from Jean Stewart

- ▶ Consultations
 - Environmental Services 17/12/2007
 - Roads and Transportation Services (North Division) 04/01/2008

- ▶ Representations
 - Representation from : Robert E Baillie, 53 Hillend Road
High Burnside
Glasgow
G73 4JS, DATED 17/12/2007

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Steven Clark, Planning Officer, 380 King Street, Rutherglen
(Tel :0141 613 5140)
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Detailed Planning Application

PAPER APART – APPLICATION NUMBER: CR/07/0393

CONDITIONS

- 1 That the use hereby permitted shall be instituted within five years of the date of this permission.
- 2 That the opening hours of the premises hereby granted consent shall be limited to between 08-00 hrs and 18-00hrs Monday to Friday only.
- 3 That the number of children over two years of age within the rear garden area at anyone time shall not exceed six and at all times these children should be appropriately supervised in order to reduce and control any noise arising from the said garden.
- 4 That notwithstanding the description of the consent hereby applied for, the maximum number of children at the dwellinghouse at any one time shall not exceed ten.

REASONS

- 1 To accord with the provisions of the Town and Country Planning (Scotland) Act 1997.
- 2 To safeguard the amenity of the area.
- 3 In the interests of the amenity of the adjoining residential area.
- 4 In the interests of the amenity of the adjoining residential area.

For information only

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