

	<h1>Report</h1>	<b>Agenda Item</b>  <h1>12</h1>
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Report to: **Planning Committee**  
 Date of Meeting: **03/11/2009**  
 Report by: **Executive Director (Enterprise Resources)**

Application No CR/09/0110  
 Planning Proposal: Change of Use of Dwellinghouse to Children's Nursery

## 1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : The Tree House Children's Nursery
- Location : 2 Bay Willow Court  
Cambuslang

## 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 conditions attached)

### 2.2 Other Actions/Notes

- (1) The Planning Committee has delegated powers to determine this application

## 3 Other Information

- ◆ Applicant's Agent: Mr. Frank McCabe
- ◆ Council Area/Ward: 14 Cambuslang East
- ◆ Policy Reference(s): **South Lanarkshire Local Plan (adopted 2009)**  
Policy RES6 – Residential Land Use  
Policy ENV11 – Design Quality  
Policy DM1 – Development Management

### ◆ Representation(s):

- ▶ 9 Objection Letters
- ▶ 4 Support Letters
- ▶ 1 Comments Letter

### ◆ Consultation(s):

Environmental Services

Care Commission

Scottish Water

Roads and Transportation Services (North Division)

## **Planning Application Report**

### **1 Application Site**

- 1.1 The application site is located within Drumsagard Village to the north of the amenity space off Elder Crescent. It is located at 2 Bay Willow Court on the eastern side of the entrance to the cul de sac.
- 1.2 The property is currently vacant and although it was constructed for use as a dwellinghouse has never been occupied. Within the cul de sac there are twenty other dwellinghouses.
- 1.3 The property is two storeys in height with additional accommodation in the roofspace. It has an integral garage with off-street parking for three cars to the front of the house.

### **2 Proposal**

- 2.1 The applicant seeks planning permission to change the use of the dwellinghouse to children's nursery. To the front of the house three off street parking spaces would be formed. However to meet Roads and Transportation requirements for off street parking the applicant submitted amended plans for the existing integral garage to be altered to form a pend access to allow vehicular access to the rear of the property for off street parking. Within the rear garden area parking for seven vehicles would be formed and to the rear of the rear parking court an outdoor play area would be formed.
- 2.2 The applicant proposes to care for 30 children and there would be 6 staff. The nursery would be open from 8 a.m. to 6 p.m. Monday to Friday inclusive.
- 2.3 In support of the planning application the applicant has provided a letter from Strathclyde Police stating that from 1 June 2008 to 30 July 2009 there have been 17 incidents reported regarding a number of matters including flooding within the premises, suspect persons, damage to the property, reported break-ins, youths congregating and youth disorder; and that the property has generated a substantial demand on Police time.
- 2.4 In addition to this letter the applicant has also submitted an email from Robert Brown MSP indicating that it is his view that there is an ongoing shortage of suitable nurseries in the area but that the proposal's impact on the amenity and parking will have to be properly assessed.

### **3 Background**

#### **3.1 Local Plan Status**

- 3.1.1 Within the adopted South Lanarkshire Local Plan the application site is located within a general residential area and is affected by Policy RES6 – Residential Land Use. Within these areas, the Council will oppose the loss of houses to other uses and will resist any development that will be detrimental to the amenity of those areas. Developments of an ancillary nature may be acceptable e.g. guest houses, children's nurseries medical or dental surgeries. However each application will be judged on its own merits with particular consideration 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.
- 3.1.2 All new development must comply with Council design policies as set out in Policy ENV11 – Design Quality and Policy DM1 – Development Management

### **3.2 Relevant Government Advice/Policy**

3.2.1 None of particular relevance in this instance.

### **3.3 Planning Background**

3.3.1 Planning permission was granted in March 2002 for the erection of a dwellinghouse with integral garage (Planning Application No. CR/01/0221). A further planning application was approved in October 2003 to amend the design of the house (Planning Application No. CR/03/0248).

## **4 Consultations**

4.1 **Roads and Transportation Services** – initially objected to the proposed development on the basis that there was insufficient parking and road safety concerns regarding the visibility splays and the property's proximity to the road junction. However on submission of a revised layout demonstrating the use of a pend access to an additional rear parking court Roads and Transportation Services have no objections to the proposal subject to the parking area being formed to their satisfaction. Some of the parking bays require to be repositioned to meet their standards.

**Response:** Noted. Amended plans have been submitted to meet Roads and Transportation Services requirements.

4.2 **Environmental Services** – have no objections to the proposed development so long as conditions are imposed to control noise and waste and advisory notes are attached in respect of health and safety at work and food safety.

**Response:** Noted. If planning permission is granted these conditions and advisory notes shall be attached.

4.3 **Care Commission** – has indicated that the internal layout of the proposed facility is not acceptable and requires revision.

**Response:** Noted. The internal layout can be amended to meet the Care Commission's requirements if planning permission is granted.

4.4 **Scottish Water** – no reply.

**Response:** Noted.

## **5 Representations**

5.1 Statutory neighbour notification was undertaken and six letters of objection were received from adjoining neighbours and four letters of support. On receipt of the amended plans for the rear parking court the adjoining neighbours and parties that had lodged a letter of objection were re-notified. Three further letters of objection were received from previous objectors, making a total of nine letters of objection received. In addition to these letters, a letter of representation was also received from the Drumsagard Village Residents Association.

5.2 The grounds of concern are summarised below:

**(a) This commercial enterprise would be located within a residential area and is not appropriate.**

**Response:** Noted. This matter will be fully considered in the Assessment and Conclusions section of the report.

**(b) The proposed development would be detrimental to the safety of children walking to school along Elder Crescent and those that play within Bay Willow Court itself particularly given the bottle neck access into the cu-de sac.**

**Response:** After consultation Roads and Transportation Services were satisfied that the proposed development would not be detrimental to road safety.

**(c) There is insufficient parking and manoeuvring space to service this proposal adequately even with the amended layout and notwithstanding the parking will not be properly used to the detriment of the existing residents in the street.**

**Response:** The plans have been amended to provide a rear parking court through a new pend access in the building and Roads and Transportation Services are satisfied that the revised parking and manoeuvring space for the development is now acceptable. Conditions can also be imposed requiring these parking and access arrangements to be in place before the use starts.

**(d) The existing sewerage system will not be able to cope with this proposal.**

**Response:** Whilst Scottish Water have been consulted and have made no comment on this matter if planning permission is granted appropriate conditions shall be imposed to ensure an adequate drainage system is in place to service this development.

**(e) The deed of the condition of the sale of the land states that each unit (plot) shall be used solely as a private dwellinghouse and for no other purpose, nor shall the units be sub-divided or occupied by more than one family at a time; that no trade or business of any kind shall be carried on in the development subjects and that nothing may be done that may be reasonably deemed a nuisance or may occasion disturbance to any other properties. In addition it is understood there is a no parking clause on Bay Willow Court itself.**

**Response:** Whilst the objector's concerns are noted these are not planning considerations and are a separate legal matter that require to be resolved by the parties involved.

**(f) There will be a great increase in road traffic, noise and congestion to the detriment of the amenity and health of existing residents in the street. Nurseries operate seven days a week.**

**Response:** Noted. This matter will be fully considered in the Assessment and Conclusions section of the report. However it is noted that the nursery would only operate from Monday to Friday and condition can be imposed to control this.

**(g) These houses are expensive and have been purchased in an area where we would expect to avoid the constant inconvenience this nursery will cause.**

**Response:** The cost of these properties is not a planning consideration however the proposed development's impact on amenity is a relevant planning consideration and will be fully considered in the Assessment and Conclusions section of the report.

**(h) At the moment dwellinghouses of this size are rare and this one would certainly benefit a large family.**

**Response:** Market conditions are not a planning consideration.

**(i) All the residents within Bay Willow Court should have been neighbour notified of the proposal.**

**Response:** The required statutory neighbour notification has been properly carried out.

- 5.3 In terms of the letter of representation from the Drumsagard Village Residents Association, the Association has stated that it has no objection in principle to the change of use, as the property has been an eyesore and has had a detrimental effect on the development as a whole for many years in its present condition. However the DVRA also states that it would be preferable for the property to remain as a dwellinghouse unless the following issues can be resolved:

(a) it could cause problems in the future as a precedent would be set.

**Response:** Each case is judged on its own individual merits.

(b) there is insufficient parking for parents or staff.

**Response:** The applicant has amended the plans to provide a parking court to the rear of the house and after consultation Roads and Transportation Services are satisfied that a sufficient number of parking spaces have been provided.

(c) the level of traffic will be much greater.

**Response:** After consultation Roads and Transportation Services had no objections to the proposed development.

(d) the proposed development may be detrimental to the existing standards of access and egress the other residents within Bay Willow Court currently experience

**Response:** After consultation Roads and Transportation Services had no objections to the proposed development.

- 5.4 In terms of the letters of support, the grounds raised are summarised below:

**(a) The property has been an eyesore and has attracted a lot of unwelcome attention whilst lying empty and its occupation and upgrading will improve the amenity of the area.**

**Response:** Noted.

These letters have been copied and are available for inspection in the usual manner.

## **6 Assessment and Conclusions**

- 6.1 The applicant seeks planning permission for a change of use of dwellinghouse to children's nursery. The applicant has stated there will be 30 children and 6 staff and that the nursery would operate between 8 a.m. and 6 p.m. Monday to Friday. The main determining issues in assessing this planning application are compliance with local plan policy, road safety and impact on the residential amenity of the area.
- 6.2 The application site is located within a general residential area and developments of an ancillary nature such as a children's nursery can be acceptable in these areas as they may serve local needs. Under Policy RES6 – Residential Land Use of the adopted local plan the following criteria must be considered:

- The proposed development must relate satisfactorily to adjacent and surrounding development in terms of scale, massing, materials and intensity of use, except in circumstances where the existing local characteristics are considered to be of poor quality or detrimental to the overall character of the area. In such cases, the new development should be of good quality design and enhance the environment in which it is located.

**Response:** The proposed development involves the change of use of an existing building with minor alterations to the rear and front elevations of the building. It is therefore considered that the scale, massing and materials of the

proposal are acceptable. In terms of intensity of use the building would be used for commercial purposes and the rear garden of the house would become a parking court and play area. Therefore activity within and around the building would be greater and criteria two below requires detailed assessment.

- The character and amenity of the area must not be impaired by reason of traffic generation, parking, visual intrusion, noise or emission of gases or particulates.

**Response:** After consultation Environmental Services did not consider that the proposed development would be likely to raise any nuisance in terms of noise during the hours of operation and were satisfied that the proposal could be effectively mitigated through the use of an appropriate condition to control noise. This condition has been attached. Furthermore in terms of traffic generation it is likely that the main areas of activity would be at the start and the end of the day. Given the property is located at the entrance to the cul-de-sac and Roads and Transportation Services are satisfied that there is sufficient off-street parking and manoeuvring within the site to service the proposal, the additional traffic generated by the proposal can therefore avoid passing the other properties within Bay Willow Court, thus minimising any potential nuisance and so avoiding the development having a significant or material impact on its character and amenity.

- There must be no resultant loss of, or damage to, open or play spaces, trees, bushes or hedgerows which make a significant contribution to the character or amenity of the area.

**Response:** Although the proposed development would alter the rear garden area in order to provide a parking and a play area it would not result in the loss of any trees, shrubs or hedgerows or any open space within the estate.

- The development must be adequately serviced in terms of cycle, pedestrian and vehicular access, parking and accessibility to public transport.

**Response:** After consultation Roads and Transportation Services were satisfied that the proposed development was acceptable.

- There must be no adverse effect on public safety.

**Response:** After consultation Roads and Transportation Services were satisfied that the proposed development would not be detrimental to public safety.

6.3 Further policy guidance is provided in Policy DM1 – Development Management of the adopted local plan on assessing planning applications to ensure that the local context and built form is protected. The criteria listed in this policy do not raise any issues in respect of this application that have not already been considered or raise any new issues that would generate any concern in respect of the proposal.

6.4 In terms of Policy ENV11 – Design Quality of the adopted local plan it is a requirement that all new developments make a positive contribution to the character and appearance of the urban or rural environment in which they are located. Given the building has been unoccupied and attracted a lot of unwelcome attention in the past it is considered that its occupation and use would be a positive benefit to the area.

6.5 In relation to the proposal's parking and servicing arrangements Roads and Transportation Services were consulted and have no objection to the proposed

layout. Although concerns were raised initially regarding the amount of parking shown the applicant increased the number of spaces to 10 and Roads and Transportation Services are now satisfied that sufficient parking and maneuvering has been provided.

- 6.6 In terms of impact on residential amenity nine letters of objection have been received from six of the remaining twenty residents within Bay Willow Court. Valid concerns have been raised regarding the proposal's impact on the amenity of the area but having considered the comments from Environmental Services I consider that the proposed development would not generate any significant or material nuisance in terms of noise that cannot be controlled by condition (condition attached); and Roads and Transportation Services are satisfied that the proposal can accommodate the additional traffic generated satisfactorily. It is considered therefore that any impact generated would not be significantly detrimental to the area's amenity. Furthermore it is noted that four of the residents within the cul-de-sac have written letters of support commenting that the proposed development would make a positive contribution to the area given the building's present vacant state.
- 6.7 It is therefore considered that the proposal would not be significantly detrimental to the residential amenity of the area, it would remove an eyesore from the locality and would provide a community facility for the area. For the reasons detailed above it is recommended that planning permission is granted.

## **7 Reason for Decision**

- 7.1 The proposed development is in accordance with Policies RES6, ENV11 and DM1 of the adopted South Lanarkshire Local Plan 2009 and would not have an adverse impact on road safety or the residential amenity of the area.

**Colin McDowall**  
**Executive Director (Enterprise Resources)**

**27 October 2009**

## **Previous References**

- ◆ CR/01/0221
- ◆ CR/03/0248

## **List of Background Papers**

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Plan 2009
- ▶ Consultations

Environmental Services 02/06/2009

Roads and Transportation Services 16/06/2009  
24/07/2009

Care Commission 15/06/2009

- ▶ Representations

Representation from : Carin McCullagh, 17 Bay Willow Court



Cambuslang G72 7AD, DATED 19/05/2009

- Representations from : Arlene Campbell, 21 Bay Willow Court  
Cambuslang G72 7AD, DATED 19/05/2009 and 27/09/2009
- Representations from : Mr. Derek Menzies, 19 Bay Willow Court  
Cambuslang G72 7AD, DATED 01/06/2009 and 7/10/2009
- Representations from : Russ and Rita Johnston, 9 Bay Willow Court  
Cambuslang G72 7AD, DATED 27/05/2009 and 30/09/2009
- Representation from : Mr. Khalid Parvez, 16 Bay Willow Court  
Cambuslang G72 7AD, DATED 27/05/2009
- Representation from : Mrs. F Parveen, 12 Bay Willow Court  
Cambuslang G72 7AD, DATED 15/06/2009
- Representation from : Mr. A. Williamson, 5 Bay Willow Court  
(Support) Cambuslang G72 7AD, DATED 1/08/2009
- Representation from : Mr. and Mrs. G Holmes, 4 Bay Willow Court  
(Support) Cambuslang G72 7AD, DATED 30/07/2009
- Representation from : Stuart Taylor, 8 Bay Willow Court  
(Support) Cambuslang G72 7AD, DATED 30/07/2009
- Representation from : Austin and Anne-Marie Coyle, 1 Bay Willow Court  
(Support) Cambuslang G72 7AD, DATED 30/07/2009
- Representation from : Drumsagard Village Residents Association, DATED  
(Comments) 23/05/2009

### **Contact for Further Information**

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

Gwen McCracken, Team Leader, Royal Burgh House, 380 King Street, Rutherglen G73 1DQ  
Ext 5140 (Tel :0141 613 5140 )  
E-mail: Enterprise.cam-ruth@southlanarkshire.gov.uk

Detailed Planning Application

PAPER APART – APPLICATION NUMBER : CR/09/0110

### **CONDITIONS**

- 1 This decision relates to drawing numbers:  
Sheet 1 of 3  
Sheet 2 of 3  
Sheet 3 of 3
- 2 The use hereby permitted shall be instituted within three years of the date of this

permission.

- 3 That the development shall be carried out strictly in accordance with the plans hereby approved and no change to the design or external finishes shall take place without the prior written approval of the Council as Planning Authority.
- 4 That the use of the children's nursery hereby permitted shall be restricted to an occupancy capacity of no more than 30 children.
- 5 That before the development hereby approved is completed or brought into use, all of the parking spaces shown on the approved plans shall be laid out, constructed and thereafter maintained to the specification of the Council as Roads and Planning Authority.
- 6 Prior to the development being brought into use, details of the storage of waste arising from the commercial activity shall be submitted to and approved in writing by the Council as Planning Authority. The agreed details shall be in place prior to the development being brought into use.
- 7 Between the hours of 0800 and 2000 the measured noise level emitted from the premises (LAeq (1hour)) shall not exceed the pre-existing background noise level (LA90(1/2hour)) by more than 4dB (A) when measured in accordance with BS4142:1997 at buildings where people are likely to be affected.  
Between the hours of 2000 and 0800 the noise emitted from the premises (LAeq (5mins) ) shall not exceed the pre-existing background noise level (L A90 (1/2hour)) by more than 4dB(A) when measured in accordance with BS4142:1997 at buildings where people are likely to be affected.
- 8 The use of the premises (with the exception of maintenance works not audible outside the premises), shall be restricted to the following hours of operation:  
Mondays to Fridays: Between 8:00 and 18:00
- 9 That before any work commences on the site the following details shall be submitted to and approved in writing by the Council as Planning Authority:  
1) the design and construction of the pend access;  
2) any fencing to be erected; and  
3) the materials to be used for the hard surfacing of the off street parking.  
The building shall not be brought into use until the pend, fencing and off street parking is formed to the satisfaction of the Council as Planning Authority.
- 10 That no development shall commence on site until the applicant provides written confirmation from Scottish Water to the Council as Planning Authority that the site can be satisfactorily served by a sewerage scheme designed in accordance with Scottish Water's standards.

## REASONS

- 1 For the avoidance of doubt and to specify the drawings upon which the decision was made.
- 2 To comply with section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.
- 3 In the interests of amenity and in order to retain effective planning control.
- 4 In the interests of amenity and in order to retain effective planning control.

- 5 To ensure the provision of adequate parking facilities within the site.
- 6 To minimise nuisance, littering and pest problems to nearby occupants.
- 7 To minimise noise disturbance to adjacent occupants.
- 8 To minimise noise disturbance to adjacent occupants.
- 9 In the interests of amenity and in order to retain effective planning control.
- 10 To ensure that the disposal of surface water from the site is dealt with in a safe and sustainable manner, to return it to the natural water cycle with minimal adverse impact on people and the environment and to alleviate the potential for on-site and off-site flooding.

For information only

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