

Application Number:	2013/0496	Application Type:	Full
Proposal:	Change of use of dwelling to form children's nursery with associated parking and alterations to access, demolition of outbuilding and erection of dwelling, and removal of trees	Location:	Garden Cottage, Wallbank Drive, Whitworth
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	25 February 2014
Applicant:	Mr. Harvey Wood	Determination Expiry Date:	3 January 2014
Agent:	Mr Ben Edmondson		

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REASON FOR REPORTING	Tick Box
Outside Officer Scheme of Delegation	<input type="checkbox"/>
Member Call-In Name of Member: Reason for Call-In:	<input type="checkbox"/>
3 or more objections received	Yes (and recommendation is to approve)
Other (please state):	

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

That Permission be granted subject to the Conditions set out in Section 10.

2. SITE

The building known as 'Garden Cottage' is located to the rear of properties that front Cottage View. It is a detached house, with an outbuilding attached, and is constructed predominantly of natural stone and stone slate although corrugated sheeting partly covers the roof of the latter. It stands below the level of the land occupied by the properties on Cottage View.

It is accessed from Wallbank Drive by a drive that runs to the north side of properties fronting Cottage View.

Trees within garden of Garden Cottage and in the woodland to the north side of the drive have the protection of a Tree Preservation Order, a Public Footpath running through them.

The application site and wooded area to the north side of the drive, although within the Urban Boundary of Whitworth, form part of an area of 'Greenlands'.

3. RELEVANT PLANNING HISTORY

None relevant

4. PROPOSAL

Permission is sought to :

- a) use the house as a childrens nursery for up to 22 children aged 0-5 years,
- b) demolish the existing outbuilding and replace it with a larger stone/slate house which is to be occupied in conjunction with the nursery,
- c) create associated parking areas for both developments,
- d) widen and alter the access road serving the site (including the provision of passing places), and
- e) remove 9 protected trees.

The applicant has submitted a Design & Access Statement, an Arboricultural Report and a Business Plan in support of their application in which they state that :

- a) the development will appear in keeping with its surroundings. The existing dwelling is to be retained and converted in order to form the nursery. The new dwelling is to be constructed in part using the stone from the demolished outbuilding,
- b) the proposal will not give rise to any undue highway safety concerns. It proposes the widening of the access to allow two cars to pass, the provision of passing places and suitable 'on-site' turning facilities. Additionally Wallbank Drive is the subject of traffic calming measures which keep traffic speed relatively low. There will be no conflict between school and nursery traffic as the picking up and dropping off times will be different,
- c) the nursery will be small in scale and will not generate undue noise,
- d) it is not practical to retain all of the trees. Two of these are diseased and unsafe, the remainder need to be removed to allow others to flourish,
- e) there is no intention, nor would it be practical, to form an access to the development from Cottage View,
- f) the proposal will benefit local wildlife by allowing local flora and fauna to develop,
- g) there is/will be a shortfall in children's nurseries/child minders in Whitworth due an increase/projected increase in the local population,
- h) the proposal makes adequate provision for the collection of refuse and for the disposal of foul water. The former will be collected via the access to the site and foul water will be

discharged to a septic tank as it is at present. Additionally the nursery will operate its own water filtration system.

- i) the application site is wholly owned by the applicant with the exception of a small portion that is owned by the Council (see 'Consultation Responses' Section below),
- j) the submitted details are accurate and set out, in sufficient detail, the works that are proposed,
- k) the proposals will generate local employment. It is anticipated that the nursery will be operating at full capacity within 18 months of opening at which point it is hoped to employ 6 full time and 5 part time staff.

The applicant has also undertaken research on 'Facebook' in order to ascertain whether there is support for a nursery in this location and say that they have received 114 indications in favour of the development.

5. POLICY CONTEXT

National Planning Guidance

National Planning Policy Framework (2012)

- Section 6 Delivering a wide choice of high quality homes
- Section 7 Requiring Good Design
- Section 11 Conserving and Enhancing the Natural Environment

Development Plan Policies

RBC Core Strategy (2011)

- AVP1 Strategy for Whitworth, Facit and Shawforth
- Policy 1 General Development Locations and Principles
- Policy 2 Meeting Rossendale's Housing Requirement
- Policy 3 Distribution of Additional Housing
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 10 Provision for Employment
- Policy 18 Biodiversity, Geodiversity and Landscape Conservation
- Policy 23 Promoting High Quality Design and Spaces
- Policy 24 Planning Application Requirements

6. CONSULTATION RESPONSES

Whitworth Town Council

Object to the development on the grounds that it will generate noise, highway safety, drainage and ecological problems, and will lead to the loss of trees. Also concerned that the applicant may seek to gain vehicular and pedestrian access to the development directly from Cottage View. Would like the application to be determined by the Planning Committee so that they can speak at the meeting.

LCC Highways

No objections subject to conditions

RBC Environmental Health

No observations

RBC Property Services

A small area of land, located within the north eastern corner of the application site, is currently owned by the Council.

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order letters were sent to the relevant neighbours on 18 November 2013 and site notices were posted on 9 December 2013.

Nine letters of objection have since been received. The objections are that :

- a) the proposals would generate excessive noise and fumes (from children at the nursery and vehicles entering and exiting the site),
- b) an approval of this proposal would not be in the best interests of highway and pedestrian safety in the area. It would exacerbate problems of congestion on the surrounding road network during peak traffic periods, the proposed access road would not be capable of satisfactorily accommodating the level of vehicular use that a development of this nature is likely to generate, and the proposals do not include for the provision of a properly lit footway along the new access road.
- c) the proposal would lead to the loss of protected trees,
- d) the development would adversely affect local wildlife,
- e) excessive noise, dirt and disturbance would be caused during the construction works,
- f) that there is no need to provide further children's nurseries in the area as there are already sufficient,
- g) the proposal makes inadequate provision for the storage and collection of waste, and the disposal of foul water, from the development,
- h) the defined application site includes land which currently forms part of the rear gardens of 2-12 Cottage View,
- i) inadequate details of the proposed access road have been included and some of the submitted information is inaccurate,
- j) children visiting the nursery would be disturbed by noise from rotweiller dogs that the owner of 13 Cottage View currently breeds, and
- k) that the application has not been advertised widely enough.

8. ASSESSMENT

The main issues for consideration in this instance are :

- a) Principle
- b) Visual Amenity
- c) Neighbour Amenity
- d) Access / Parking
- e) Tree issues

Principle

The application site is located within a largely residential area that lies within the Urban Boundary of Whitworth. It also occupies a relatively sustainable location and is on a bus route. With this in mind, and as the site is currently used wholly for residential purposes, the proposal to erect a new dwelling on the land is considered to be acceptable in principle whether linked to the new nursery or not.

The children's nursery will also represent a form of sustainable development as it is also to be located on a bus route and will bring at least part of an existing building back into productive use. Furthermore, the development has the potential to create some local employment. In view of this, and as a children's nursery is a use that, in principle, is considered compatible with residential development, this element of the proposal is also considered to be acceptable in planning policy terms.

Visual Amenity

The newly constructed dwelling will occupy a larger footprint than the outbuilding it is to replace. It will be visible from Cottage View and, at a distance of approximately 50m, from Wallbank Drive. However, it will be largely the same height as the replaced outbuilding, will incorporate a dual as opposed to a mono-pitched roof, and is to be constructed using natural stone and slate, materials that will match those used in the construction of the retained nursery building.

The children's nursery is to be created by converting the existing dwelling. These works will not involve any significant enlargement of the building or any significant alteration to its external appearance other than the creation of a new entrance.

Given the above, subject to conditions designed to control the appearance of the respective developments, it is considered that they will both appear in-keeping with the character of the area.

Neighbour Amenity

As indicated above, the newly constructed dwelling will be larger than the existing outbuilding. However, it will be similar in height and will partially occupy the same footprint. Part of the property will come close to a window within the gable of 12 Cottage View and may therefore have some effect upon the level of light that this receives. However, given that :

- i) it will stop just short of this window,
- ii) this window is understood to give light to a 'non-habitable' utility room, and
- iii) the level of that light that it currently gives to the room is already limited by the adjoining boundary wall

it is considered that it would be difficult to justify a refusal of this proposal on these grounds alone.

There are no proposals to significantly increase the size of the dwelling in the course of its conversion to a nursery. Consequently, it is considered that this element of the proposal will have no significant effect upon the level of light that the surrounding properties currently receive.

The proposals will not give rise to unacceptable overlooking of neighbouring properties. New windows are proposed within the southern and western facing elevations of the new dwelling but these will face land which is visible from public vantage points. Furthermore, they are largely to be obscure glazed. All other windows within the dwelling and nursery will face land forming part of the application site.

Concern has been expressed by local residents that the nursery will generate excessive noise and fumes, the latter caused by vehicles visiting the premises. However, this is not accepted. The nursery will not be unduly large (accommodating just 22 young children) and a condition can reasonably be imposed limiting the operation of the use to this number. Consequently, it is

contended that it will not generate sufficient vehicular movements to create significant levels of pollution. Additionally, the associated play areas will be located inside the premises (which will provide a degree of insulation against any internal noise generated) and, at least in part, on the opposite side of the building (which will provide a partial noise barrier between the outdoor play area and the properties fronting Cottage View). Finally, the use will operate at times when a reasonable level of noise would normally be deemed acceptable, namely 7.30 to 18.00 hours Monday to Friday and 7.30 to 13.00 hours on Saturdays.

The proposal has been considered by Environmental Health who consider it to be acceptable.

Access / Parking

Local residents are concerned that an approval of this proposal would not be in the best interests of highway and pedestrian safety. However, the proposal has been assessed by the Highway Authority and is considered acceptable provided that the access road is widened to 5m for the first 7.5m of its length. A condition to this end is therefore recommended.

Despite concerns to the contrary, it is content that Wallbank Drive is capable of satisfactorily accommodating the level of additional vehicular use that this development is likely to generate. Finally it is not considered necessary to provide a lit footway to the side of the access road as it is and will remain a private access, with low traffic speeds.

It also considers the level of 'off street' parking proposed to be satisfactory for the proposed development (nine spaces for the nursery and two for the dwelling) and adequate space is available for the associated manoeuvring of vehicles to enable them to enter/leave Wallbank Drive in forward gear.

Tree Issues

The application proposes the felling of nine trees which are the subject of a Tree Preservation Order. The justification for so doing is that two are diseased and therefore unsafe, and the removal of the other seven will enable the remainder to flourish. It is accepted that two trees need to be removed in order to allow for the widening of the access road and the creation of the proposed parking area. Accordingly, no objection is raised to their removal. No objection is raised to the removal of four other trees either despite them not specifically needing to be removed to facilitate the development. However, it is felt that insufficient justification has been given for the removal of the other three trees. Accordingly, it is recommended that, at this stage, these be retained. Local residents have raised concerns about tree loss but the trees to be removed are either considered unsafe, are poor specimens or have limited amenity value due to their position. Furthermore, suitable replanting can be required to be undertaken by way of a condition.

Other Issues

In respect of other points raised by objectors and Whitworth Town Council I would advise as follows :

- a) the site is not known to be occupied by any protected flora and fauna. However, should any be found during the construction works the applicant would be required, by law, to cease works and contact Natural England. Failure to do so could lead to them being prosecuted under the Wildlife and Countryside Act 1981,

- b) the application has been advertised in accordance with the requirements of the current planning legislation,
- c) whilst there will inevitably be some disturbance during the construction works, a refusal of this proposal on such grounds could not reasonably be justified in this instance,
- d) the need or otherwise for this development, and issues concerning land ownership, are not matters that can be taken into consideration when determining a planning application,
- e) it is considered that suitable provision can be made for the storage and disposal of waste from, and for the satisfactory drainage of, the development,
- f) it is considered that the application is sufficiently detailed and accurate to enable the implications of the proposals to be properly judged,
- g) noise generated by dogs can represent a statutory noise nuisance. However, it is contended that a refusal of this proposal on the grounds that such noise would unduly disturb future occupiers/users of the dwelling/nursery could not reasonably be sustained. Should such a statutory nuisance subsequently arise it could reasonably be addressed under separate Environmental Health legislation,
- h) there are no proposals to form a vehicular access to the site from Cottage View. Furthermore, such an access would be difficult to satisfactorily achieve given the difference in levels between the two sites and having regard to the way that the surrounding development is laid out.

9. SUMMARY REASON FOR APPROVAL

The proposed development is considered to be acceptable in within the Urban Boundary and, subject to the conditions, will not unduly detract from the amenity of Greenlands, visual and neighbour amenity, biodiversity and trees, or highway safetyplanning policy, design, amenity and highway safety terms. The proposal is considered to accord with the provisions of Policies AVP1, 1, 2, 3, 8, 9, 10, 18, 23 and 24 of the Council's adopted Core Strategy DPD (2011) and the relevant provisions of the National Planning Policy Framework.

10. RECOMMENDATION

That Permission be granted subject to the following conditions :

Conditions

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 requirements of Section 91 of the Town and Country Planning Act 1990.
2. This permission relates to the Location Plan and Drawing Numbers TRI-1090-01; 2013/37-01A; 2013/37-02E and 2013/37-04D, received by the Local Planning Authority on 8 November 2013, and Drawing Number 2013-37-03F, received on 11 February 2014. Any variation to the approved drawings may require the approval of the Local Planning Authority.
Reason : For the avoidance of doubt.

3. All new areas of external wall and roof shall be constructed using natural stone and natural stone slate and shall match in unit size, type, colour, texture those of the building to be converted to the nursery.

Reason : In the interests of visual amenity, in accordance with the requirements of Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

4. All new window frames and external doors shall be constructed of timber, shall have a painted finish and shall be set in reveal to match the reveals of existing window frames and external doors of the building to be converted to the nursery, unless otherwise agreed in writing by the Local Planning Authority.

Reason : In the interests of visual amenity, in accordance with the requirements of Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

5. Notwithstanding the details given on the approved drawings, all windows to be formed in the southern and western facing elevations of the new dwelling and nursery shall be fitted with obscure-glazing, with any opening-light top-hung, prior to first use of the buildings and shall thereafter be retained at all times as such.

Reason : In order to safeguard the amenities of the occupiers of the adjoining properties, in accordance with the requirements of Policy 24 of the Council's adopted Core Strategy DPD (2011).

6. Notwithstanding the details given on the approved drawings, prior to first use of the nursery hereby permitted the access road shall be widened to a width of 5m for the first 7.5m of its length, measured from its junction with Wallbank Drive. Furthermore, all areas to be used for the parking and manoeuvring of vehicles shall be constructed of a bound porous material, avoiding surface-water run-off to the highway and with the parking bays delineated. These areas shall thereafter be retained at all times solely for the parking and manoeuvring of vehicles in conjunction with the dwelling and nursery hereby permitted.

Reason : In the interests of highway safety, in accordance with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

7. Notwithstanding the details given on the approved drawings, this approval shall not extend to the removal of trees other than T2 / T19 / T23 / T26 as referred to in the submitted Arboricultural Report by 'Mad about Trees Ltd' (dated 19 October 2013), unless otherwise first agreed in writing by the Local Planning Authority. Furthermore, development shall not commence until details for replacement tree planting have been submitted to and approved in writing by the Local Planning Authority, together with a programme for the implementation of the replanting works. The works shall be carried out as approved. Any trees which within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason : In the interests of visual amenity and as the trees to be removed have the protection of a Tree Preservation Order, in accordance with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

8. During the construction period all trees to be retained as part of the development shall be protected in accordance with the details set out in the submitted Arboricultural Report by 'Mad about Trees Ltd' (dated 19 October 2013). Details of the proposed positions of the

protective fencing shall also be agreed in writing with the Local Planning Authority before it is first erected. The approved protection measures shall be provided before any other site works commence and shall be retained in position at all times until completion of the construction works unless otherwise agreed in writing by the Local Planning Authority.

Reason : In the interests of visual amenity and as the trees have the protection of a Tree Preservation Order, in accordance with the requirements of Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

9. Unless otherwise agreed in writing by the Local Planning Authority, the nursery hereby approved shall not be operated outside of the hours of 7.30am to 6pm Monday to Friday and 7.30am to 1pm on Saturdays with no working on Sundays or Bank Holidays. Furthermore, not more than 22 children aged 0 to 5 shall be present on the premises at any one time, unless otherwise agreed in writing by the Local Planning Authority.

Reason : In the interests of neighbour amenity and highway safety, in accordance with the requirements of Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

11. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended or revoked and re-enacted), the converted dwelling shall be used solely as a children's day nursery as defined by Class D1 of that legislation and for no other purpose whatsoever including any other purpose within that Class.

Reason : In the interests of neighbour amenity and highway safety, in accordance with the requirements of Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).