

Officer Report on Planning Application: 11/00520/COU

Proposal:	The change of use from residential to a day care nursery (Use class D1). (GR 343995/109695)
Site Address:	Shelle House Court Barton Crewkerne
Parish:	Crewkerne
CREWKERNE TOWN Ward (SSDC Member)	M Best (Cllr) Mr J Dyke (Cllr) Mrs A M Singleton (Cllr)
Recommending Case Officer:	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
Target date:	31st March 2011
Applicant:	Mrs Sarah Stuttaford
Agent: (no agent if blank)	
Application Type:	Other Change of Use

REASON FOR REFERRAL TO COMMITTEE

The application is to be considered by Area West Committee at the request of Cllrs Singleton and Dyke, with the agreement of the Area Vice Chair Cllr Maxwell. It is felt that the issues should be given further consideration by members, as a result of the potential impact on residential amenity and highway safety and due to the level of public interest.

SITE DESCRIPTION AND PROPOSAL



Shelle House is a two-storey terraced dwelling, located close to the corner of Court Barton. The property and its neighbour, no. 11 Court Barton, were previously used as office accommodation, with a garage to the rear. Permission was granted in 2006 for their

conversion to two residential units and for the demolition of the garage to the rear. There is a garage door onto Court Barton, which leads through to a concrete yard at the rear, which would have originally formed the garage. The original walls remain in place to form high boundaries with the neighbouring properties. Shelle House is currently used for residential purposes, with a childminders business also being run from the property. The site is within the Crewkerne conservation area and defined development area and is surrounded by residential properties on all sides.

The application is made for the change of use of the entire building from residential to a D1 use comprising a childcare day nursery. There are no alterations proposed to the building itself.

HISTORY

06/02130/FUL: Conversion back to 2 no. dwellings and demolition of concrete block workshop.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise,

Relevant Development Plan Documents

Somerset and Exmoor National Park Joint Structure Plan:
STR1 - Sustainable Development
Policy 49 - Transport Requirements of New Development

South Somerset Local Plan (Adopted April 2006)
ST5 - General Principles of Development
ST6 - The Quality of Development
EH1 - Conservation Areas
EP9 - Control of Potentially Polluting Uses

Policy-related Material Considerations:

South Somerset Sustainable Community Strategy
Goal 4 - Low carbon, quality services and facilities (including transport and ICT) that are designed around the needs of the community, enabling everyone to have fair and equitable access to what they need.

Goal 5 - A competitive high performing economy that is diverse and adaptable.

Goal 8 - Sustainably sited and constructed high quality homes, buildings and public spaces where people can live and work in an environmentally friendly and healthy way.

CONSULTATIONS

Crewkerne Town Council:

Recommend REFUSAL on the grounds:

- A. Adverse impact to residential amenity
- B. Unsuitable adjacent highway with narrow and regularly blocked pavements and congested car parking resulting in children getting out of cars in the centre of the roadway
- C. Lack of amenity for children
- D. Area now totally residential and inappropriate for any type of business

SSDC Technical Services:

No comment.

County Highway Authority:

The site is located within the centre of Crewkerne in close proximity to the residential catchment areas and as such there is no objection to the proposal in principle.

In detail, whilst it is acknowledged that at particular points the footways are narrow the site is connected to the residential catchment areas by continuous footways and pedestrian facilities enabling a parent and child to access the site by alternative means of transport to that of the private vehicle.

However, it is acknowledged that given the nature of the use proposed some parents will access the site by private vehicle and either use the public car park facilities in close proximity to the site or park directly outside the property along Court Barton. From a highway safety point of view it would be beneficial to have off road parking as part of the development however, it is clear that Court Barton is a low speed section of highway with the abundance of on street parking help contain vehicular speeds at this point. As a result, if an element of 'dropping off' were to take place it is unlikely to significantly interrupt the free flow of traffic or add to the existing hazards experienced by road users at this point.

It is my understanding that a similar use currently operates from the site and I am unaware of any recorded injury accidents as a result of this use in this location. Whilst it is acknowledged that this proposal is likely to result in additional vehicular and pedestrian movements to and from the site based on the additional children and extra staff proposed it is considered that this increase is unlikely to be significant.

As a result, whilst finely balanced I would advise you that from a highway point of view there is no objection to the proposal.

SSDC Contaminated Land Officer

15th March 2011 - We've probably missed the boat with this now. The main pathway is soil ingestion / dust and the concrete largely stops those leaving vapours. I won't be requesting the site survey on this one after all.

18th February 2011 - To my knowledge as the site has not previously been investigated as part of the change of use from garage to residential.

In keeping with the precautionary principle indicative samples should be tested to demonstrate that there is no residual pollution from its former use as a garage. These samples are indicative only and will not constitute a full site investigation.

SSDC Environmental Protection Unit

16th March 2011 - At the request of the applicant I visited the above site this morning.

After lengthy discussion I have been able to agree terms to alleviate my concerns re noise from this site.

Terms are:

- Reduction from 25 to 20 Children maximum.
- No children on site before 8.00am and none on site after 6.00 pm.
- No weekend or evening sessions, or bank holidays.
- Reduce the maximum age to 6 years and not 8 years of age.
- Number playing outside at anyone one time to a maximum of 7, this excludes the area under cover for the sole use of babies.

- The concrete surface to be coated in rubber or other suitable surface to reduce noise.
- Play time outside to be restricted to a maximum of 45 mins per session, with at least an hour and half period between each 45 min play session.

All the above will need to be conditioned, with the view to protect the amenity of residents in the area. If you believe these terms can be conditioned then I remove my objection to this application.

Also with regard to the contaminated land condition that Jeff Downing requested, this does not need to be applied, the site currently benefits from a full concrete pad breaking any pathway for possible contaminate.

10th March 2011 - My thoughts are simply that this application should be refused. The premises concerned is surrounded on all sides by residential properties, noise from a nursery in such confined environment could lead to noise complaints re nuisance and as far as you are concerned loss of amenity to other properties in the area.

REPRESENTATIONS

The application has been advertised by site notice for the requisite period. Nineteen letters of objection have been received from nine local residents, as has a petition against the proposal, which has been signed by 46 residents of Court Barton and Oxen Road. Three letters of support have been received from users of an existing childminding business at the property. The main objections relate to the following:

- **Parking problems:** Limited parking, leading to parents blocking the road by double parking or parking in front of neighbouring garage doors. Also parents and delivery drivers often turn round in Court Barton, which is a one-way street, which poses risk to highway safety. Length of time taken for each drop off, may lead to cars backed up to A30, if numbers increase. The application indicates that there is one parking space available, which is inadequate for up to 25 vehicles arriving at similar times of the day. The existing space should be clearly marked. Increased vehicular movements from parents and deliveries will worsen the situation. Extra staff parking will reduce available space for residents.
- **Risk to pedestrians:** The pavements are narrow and often blocked by parked cars, making the site inaccessible for pushchair access, without children being dropped off or parents and children walking in the road.
- **Residential amenity:** Loss of neighbours' amenity as a result of up to 25 children using property and outside space. Also disturbance due to dropping off. Relatively noisy at the moment, which will be worse with increased numbers. Would meals be cooked, requiring a vent? If so, where would this be positioned. Also the storage of nappies to the rear, close to neighbouring gardens may smell. This is a residential area, which will be spoilt by this business, which will operate from 8am to 6pm. Concerns that the Environmental Protection Unit's recommendation follows a meeting with the applicant and no opportunity has been given for the neighbours to address these issues with them.
- **Sewage and drainage:** Historic problems with shared sewer. The drains only just cope and apparently the sewer was regularly blocked when Shelle House was an office. Increased numbers may make this situation worse.
- **Health and safety:** Has a risk assessment been carried out on both premises and pedestrian access? Will provision be made for fire exits to both upper and lower floors? The outside play area will also be used for the storage of soiled nappies, which will be a health risk.
- **Contaminated land:** The rear garden was formerly part of the main workshop in relation to the motor garage business that occupied the site and adjoining land up

until 2000. There is likely to be major oil contamination on a large part of the site. Land at The Old Armoury, Court Barton, has to be decontaminated, which a substantial amount of soil removed and replaced. It is not thought that any decontamination of the land to the rear of Shell House has taken place. The fact that the area is concreted does not mean there is no contamination. There is almost certainly serious oil contamination, which needs to be properly tested. This is not a space young children should be exposed to.

- Neighbour notification: The residents of Court Barton have not all been notified of the application and there appears to have been no site notice.
- Other issues: Is the outside space of an adequate size or will children be dependent on staying indoors all day? With this and other concerns, are these suitable premises for a nursery school? The plans appear to be out of date and do not reflect the buildings and garden, as they exist. There have been material changes to several properties and their boundaries over recent years.

The letters of support make the following points:

- Little Nippers offers 'outstanding care' (as endorsed by Ofsted) and is an asset to the town. This business allows local children to have excellent care in their own town, without having to travel elsewhere.
- The pavement is narrow at this point but this way is also used when walking children to Ashland School or Church. This route is used by many other parents who have no problems.
- Parking is a problem but spaces are often used as free parking by people working in the town, which is not directly related to Little Nippers and would not be resolved without them.

CONSIDERATIONS

Principle of Development

The proposal relates to Shelle House, which is a residential dwelling along Court Barton. The applicants currently run a childminding business from the property and the application is made to change the use away from residential so the business can be expanded to provide a day nursery at the premises. Supporting information highlights a shortage in childcare places in the area, particularly for children within the 0 - 2 age range.

The property is located within the defined development limits of Crewkerne and as such development in general is acceptable in principle subject to being in accordance with other Development Plan policies and proposals. The main considerations will be the impact of the proposed business use on the residential amenity of the local residents and on highway safety, although other issues have also been raised. The Town Council have objected to the scheme and numerous objections have also been received from local residents.

Highway Safety

Shelle House is located within Court Barton, which is a one-way street, with minimal off street parking for local residents. As a result, there is significant pressure on the limited numbers of on street parking spaces, which are usually full. Furthermore, the pavements are very narrow with parked cars often overhanging, effectively making it impossible to use the pavement in places. Along with residential amenity, the main concern raised related to the potential impact on highway safety and risk to pedestrians. Several of the neighbour observations raise concerns about the level of vehicle movements associated with the existing business and the potential implications of increased movements. The main cause for concern appears to be the nuisance caused by parents double parking and blocking residential parking and neighbouring garages, as well as the safety risk of a large number of vehicles parked or

dropping off at the same time. It is felt that these current problems would be exacerbated by an increase in use. The other contentious issue is that neighbours feel that parents flout the highway regulations and turn in Court Barton, returning for the short distance along the one-way road. This is also considered to be a highway risk, which could worsen.

Firstly, in regard to the issue of use of the one-way street, there are highway regulations in place and the fact that people may not pay full regard to this is not considered to be a material planning consideration. Whether these regulations are fully enforced or not, there is separate legislation in place that should be able to deal with this issue. In terms of planning consideration, it has to be assumed that users of the business behave appropriately in this regard. In response to these objections, the applicant has disputed that any parents using the business turn in Court Barton and say that they have on occasion seen a local resident doing this, which may have been confused with a parent. It has also been pointed out that many of the people parking in Court Barton may be people who work in the town and use the road for free parking. Overall, it is still felt that this issue is not fully relevant to the consideration of this application. The main consideration will be down to the level of vehicle movements associated with the business.

The County Highway Authority have considered the proposal and commented that they have decided to raise no objections. While they acknowledge the restricted footways at points and the existing limited parking available within Court Barton, the property is connected to the residential catchment area by continuous footways and there is access to public car parking facilities close by. It is noted that parents accessing the site by car will be more likely to drop off at the site rather than park elsewhere, however the Highway Authority do not consider that this will lead to significant interruptions to the free flow of traffic or add to existing hazards. They also note that there are low speeds experienced within Court Barton, which is further contained by the abundance of on street parking. The Highway Authority do stress that their recommendation is finely balanced but ultimately it is not considered that the additional children and staff will lead to a significant increase in vehicular or pedestrian movements that would be prejudicial to highway safety at this point.

Residential Amenity

The property was formerly used as an office building, with a garage to the rear forming part of a larger garage site between Court Barton and Oxen Road. However, since permission was granted in 2006 for the conversion of Shelle House and the neighbouring property, back to residential, the locality is completely residential in nature. Objections have been raised to the increase in numbers of children and the impact on the residential amenity of neighbours as a result of noise disturbance, potential smells if an extractor fan is required for cooking meals and also smell from the storage of used nappies outside, awaiting collection. It is also the view of the Town Council and some residents that as the area is now totally residential, it is inappropriate for any type of business use. This in itself is not a reason for refusal but full consideration has to be given to the impact a business may have on neighbours' amenity.

The Council's Environmental Protection Officer has considered the proposal and originally felt that the application should be refused due to the proximity of surrounding dwellings. Mr Sanders has visited the site since these original comments and despite identifying some issues is of the view that adequate mitigation measures can be provided to alleviate these concerns. As such, no objection is raised providing these measures can be conditioned. The suggested terms include limiting the number of children allowed and their age, limiting operating hours and length of time spent outside, as well as provision of a rubber coated (or similar) surface to the outside area to reduce noise. The applicant has agreed in writing to these terms, all of which seems reasonable and acceptable for conditioning. As such, it is considered that with adequate mitigation and restrictive conditions, as proposed, the impact on residential amenity should be such that there is no unacceptable harm caused.

In terms of the potential smells from nappies, these would be expected to be stored in an appropriate manner to avoid the release of smells. A condition can be imposed to agree a scheme for the storage of refuse.

Contaminated Land

The outside area was previously completely covered, forming the main workshop, in relation to a longstanding motor garage business, which has since ceased operating. The wider area used by the garage business has since been incorporated within neighbouring residential properties. Part of the 2006 consent to convert Shelle House back to residential use included the demolition of the workshop. Following this consent, the roof was removed but the walls were retained to form the boundaries and the floor was left as a concrete apron covering the entire outside area. Due to the previous use it has been advised that there could be a likelihood of contamination of the land. One neighbour has raised the possibility that there could be serious oil contamination, which needs to be investigated to ensure that the site is safe for children to play in. Particular attention has been drawn to the need for significant levels of contaminated soil to be removed from the adjoining site at the Old Armoury. It is questioned why such requirements are not necessary on this site.

Firstly, it is noted that the issue of land contamination was not raised during the 2006 application and as such no consideration was given to the need to seek any remediation. Despite that, as this is a change of use application, it may be possible to review this as may be appropriate. It has been noted that the entire external space is covered in concrete, which the applicant argues means that there will be no contamination. One of the representations does however point out that the concrete was laid over the contaminated soil, similar to that which had to be removed from the neighbouring site. It is felt that the concrete would not stop land contamination being a health hazard. The circumstances of the site have been considered by the Council's Contaminated Land Officer, who has commented that the main pathway for contamination is by soil ingestion and dust. The full concrete pad will act as a barrier to prevent vapours from these sources. As such, it is not deemed necessary to request any investigation or remediation.

Other Issues

Other than the particular reasons raised above, comments were received in relation to the ability of the existing sewer system to cope with the additional use, whether the facilities on site offer adequate amenity space for children and whether the building meets fire safety regulations. It has also been questioned whether the neighbour notification process had been carried out correctly as some neighbours were not notified and initially no site notice was posted at the site.

In regard to drainage, it has been raised that there have been problems in the past with the Victorian sewers occasionally becoming blocked. This particularly occurred when Shelle House was used as an office. The applicant has confirmed that there was a blockage in the shared drain with 11 Court Barton, which after investigation was thought to have been caused by previous users of 11 Court Barton, disposing of unsuitable products via the toilet. It is thought that there were about 18 members of staff employed at the offices, with the proposed day nursery employing 7 staff, with a large number of the children expected being of pre-school age and therefore using nappies. It is not considered that the proposal should lead to any significant likelihood of any issues in regard to the existing drainage.

In terms of general health and safety within the building and levels of amenity space for children, these are all issues that are dealt with by regulations and legislation beyond the planning system. Despite this, some of the current users of the facility have written in support, complimenting the facilities on site, the current facilities have been rated as outstanding and the local Early Years Support Officer has supported the expansion of the business within the existing premises.

Following questions in regard to neighbour notification, it can be confirmed that a large number of neighbours were notified, it is just that one of the letters was from a neighbour living just beyond the properties consulted. The site is within a conservation area but inadvertently no advertisement was initially carried out. After confirming this error, a site notice was posted at site and an advert put in the local press, given the required statutory period for responses, on top of the time already given.

In terms of impact on the conservation area itself, the proposal involves no physical alterations to either the inside or outside of the property. As such, there is no impact on the conservation area.

Conclusion

Overall, the proposal is considered to provide an acceptable business use of the site. The objections raised have been considered and addressed accordingly and as such, it is not considered that there will be any adverse impact on highway safety or any unacceptable harm to the amenities of any residential properties in the vicinity. Therefore, the recommendation to Members is to grant planning permission subject to the conditions set out below.

RECOMMENDATION

Approve with conditions.

JUSTIFICATION

The proposed change of use is considered to be an acceptable form of development, which is not considered to be detrimental to highway safety or have case any unacceptable harm to the amenities of local residents or users of the enterprise, in accordance with the aims and objectives of policies STR1 and 49 of the Somerset and Exmoor National Joint Structure Plan Review and saved policies ST5, ST6 and EP9 of the South Somerset Local Plan 2006.

SUBJECT TO THE FOLLOWING:

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

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

2. The development hereby permitted shall not be commenced until details of measures to provide a rubber coated (or similar) surface to the ground of the outside play area have been submitted to and approved in writing by the Local Planning Authority. Such approved details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved measures shall be permanently retained and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with saved policy ST6 of the South Somerset Local Plan 2006.

3. The number of children accommodated within the day nursery hereby approved shall not exceed 20 at any one time. There shall also be no children accommodated within the day nursery over the age of 6 years old.

Reason: To safeguard the amenities and character of the area and in the interests of residential amenity to accord with saved policies ST6 and EP9 of the South Somerset Local Plan 2006.

4. The day nursery use hereby permitted shall not be operated other than between the hours of 08.00 hrs and 18:00 hrs Monday to Friday. No use shall take place on weekends, evenings or bank holidays.

Reason: To safeguard the amenities and character of the area and in the interests of residential amenity to accord with saved policies ST6 and EP9 of the South Somerset Local Plan 2006.

5. The number of children using the outside area at any one time shall be limited to a maximum of 7 (excluding the covered area, which should be for the sole use of babies only). Furthermore, the use of the outside area in connection to the day nursery shall be limited to a maximum of 45 minutes per session, with a period of at least one and a half hours between each 45 minute session.

Reason: To safeguard the amenities and character of the area and in the interests of residential amenity to accord with saved policies ST6 and EP9 of the South Somerset Local Plan 2006.

6. Adequate provision shall be made for the storage of refuse. Such a scheme shall be agreed in writing with the Local Planning Authority and shall be implemented before the development hereby approved is first brought into use.

Reason: To safeguard the amenities and character of the area and in the interests of residential amenity to accord with saved policies ST6 and EP9 of the South Somerset Local Plan 2006.

7. The property, hereby known as Shelle House, shall be used as a day nursery only and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To safeguard the amenities and character of the area and in the interests of residential amenity to accord with saved policies ST6 and EP9 of the South Somerset Local Plan 2006.
