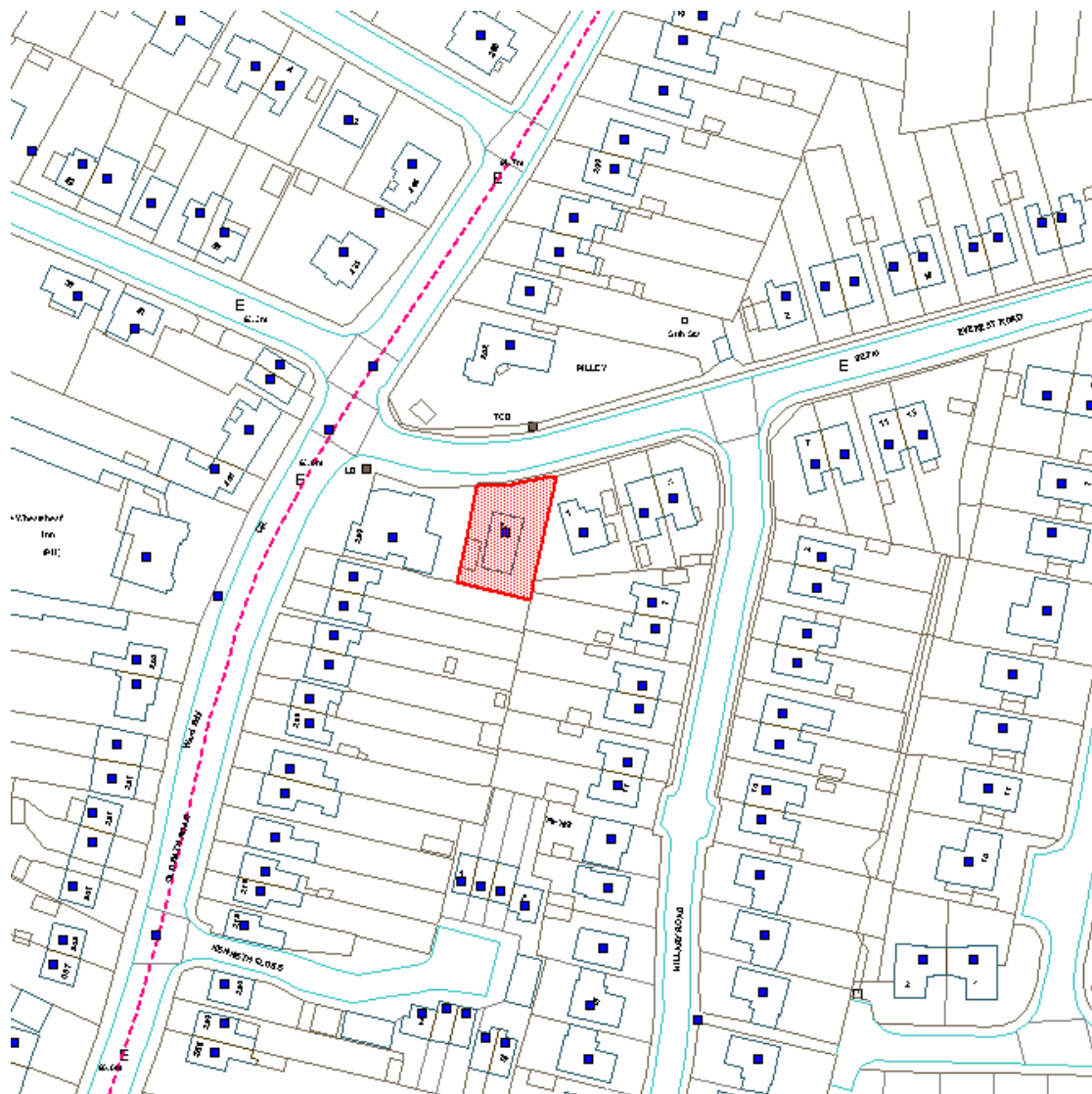


APPLICATION NO: 13/01216/COU		OFFICER: Miss Chloe Smart
DATE REGISTERED: 31st July 2013		DATE OF EXPIRY: 25th September 2013
WARD: Charlton Park		PARISH: None
APPLICANT:	Mr Samuel Hashimzai	
AGENT:	None	
LOCATION:	1A Everest Road, Cheltenham	
PROPOSAL:	Change of use from residential (C3) to a nursery (D1)	

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is a detached bungalow located close to where Everest Road meets Old Bath Road. The bungalow is currently in residential use; however the applicant is applying to change the use to a nursery (D1).
- 1.2 The applicant is proposing to operate between the hours of 09:00 and 14:00, Monday to Friday, with no working on a weekend or bank holidays. The proposal is for a maximum of 16 children.
- 1.3 The application is before planning committee at the request of Councillor Hall and Councillor Sudbury, who have raised concerns regarding highway safety and neighbouring amenity.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Smoke Control Order

Relevant Planning History:

13/00651/PREAPP CLO

Proposal to demolish existing dwelling and construct pair of new dwellings

13/00862/PREAPP CLO

Change of use from residential to nursery

83/00792/PF 27th October 1983 PER

Erection detached bungalow and garage

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 4 Safe and sustainable living

CP 7 Design

HS 7 Loss of residential accommodation

TP 1 Development and highway safety

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Environmental Health

5th September 2013

For the application 13/01216/COU for 1A Everest Road in Cheltenham, please see below for my full comments:

In relation to this application I am concerned from an environmental protection perspective that as this property was residential in use prior to this application and the site has never been used for a business of this nature, that there will be disturbance caused to local neighbouring residents from noise at the end use site. This could be from the use of the building for the nursery business, but most likely to be from the use of the garden. The applicant will need to carefully manage this area if the application is granted.

In relation to aiming to control the impact of noise I wish to put forward the following conditions:

- i. All windows and doors to the end use buildings will be kept closed during any period that there is music played or musical instruments being played by either adults or children.
- ii. The opening hours for use as a nursery will be 08:45 - 14:15 Monday - Friday with no weekend or Bank Holiday opening hours.
- iii. If the garage on this site is to be used as an area for children attending a nursery, it should adhere to conditions 1 and 2 above and be fully converted to the correct standard including a suitable level of insulation given its end use as part of the nursery.
- iv. Outside play is permitted for a maximum of 6 children at any one time and they may only play outside for a maximum of 30 minutes each time. Once a set of 6 children have been outside for 30 minutes they will not be permitted back outside again during that day. Staff are also to not only supervise children, but to keep the noise at a level which is un-likely to cause disturbance to neighbouring residents using their property as they normally would at that time of the day (including gardens).
- v. I note through correspondence with yourself that the applicant has provided a document detailing the typical day to day running of the business, I should wish this condition to tie the applicant to the statements made within this document regarding the operation of the business.
- vi. One further concern from an environmental protection and noise point of view is that the type and running of this particular nursery might not adversely affect neighbours in its planned use, but an example of an issue is, the applicant in the future wants to close/move the business so it is advertised as a premises which has permission to be a nursery and another owner moves in with double the number of children who are out all day long which then causes a noise impact on neighbouring residents.

So in order to combat this issue I would condition that all of the conditions as put forward by this department are for this applicant only and are not to be transferred or sold on with the premises should the applicant find he wishes to move away from it for any given reason. If the applicant wishes to sell or move on, the premises revert back to its original class of residential dwelling.

GCC Highways Planning Liaison

22nd August 2013

I refer to the above planning application received here on 31st July 2013 with plan no: 1216.04

The proposal is for a change of use from a C3 residential dwelling to a small children's nursery for 16 children. I am aware of the objection letters on the Cheltenham Borough Council website, and in particular in relation to the incident which occurred on 25th July 2013 involving 2 parked vehicles.

The site is located within a good catchment area for parents to be able to walk or cycle to the site, and therefore its unlikely every parent of the children attending the nursery would drive. Its not uncommon in such a situation to also find that more than one child in the same family attends the same nursery, thereby potentially cutting down on the number of trips further. Notwithstanding this I have assessed this application on the basis that 100% of the parents will drive, i.e. 16 vehicles arriving at the site during the morning rush hour. The

application form states that there will be 3 employees, and given that it appears a single bedroom dwelling will be staying on the site I would assume that one or even more of those staff will already be living on the site, however again I have assessed this application on the worst case scenario, i.e. that all staff will be arriving at the site by car.

I visited the site during the morning peak traffic times and during the day, and although I appreciate this may be a bit of a cut through route, I didn't witness the highway safety problems mentioned within the objection letters. The objection letters also make reference to problems in relation to parking associated with the pub; even if this were to be the case the traffic likely to be associated with the proposed development would be on the network at different times therefore would be unlikely to have a severe impact.

Everest Road is 5.5m wide at the point of the site access with footways either side; this is a standard carriageway width and wider than many in the county. This width of highway is considered wide enough to accommodate on street parking and still allow for the free flow of traffic; Manual for Streets indicates that 5.5m is also an acceptable width in order to allow two HGV's to pass. Double yellow lines are installed on the junction with Old Bath Road and extend into Everest Road for approximately 25m, which takes them to the site access, therefore indiscriminate car parking is already dealt with in this area by the Traffic Regulation Order (yellow lines) so is covered by separate legislation. There is plenty of opportunity to park at safe and suitable locations on the highway within 200m of the site without causing a highway safety hazard. Forward visibility is above the recommended standard for a 30mph road, and there have not been any recorded collisions at the junction with Old Bath Road, nor on Everest Road within the last 5 years. The applicant has indicated that 4 car parking spaces will be provided on site, I believe that this is sufficient to accommodate both the staff parking and parking associated with a one bed dwelling, however in all likelihood not all staff will drive a car to the site.

It's unfortunate about the incident that appears to have happened on the 25th July 2013 where two cars were parked inappropriately which lead to the road becoming blocked, however this could happen on any road within Cheltenham, or the County and is a matter for the police. We cannot design every road to be able to accommodate two cars to be parked on either side of the highway and still allow for a HGV to pass. The incident is unfortunate, however in the view of the Highway Authority, a nursery catering for 16 children at such a location, on a road with a standard carriageway width where traffic regulation orders are already in place, would not be likely to have a severe or significant impact upon highway safety. The National Planning Policy Framework says that although safe and suitable access should be provided, 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe'.

Although the proposed access has not been shown on the submitted plans, I am satisfied that a safe and suitable access can be provided at such a location, with visibility from the proposed access being acceptable for the speed of the road. I'm unsure whether 4 cars can physically park within the site; however this can be overcome by a suitably worded condition. No cycle parking has been provided, Table 16 of the Cheltenham Borough Council Local Plan says that 'a minimum of 2 cycle parking spaces must be provided at any new non-residential development, however small', therefore should you think it reasonable, please attach an appropriately worded condition.

Thus, it is for these reasons that I recommend that no highway objection be raised subject to the following conditions being attached to any permission granted:

- 1) No change of use shall occur until details of the proposed parking, manoeuvring and access facilities have been submitted to and agreed in writing by the Local Planning Authority. Those facilities shall be provided in accordance with the approved details

prior to the change of use occurring and shall be maintained as such at all times thereafter.

REASON: To reduce potential highway impact by ensuring that adequate parking, manoeuvring and access facilities are available within the site.

- 2) Prior to the change of use hereby permitted occurring secured and covered cycle storage facilities for a minimum of 2 bicycles shall be provided within the curtilage of the site and such provision permanently retained at all times thereafter.

REASON: To ensure that adequate cycle storage facilities are provided in line with the Governments declared aims towards sustainable modes of travel.

INFORMATIVE

The proposed development will require the provision of a footway/verge crossing and the Applicant/Developer is required to obtain the permission of the County Council before commencing any works on the highway.

NOTE:

If the applicant lodges an appeal for any reason in respect of this application (or proposal), I would be grateful if you would notify me immediately of the appeal and details of any public inquiry. Similarly if there is a call-in or other government action would you please advise me immediately. Without this information there is a significant risk of the County Council not being able to meet the timescales and deadlines imposed for submission of statements of case and other representations.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	5
Total comments received	16
Number of objections	15
Number of supporting	0
General comment	1

- 5.1 Five letters were sent out to neighbouring properties and sixteen responses have been received from those within the local area.

- 5.2 The concerns raised in the responses received have been summarised as follows;

- Noise disturbance created by the proposal.
- Highway safety – the property is located close to a busy corner, which already has parking and congestion issues.
- Parking concerns
- Loss of a residential bungalow.
- Inappropriate use of domestic bungalow.
- Size of the site – too small to cater for the proposed number of children.
- General disruption to the local area.

OFFICER COMMENTS

Determining Issues

- 5.3 The main considerations in relation to this application are the loss of a housing unit, the suitability of the site for a nursery and the impact on neighbouring amenity and highway safety.

- 5.4** Local Plan Policy HS7 restricts the loss of residential accommodation through change of use or demolition. The policy states that development involving the loss of residential accommodation through change of use will not be permitted unless it falls within certain criteria. Part (d) of this policy allows for change of use providing the proposed use would be beneficial to the wider economy and the local community; and cannot suitably be accommodated on alternative sites.
- 5.5** Within the note for policy HS7, a children's nursery is specifically referred to as within what is considered to be a community facility. Due to the nature of the proposal, requiring both outdoor and indoor space, the proposed use lends itself well to a residential area and members will be aware that there are a number of examples of residential properties becoming nurseries. As such, it is not uncommon to find a children's nursery within a residential area and officers are satisfied that the proposal meets the requirements of policy HS7.

Impact on neighbouring property

- 5.6** Local Plan Policy CP4 requires development to protect the existing amenity of neighbouring land users and the locality.
- 5.7** A number of objections have been received from residents within the locality, with concerns regarding the noise and disturbance of such a use in this area.
- 5.8** Due to the nature of the change of use the Borough's Environmental Health Officer has been consulted. Whilst concern has been expressed due to the increase in activity at a residential property which has not previously been used for this purpose, it is considered that if carefully managed, the proposal is acceptable.
- 5.9** Environmental Health's (EH) concern regarding the noise and disturbance created by the use relates primarily to the garden. The applicant has stated that teaching is predominantly indoors, with some outdoor teaching such as gardening, painting, sand and water play. The applicant has also stated outdoor teaching will be restricted to 6 children at any time, with a maximum of one and a half hours of the day involving outside teaching; a condition is suggested to ensure this is the case. Furthermore, EH have recommended a separate condition regarding outdoor play, which would be restricted to a maximum of 6 children at any one time and for a period of only 30 minutes each time.
- 5.10** Whilst the concerns raised regarding the size of the garden have been noted, the applicant's intention is not to use the garden for all 16 children at any one time. This has been stated in a statement submitted by the application, which sets out the proposed day to day running of the nursery.
- 5.11** In terms of general noise and disturbance created by the proposal, officers consider this would not be unacceptable, primarily due to the small scale proposal, with a low number of children and limited hours of operation (09:00 – 14:00 Monday to Friday with no weekend or bank holiday working).
- 5.12** As such, the use is not overly intensive and is considered acceptable with the inclusion of suitably worded conditions to limit the noise and disturbance for neighbouring properties.
- 5.13** Officers consider these conditions would not be onerous; the majority relate to the information provided by the applicant in the accompanying statement. As such, the limited hours of operation, use of the outdoor space and maximum number of children to use the nursery are based on the applicant's requirements.
- 5.14** Given that the suggested conditions relate back to the accompanying statement, officers consider it is both necessary and reasonable to limit the use to a personal permission. This would require any alternative nursery or D1 use to apply for a separate change of

use application, thus allowing the specific merits of any potential future application to be assessed.

- 5.15** This approach is also endorsed by the Environmental Health Officer, who has suggested that the premises revert back to its original residential use upon sale of the property or relocation of the business.
- 5.16** Based on all of the above and with the inclusion of suitable conditions, officers consider the proposed change of use would not harm the existing amenity of adjoining land users. A number of measures can be put in place to ensure neighbouring amenity is protected and in light of this, it is considered that the proposal is compliant with the aims of local plan policy CP4.

Access and highway issues

- 5.17** As stated earlier in the report there have been a number of objections received raising concerns regarding the impact of the proposal on the highway network.
- 5.18** As the proposal is for a change of use, Gloucestershire County Council's Highways Officer has been consulted on the application and has offered no highway objection to the proposal, subject to a number of conditions.
- 5.19** Due to the number of concerns regarding highway safety, a detailed highway response has been received to address the issues raised.
- 5.20** Local Plan Policy TP1 advises that development will not be permitted where it would endanger highway safety.
- 5.21** The site is within a good catchment area for parents to walk or cycle and therefore it is unlikely that every parent would drive to the nursery. In addition, there is the possibility that more than one member of the same family attends the nursery, which has the potential to reduce the number of trips.
- 5.22** Notwithstanding the above, GCC Highways have assessed the application on the assumption that every parent drives to the property, thus considering the 'worse case scenario'.
- 5.23** The width of Everest Road has been an area of concern in the letters received with some local residents describing the road as narrow. At the point of access to the application site the road is 5.5 metres with footpaths either side. This is a standard carriageway width, which is wider than many roads in the area and is also considered wide enough to accommodate on-street parking, whilst still allowing the free flow of traffic. To provide further context, a 5.5 metres carriageway is also wide enough for a High Goods Vehicle to pass as set out in the Manual for Streets.
- 5.24** A number of concerns from local residents refer specifically to the impact of the proposed use on the Everest Road and Old Bath Road junction and parking within this location.
- 5.25** In relation to the junction itself, forward visibility is above the recommended standard for a 30mph road and there is no record of any collisions occurring at this junction in the last 5 years.
- 5.26** In terms of road users parking within this area, GCC Highways have highlighted that double yellow lines are already installed at this junction, which extend approximately 25 metres into Everest Road. As a result, indiscriminate parking is already dealt with by the Traffic Regulation Order (yellow lines). It is important to further highlight that the local planning authority must consider the proposal on this basis and not on the potential for road users parking on yellow lines; this is covered by separate legislation.

- 5.27** Notwithstanding the above, the surrounding highway network has sufficient opportunity for road users to park in suitable, safe locations within 200 metres of the application site which are not covered by the Regulation Order.
- 5.28** The proposed access to the site has not been shown on the submitted plans, however the Highways Authority is satisfied that in line with Paragraph 32 of the NPPF, '*a safe and suitable access can be achieved for all people*'. This is based on the location of the existing bungalow, with the visibility in this location being acceptable for the speed of the road.
- 5.29** The applicant has suggested that four on site parking spaces can be provided, however this may not be able to be achieved within the site. As such, a condition has been suggested by the Highways Authority requesting the submission and approval of the proposed parking, manoeuvring and access facilities prior to any change of use.
- 5.30** Paragraph 32 (pg 10) of the NPPF states that, '*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*'.
- 5.31** In this instance this is clearly not the case. Based on the responses received there appears to be an issue with unauthorised parking in the area, however as previously stated this does not form part of the consideration of this application and is covered under separate legislation.
- 5.32** Furthermore, the view of the Highway Authority in relation to the specific proposal for a nursery catering for 16 children in this location is that it would not be likely to have a severe or significant impact on the highway network. Everest Road is a standard carriageway width, where traffic regulation orders are already in place.
- 5.33** Based on the above and with the addition of appropriate conditions regarding access, parking and manoeuvring arrangements; and bicycle storage, officers consider the proposal to be in accordance with Local Plan Policy TP1 and the NPPF.

6. CONCLUSION AND RECOMMENDATION

- 6.1** In conclusion, Officers consider that when assessed against the provisions of the NPPF and Local Plan Policy, the proposed development is acceptable.
- 6.2** The proposal meets the requirements of Policy HS7, being a community facility, which lends itself well to a residential property; and is a use that is not uncommon in a residential area.
- 6.3** There would be no harm the amenity of the existing land users due to the small scale nature of the business, limited opening hours and the inclusion of measures to protect neighbouring amenity.
- 6.4** Finally, the change of use would not result in a significant or severe impact to highway safety, thus meeting the requirements set out in the NPPF.
- 6.5** The recommendation is therefore to grant planning permission subject to the conditions below.

7. CONDITIONS / INFORMATIVES

Conditions and Informatives will follow as an update.