

# TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

<b>Committee:</b>	Planning
<b>Date:</b>	21 December 2021
<b>Site Location:</b>	3 Greenway Close Shurdington
<b>Application No:</b>	21/00582/FUL
<b>Ward:</b>	Shurdington
<b>Parish:</b>	Shurdington
<b>Proposal:</b>	Change of use from residential to dual use (Residential/Childminding Business).
<b>Report by:</b>	Victoria Stone
<b>Appendices:</b>	Site Location Plan Block Plan Ground Floor Plan
<b>Recommendation:</b>	Permit

## 1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application relates to a link-detached bungalow which is located along Greenway Close in Shurdington (see Site Location Plan).
- 1.2 The application site benefits from three off-road parking spaces and a private rear garden.
- 1.3 The application site is not subject to any landscape designations.
- 1.4 The application seeks permission for the change of use of the dwelling for the use as both a childminding service and to retain the residential use.
- 1.5 The applicant currently runs a childminding service at the dwelling for up to six children aged 8 years and under. The sitting room has been converted as a dedicated room for the business. The rear garden is also used in connection with the childminding business.
- 1.6 The service currently cares for children between the hours of 7:30am until 5.30pm, Monday – Fridays only.
- 1.7 This application has been submitted because the applicant would like to expand the childminding service to allow a maximum of twelve children aged 8 years to be cared for at the property. An assistant would also be employed at the site. Officers consider the proposed expansion of the existing childminding service would result in a material change in use of part of the property therefore planning permission is required.
- 1.8 No changes to the hours of operation are proposed.

**1.9 A committee determination is required as Shurdington Parish Council have objected to the application.**

**2.0 RELEVANT PLANNING HISTORY**

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
19/00657/FUL	Erection of a conservatory to rear.	PERMITTED	09.09.2019

**3.0 RELEVANT POLICY**

The following planning guidance and policies are relevant to the consideration of this application:

**3.1 National guidance**

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG)

**3.2 Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) – Adopted 11 December 2017**

- Policy SD1 (Employment)
- Policy SD14 (Health and Environmental Quality)
- Policy INF4 (Transport Network)
- Policy INF4 (Social and Community Infrastructure)

**3.3 Tewkesbury Borough Local Plan to 2011 – March 2006 (TBLP)**

- Policy GNL17 (Pre-school Childcare Facilities)

**3.4 Main Modification Tewkesbury Borough Plan 2011-2031 Pre-submission Version (October 2019) (MMTBP)**

- Policy TRAC9 (Parking Provision)

**3.5 Other relevant policies/legislation**

- Human Rights Act 1998
- Article 8 (Right to Respect for Private and Family Life)
- The First Protocol - Article 1 (Protection of Property)

## 4.0 CONSULTATIONS

Full copies of all the consultation responses are available online at <https://publicaccess.tewkesbury.gov.uk/online-applications/>.

### 4.1 Shurdington Parish Council – Reluctantly object to the application for the following reasons:

- Impact of the proposal would be very much to the detriment of local residents
- Greenway Close, a small residential cul-de-sac, is already subjected to disruption owing to its use as a vehicle drop-off area for Shurdington Primary School; this application has the potential to make the situation worse for the local residents
- The property and garden do not appear to be sufficiently large enough to accommodate twelve children
- Pollution to the children whilst playing in the garden due to the close proximity to the A46
- Noise generated by the number of children proposed would be detrimental to the adjacent residents.

### 4.2 County Highway Authority – No objection.

### 4.3 Environmental Health Officer (Noise/Nuisance) – No nuisance complaints have been received to date. However, the intensification of activities may adversely impact neighbouring residents therefore the decision to grant permission is a matter of future residential amenity.

### 4.4 Environmental Health Officer (Air Quality) – No adverse comments.

## 5.0 PUBLICITY AND REPRESENTATIONS

Full copies of all the representation responses are available online at <https://publicaccess.tewkesbury.gov.uk/online-applications/>.

### 5.1 The application has been publicised through the posting of a site notice for a period of 21 days.

### 5.2 One representation objecting to the application has been received. The comments are summarised below:

- Twelve children in such a small area would be too many
- Development would exacerbate disruption caused by existing school parking
- Harmful to residential amenity - noise

## **6.0 POLICY CONTEXT**

- 6.1** Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.2** The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans.
- 6.3** The Tewkesbury Borough Plan (TBP) has reached an advanced stage. The Pre-Submission TBP was submitted for examination in May 2020. Examination in Public (EiP) took place over five weeks during February and March 2021. The examining Inspector's post hearings Main Modifications letter was received on 16th June 2021. In this letter the Inspector provided his current view as to what modifications are required to make the Plan 'sound'.
- 6.4** A schedule of Main Modifications to the Pre-submission TBP were approved at the meeting of the Council on 20th October 2021 and is now published for consultation as the Main Modifications Tewkesbury Borough Plan (MMTBP).
- 6.5** Those policies in the MMTBP which were not listed as requiring main modifications may now attract more weight in the consideration of applications, with those policies which are subject to main modifications attracting less weight depending on the extent of the changes required. The TBP remains an emerging plan and the weight that may be attributed to individual policies (including as with modifications as published for consultation) will still be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and the degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 6.6** The relevant policies are set out in the appropriate sections of this report.
- 6.7** Other material policy considerations include national planning guidance contained within the National Planning Policy Framework 2021 and its associated Planning Practice Guidance (PPG), the National Design Guide (NDG) and National Model Design Code.

## **7.0 ANALYSIS**

- 7.1** The NPPF sets out that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, inter alia, ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.
- 7.2** Policy INF4 of the JCS states that everyone living and working in the JCS area should have access to facilities that meet their everyday needs. These include, amongst other things, children's creche and play provision. By providing and helping to maintain social and community infrastructure, development has an importance role in promoting social well-being and creating healthy, inclusive communities.

- 7.3** Saved Policy GNL17 of the Tewkesbury Borough Local Plan to 2011 (TBLP) relates specifically to childcare facilities and sets out that planning permission will be granted for new pre-school childcare facilities subject to compliance with several requirements. These are:

Safe provision is made for vehicle dropping off/collection of children and adequate off-street parking is available

- 7.3.1** One off road parking space would be available for parents/carers during the drop off/collection times, if required. The applicant has said that currently only one parent drops off/collections their child at any one time, and they park on Greenway Close, outside the property. It is likely that an increase in the number of children being cared for at the property may result, on some occasions, parents/carers having to park along Greenway Close. However, this road has unrestricted parking and is subject to a 30mph speed restriction.
- 7.3.2** Further, it is unlikely that the children would be from twelve different families, as the applicant may care for sets of siblings which only require one drop off and collection, hence it's not necessarily one car per child. In addition, drop off/collections tend to be staggered, and by nature would only be for short periods of time.
- 7.3.3** Gloucestershire County Council have been consulted as the Local Highway Authority. They conclude that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion and therefore there are no justifiable grounds on which an objection could be maintained.
- 7.3.4** The concerns raised by Shurdington Parish Council and local residents regarding the parking issues and highway impacts are noted. However, for the reasons set out above officers consider that the development should not adversely compromise highway safety.

The premises are safely, easily and conveniently accessed by all means of transport

- 7.3.5** The application site is located within the village of Shurdington, within close proximity to the main residential area. The site is in close walking distances to the services and amenities in the village and access to sustainable means of transport. Accordingly, the site is in an accessible location.

Noise, both from inside the building and the garden/outdoor area does not cause an unacceptable level of disturbance to the residents of surrounding property

- 7.3.6** Pre-school childcare facilities can, by their very nature, raise issues related to noise and disturbance from both vehicle movements and children.
- 7.3.7** The Council's Environmental Health Officer (EHO) set out that the intensification of activities at the site may adversely impact neighbouring residents. However, there are no recognised standard for assessing 'people noise' and therefore the decision to grant the permission is a matter of future residential amenity. If the application is granted and nuisance complaints are subsequently received, then these would be investigated under the nuisance provisions of the Environmental Protection Act 1990. The EHO also confirmed there has been no nuisance complaints related to the property.

- 7.3.8** In terms of the use of the outdoor garden area, it is bound on all sides by either existing 6ft high close boarded fencing and/or taller hedgerow. Given the proximity of the site to neighbouring residential properties, a condition is recommended to manage both the hours of use of the outdoor area and the number of children allowed to play outdoors at any one time in order to safeguard the residential amenity of nearby residents.
- 7.3.9** Further, being mindful of the location of the childcare facility, which is set within close proximity to other residential properties and in a cul-de-sac, in order to preserve the neighbouring amenity a condition is also recommended to restrict the hours the business can operate.
- 7.3.10** Having regard to the above it is considered that with careful management secured through the use of conditions, the proposed development would have no unacceptable harm on adjoining occupiers in terms of disturbance.

*The building is suitable for the proposed use in terms of its size, layout, security and safe access to a garden/outdoor play area*

- 7.3.11** The number of children using the facility would be controlled by separate bodies which limit the number of children of certain ages, per supervising adult (Ofsted). The restrictions are also based upon the size of facilities available. The site would offer safe access to a private outdoor play area.

*Premises are located within or adjacent to existing settlements*

- 7.3.12** The property is located within the built-up area of Shurdington. As such the business would be located close to existing residential properties.
- 7.4** In addition, the proposed development would support employment growth in the Borough. Policy SD1 of the JCS sets out that employment-related development in service villages will be supported if they are of an appropriate size and scale. Officers consider, for the same reasons as set out above, the development would be of an appropriate size and scale and therefore the proposal would accord with the requirements of this policy.

## **8.0 CONCLUSION AND RECOMMENDATION**

- 8.1** Section 38(6) of the Town and Country Planning Act 1990 provides that, if regard is to be had to the development plan, the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. Section 70(2) of the Act provides that the Local Planning Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.

### ***Benefits***

- 8.2** The development would provide employment for both the applicant and one further employee, and it would provide a service to meet the everyday needs of the community in Shurdington.

### ***Harms***

- 8.3 The intensification of the existing childminding service may result in some harm to neighbouring residential amenity due to the increase in traffic generation, possible on-site parking and noise disturbance. However, officers consider the level of harm would not be unacceptable.

### ***Overall conclusion***

- 8.4 Subject to the satisfactory management of the use, which would be secured via condition, it is considered that the benefits of the proposed development would outweigh any harm and it is therefore recommended that the application is **PERMITTED**.

### **CONDITIONS:**

1. The development hereby permitted shall be begun before the expiration of five years from the date of this consent.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless where required or allowed by other conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the information provided in the application form and the following plans/drawings/documents:

- Site Location Plan
- Proposed Block Plan
- Ground Floor Plan

Reason: To ensure that the development is carried out in accordance with the approved plans.

3. No more than 12 children aged 8 or under shall be cared for as part of the childminding service hereby permitted throughout the duration of each day when the childminding service is open for business.

Reason: To define the permission and any increase in the intensity of the site will require further consideration in terms of the impact on the amenities of local residents and highway safety.

4. The childminding service hereby permitted shall not be open outside the hours of 07:30 to 17:30 Mondays to Friday inclusive, and shall not open on Saturdays, Sundays and Bank Holidays.

Reason: To protect the amenity of local residents.

5. The number of children being cared for as part of the childminding service in the external play area of the premises at any one time shall not exceed 6, other than in cases of emergency.

Children being cared for as part of the childminding service shall not play in the external play area outside the hours of 09:00 to 17:00.

Reason: To protect the amenity of local residents.

**INFORMATIVE:**

In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing the to the Council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.