

<p>Reference: 20/01680/FUL</p>	<p>Site: Claylands 186 Branksome Avenue Stanford Le Hope Essex SS17 8DF</p>
<p>Ward: The Homesteads</p>	<p>Proposal: Change of use from Class C3 (dwellinghouse) to a dual use C3 dwellinghouse and Class E (f) Day nursery.</p>

Plan Number(s):		
Reference	Name	Received
10B	Elevations	3rd December 2020
12	Elevations	3rd December 2020
Site Layout	Site Layout	3rd December 2020
Other	Other	3rd December 2020
Site Layout	Site Layout	3rd December 2020
Existing and Proposed Plans	Existing and Proposed Plans	17th December 2020
Location Plan	Location Plan	17th December 2020
Roof Plans	Roof Plans	17th December 2020
10B	Elevations	17th December 2020
Other	Other	17th December 2020
Site Layout	Site Layout	17th December 2020
Parking Block Plan	Parking Block Plan	15th January 2021

The application is also accompanied by:

- Email from Applicant regarding Rose Buddies vehicle and an Apprentice, dated 1.12.20

Applicant:
Mrs V Jarosz

Validated:
17 December 2020
Date of expiry:
22 March 2021
(Extension of Time as Agreed)

Recommendation: REFUSE

This application is scheduled for determination by the Council’s Planning Committee because the application has been called in by Cllr Byrne, Cllr Collins, Cllr Halden, Cllr J Smith and Cllr C Baker in accordance with Part 3 (b) 2.1 (d)(i) of the Council’s constitution to consider the proposal on the grounds that the business has been running for over a year causing unreasonable noise within a residential area.

1.0 DESCRIPTION OF PROPOSAL

1.1 The application seeks permission for a change of use from Class C3 (dwellinghouse) to a dual C3 use and Class E(f) Day nursery with use of the outbuilding and the rear garden area.

2.0 SITE DESCRIPTION

2.1 The application site is a detached single storey property with a garage and off street parking available on the frontage. There is one formal vehicle access way in front of the garage, with a second access being used without a formal dropped kerb. The site is situated within a residential area within The Homesteads. The area is broadly characterised by a mix of well-spaced detached and semi-detached properties of varied design and style.

3.0 RELEVANT PLANNING HISTORY

Application Reference	Description of Proposal	Decision
21/00107/HHA	Loft conversion, including raising of ridge line, double hip to gable with rear dormer.	Pending Consideration
20/01397/HHA	Loft conversion, including raising of ridge line, double hip to gable with alteration to the roof with a rear dormer.	Refused
19/00236/HHA	Single storey rear extension.	Approved
15/00568/FUL	Demolition of existing bungalow and erection of new detached dwelling	Approved
15/00068/HHA	Front, side and rear extensions, formation of new roof/loft room.	Approved

The following Enforcement history is also of relevance:

Enforcement Reference	Complaint	Outcome
20/00376/BUNWKS	Large concrete building has been erected at the rear of the garden with	Outbuilding dimensions comply with Permitted Development limits. A PCN

	drainage and sewerage to supply shower washbasin and toilet and a possible childcare/nursery business is being run from the property.	was served in relation to the nursery business and returned. Applicant stated that a child care/day nursery business was operating from main dwelling only. Following information provided it was considered that no material change of use had occurred at that time and therefore no breach. Case closed.
20/00463/BUNUSE	Unauthorised change of use to daytime childcare ("Rose Buddies") A large structure has already been built in the back garden as a children's "club house"	Investigated due to further complaints regarding a continued breach of planning. Planning application has been submitted. Case closed pending outcome of application.

4.0 BACKGROUND

- 4.1 The application has been submitted following an enforcement investigation relating to the alleged unauthorised use of the dwelling for a business use as a day nursery use, known as 'Rose Buddies'.
- 4.2 It is noted that a petition submitted by six local residents suggests that the applicant has been operating a child care business from the property from 'early 2020' and neighbouring residents have had continuing concerns about the day nursery use of the property. The Council first received a planning enforcement complaint about the use of the property as a day nursery business on 23rd September 2020.
- 4.3 Following enforcement investigations the applicant stated that they had been operating as an independent child minder but had been looking to expand to a more formal child care/day nursery business use from the premises, whilst still wishing to use the property as the applicant's family home. Given the intensification of the child care business use, compared to what was previously an informal activity operating from the dwellinghouse, the applicant submitted a planning application in order to regularise the use.

5.0 CONSULTATIONS AND REPRESENTATIONS

5.1 Detailed below is a summary of the consultation responses received. The full version of each consultation response can be viewed on the Council's website via public access at the following link: www.thurrock.gov.uk/planning

5.2 PUBLICITY:

This application has been advertised by way of individual neighbour notification letters. Eight letters of objection and a petition signed by six local residents have been received raising the following concerns:

- Running business without planning permission;
- Noise and disturbance;
- Loss of Amenity;
- Access to site;
- Additional traffic / parking;
- Lack of need;
- Out of character;
- No clear planning statement;
- No mention of clubhouse or garden room in proposal.

One letter has been received in support of the application and making the following points:

- Offers excellent childcare facilities;
- Much needed facility for key workers;
- Have not noticed any additional traffic when collecting children from the premises (on foot);
- Creates jobs.

5.3 ENVIRONMENTAL HEALTH OFFICER:

No objections.

5.4 HIGHWAYS:

Objection.

5.5 WELFARE DEVELOPMENT OFFICER (SCHOOL EFFECTIVENESS TEAM):

There is increased demand for child care within The Homesteads Ward and the applicant is known to the Thurrock School Effectiveness Team.

6.0 POLICY CONTEXT

National Planning Policy Framework (NPPF)

6.1 The revised NPPF was published on 19th February 2019. The NPPF sets out the Government's planning policies. Paragraph 2 of the NPPF confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. The following chapter headings and content of the NPPF are particularly relevant to the consideration of the current proposals:

4. Decision-making
5. Delivering a sufficient supply of homes
12. Achieving well-designed places

6.2 National Planning Practice Guidance

In March 2014 the former Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. NPPG contains a range of subject areas, with each area containing several sub-topics. Those of particular relevance to the determination of this planning application include:

- Design
- Determining a planning application
- Use of planning conditions

6.3 Local Planning Policy:

Thurrock Local Development Framework (2015)

The "Core Strategy and Policies for Management of Development" was adopted by Council on the 28th February 2015. The following policies apply to the proposals:

THEMATIC POLICIES

- CSTP1 (Strategic Housing Provision)
- CSTP12 (Education and Learning)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)

POLICIES FOR MANAGEMENT OF DEVELOPMENT

- PMD1 (Minimising Pollution and Impacts on Amenity)
- PMD2 (Design and Layout)
- PMD8 (Parking Standards)
- PMD9 (Road Network Hierarchy)

6.4 Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an 'Issues and Options (Stage 1)' document and simultaneously undertook a 'Call for Sites' exercise. In December 2018 the Council began consultation on an Issues and Options [Stage 2 Spatial Options and Sites] document, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing a new Local Plan.

6.5 Thurrock Design Strategy

In March 2017 the Council launched the Thurrock Design Strategy. The Design Strategy sets out the main design principles to be used by applicants for all new development in Thurrock. The Design Strategy is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy.

7.0 ASSESSMENT

7.1 The assessment below covers the following areas:

- I. Principle of the Development
- II. Use and Impact upon the Character of the Area
- III. Neighbour Amenity Impact
- IV. Traffic Impact, Access and Car Parking

I. PRINCIPLE OF THE DEVELOPMENT

7.2 The application seeks to regularise a change of use from a detached dwellinghouse (C3 use class) to a dual use of the property as a C3 dwellinghouse *and* children's day nursery (falling under use class E(f)).

7.3 Policy CSTP12 states that the Council will work with relevant partners to ensure "the provision of pre-school, primary school, high school, further education and special

education facilities meets current and future needs". The application would not conflict with Policy CSTP12 in this regard however it is important to give careful consideration to the impact of the business upon the residential amenity of the location.

II. USE AND IMPACT UPON THE CHARACTER OF AREA

- 7.4 Policy CSTP22 of the Core Strategy indicates that development proposals must demonstrate high quality design founded on a thorough understanding of, and positive response to, the local context.
- 7.5 Policy PMD2 of the Core Strategy requires that all design proposals should respond to the sensitivity of the site and its surroundings and must contribute positively to the character of the area in which it is proposed and should seek to contribute positively to local views, townscape, heritage assets and natural features and contribute to the creation of a positive sense of place.
- 7.6 The use requires no external changes to the property. There is an existing outbuilding in the rear garden of the site which forms part of the application. The applicant seeks to regularise the use of the property to include the day nursery use in both the main dwelling and the outbuilding.

Current Level of Use

- 7.7 Currently the applicant uses the kitchen/dining area, the garden and outbuilding for the children starting school together with the younger children. The business has 10 children using the nursery within the above age range. These 10 children are looked after by 2 full time members of staff (including an apprentice) and 1 part time staff member, employing a total of 3 members of staff (including the applicant). A total of 3 members of staff are on site at any given time. Opening hours are listed as 7:00am to 6.30pm Monday to Friday throughout the year, with no operation at weekends or on bank holidays.
- 7.8 The outbuilding is identified as a playroom with a toilet area, which is used for messy play and other nursery activities and to separate the different age groups. The garden is used in connection with the nursery business when operating.

Proposed Level of Use

- 7.9 The proposed plans are for 4 rooms within the house to be used as part of the business: one room to be used as a playroom, the kitchen/diner is to be used for meal times and two bedrooms are to be used for sleeping and educational activities to prepare older children for school. The outbuilding would also be part of the use.

- 7.10 The nursery business has a maximum capacity of 20 children aged from 0-5 years. A total of 6 FTE members of staff could be employed on site to meet the ratio requirement by Ofsted for 20 children if the site were to be used to full capacity.

Consideration

- 7.11 Ordinarily, drop off would be between 7am and 9am and pick-up would be anytime from 3.30pm and 6.30pm. However, due to the current national pandemic, the applicant has been providing differing contracted hours for the children and the drop-off times have been closer to 9am and pick-up has been at around 4pm to accommodate the customer's changing working patterns.
- 7.12 It would not be uncommon for a large detached dwelling to be converted from a dwellinghouse to a day nursery, where it can be demonstrated that the use can function within a particular residential area without causing harm to residential amenity, the character of a residential area or lead to highway safety concerns. It is less common for a day nursery use to be operating from an existing dwellinghouse that intends to remain as a dwellinghouse when not operating as a nursery.
- 7.13 The inclusion of the outbuilding as part of the day nursery business. The applicant has stated that the outbuilding is used for messy play activities with the garden area used for outdoor time.
- 7.14 The day nursery results in an intensification of the overall site by virtue of the general noise and activity associated with the use: pedestrian and vehicle movements associated with staff and customers arriving and leaving, associated servicing, deliveries and general commercial activity throughout the day, in addition to the noise and activity associated with up to 20 children playing and using the site, which is out of character with the residential amenity and character of the area. As a consequence, it is considered that the change of use is harmful to the character of the dwellinghouse and surrounding area, contrary to Policies CSPT22 and PMD2 of the Core Strategy and the NPPF.

III. NEIGHBOUR AMENITY IMPACT

- 7.15 Policy PMD1 of the Core Strategy states that development or a use will not be permitted where it would have an unacceptable impact on the amenity of neighbouring occupiers or the amenity, health or safety of future occupiers of the site.
- 7.16 The nursery would, if permitted, operate from 7:00am to 6.30pm Monday to Friday throughout the year. The scale of the business (which could accommodate up to 20 children and 6 members of staff using all of the site) is considered to represent an

unacceptable level of intensification of the use of the site. In particular, the vehicle movements associated with drop-off and collection for up to 20 children would be significant.

- 7.17 The use of the ground floor rooms of the dwellinghouse, the outbuilding and garden area for the day nursery use result in associated noise impacts from the nursery business throughout the day which is harmful to neighbouring residential properties, particularly in the summer months.
- 7.18 Given the complaints from local residents arising from the existing operation of the nursery, and of the outbuilding in particular, the peace and quiet of the residential area is being impacted upon by the use. Any further intensification of use of the site would further negatively impact upon the residential amenities of the immediate locality. It is considered that the change of use is therefore harmful to neighbour amenity contrary to Policy PMD1 of the adopted Core Strategy and the proposed expanded use desired by the applicant would be even more harmful.

IV. TRAFFIC IMPACT, ACCESS AND CAR PARKING

- 7.19 Policy PMD2 of the Core Strategy relates to the design and layout of all components of a development and indicates that all development should allow safe and easy access while meeting appropriate standards.
- 7.20 Policy PMD8 of the Core Strategy concerns parking standards for new development proposals. The policy requires all development to provide a sufficient level of parking and to ensure that parking is accessible.
- 7.21 Policy PMD9 of the Core Strategy aims to ensure access to all sites is suitable. In relation to the current proposal the policy requires that development ensures that road safety is not compromised.
- 7.22 The applicant has provided a parking layout indicating that there are 6 off street parking spaces on the frontage in addition to the garage, resulting in a total of 7 parking spaces on the site.
- 7.23 Off street parking provision would be required for both the residential use and the day nursery use. The parking standard for a day nursery is 1 space per full time staff and drop off/pick up facility.
- 7.24 Assuming the nursery business operates at capacity, this would result in a need for 6 car parking spaces for the staff, plus a drop-off and pick-up area for those collecting their children, as well as 3 parking spaces required for the main use of the dwelling as a residential property, resulting in a requirement for 9 parking spaces plus drop-

off area and cycle storage in order to comply with Council parking standards.

- 7.25 It is likely that the site could provide a maximum provision of 6 off street parking spaces excluding the garage space, resulting in a shortfall of 3 spaces in addition to the lack of any drop-off or pick-up area contrary to Policy PMD8. This would be likely result in cars parking on the public highway on Branksome Avenue, to the detriment of pedestrian and highways safety.
- 7.26 It is also noted that the site currently has a single formal vehicle access, with the second access being informally used without the benefit of a dropped kerb. The applicant has submitted an application to the Council's Highway team to seek consent for a second vehicle access. At the time of this report, that application is at early stages and it is not known whether the access would be acceptable.
- 7.27 There is consequent concern relating to the manoeuvring on to and out of the site via this informal access. There is concern that some of the spaces proposed would be awkward to access resulting in impact on the free and safe flow of traffic in Branksome Avenue. In addition, if a new access were to be installed, this could potentially lead to the loss of some parking spaces. The existing access and parking layout is therefore unacceptable and contrary to Policy PMD2.
- 7.28 As a result of the lack of adequate off-street parking provision for the application, and the informal vehicle access arrangements, the parking layout cannot be accessed safely and is deficient in level of provision which would result in further parking on the highway which has an adverse impact upon highway and pedestrian safety in the vicinity of the site further suggesting a failure to comply with Policies PMD2, PMD8 and PMD9 resulting in harm to the wider area.

8.0 CONCLUSIONS AND REASONS FOR REFUSAL

- 8.1 The application seeks permission for the change of use to a dual use as a C3 dwellinghouse and E(f) day nursery use. The application would not conflict with Policy CSTP12 in principle, however, it is important to give careful consideration to the impact of the business upon the residential amenity of the location. Owing to the intensity of the proposal it is considered to be an unacceptable intensification of the use of the site which is harmful to the character of the residential area and harmful to neighbour amenities. The associated vehicle movements and lack of adequate off street parking and suitable access arrangements are also considered to result in concerns relating to highway safety. The existing level of use and proposed level of use would be harmful to nearby residents.
- 8.2 The application is recommended for refusal for these reasons.

- 8.3 As the use is taking place and there is a current enforcement complaint under investigation consideration will need to be given in relation to enforcement action. In the event the application is refused, planning enforcement action will follow to remedy this breach of planning control.

9.0 RECOMMENDATION

- 9.1 Refuse planning permission for the following reason(s):

1. The day nursery results in an intensification of the use of the overall site by virtue of the general noise and activity associated with the day nursery activity: pedestrian and vehicle movements associated with staff and customers arriving and leaving, servicing, deliveries and general commercial activity throughout the day, in addition to the noise and activity associated with up to 20 children playing and using the site. This is out of character with the residential character of the area. The application is therefore contrary to Policies CSPT22 and PMD2 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.
2. The day nursery, by reason of the extensive use of the dwelling, the rear garden area and outbuilding, the vehicle drop-off and pick-ups and the associated noise and activity impacts throughout the day, is considered harmful to neighbouring residential amenity. The application is therefore contrary to Policy PMD1 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015).
3. By reason of a lack of parking, and inadequate access arrangements the day nursery use results in awkward vehicle manoeuvring and parking on the highway which has an adverse impact upon highway and pedestrian safety in the vicinity of the site contrary to Policies PMD2, PMD8 and PMD9 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

www.thurrock.gov.uk/planning

