

**Planning Committee:** 23 August 2005

**Item Number:** 04

**Application No:** W 05 / 0430

**Registration Date:** 28/06/05

**Town/Parish Council:** Stoneleigh

**Expiry Date:** 23/08/05

**Case Officer:** Penny Butler

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**Shop, 163 Cromwell Lane, Burton Green, Kenilworth, CV4 8AN**  
Change of use from retail to day nursery (D1 Use Class) FOR J Evans

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This application is being presented to Committee due to the number of objections and an objection from the Parish Council having been received.

### **SUMMARY OF REPRESENTATIONS**

**Parish Council:** Object. "The applicant has recently had planning permission granted at 179 Cromwell Lane to extend the number of children from 12 to 28. There is no justification for authorising another nursery in the area. Both neighbours object strenuously to this application. On one side there is an elderly gentleman who has had a brain tumour and is sensitive to noise and the nuisance that a nursery would create. We raised objections with regard to traffic and safety with the previous application. This property is in an even more precarious position as the entrance/exit is immediately opposite the entrance/exit to the Peeping Tom public house."

**Neighbours:** Eight letters of objection and two petitions with an extra eleven signatures have been received. The grounds of objection include increased traffic, harm to highway safety and increased parking need, and the public house opposite and bus stops directly outside will cause further problems. Noise and disturbance, impact on the residential character of the area, increased pressure on already overloaded sewage system. The area is well provided for in terms of similar facilities, and the need for an additional nursery is questioned.

**WCC Highways:** No objection subject to a condition that the building shall not be occupied until a Green Travel Plan has been submitted, approved and the measures within it carried out. Also recommend conditions for the access width, turning area and a parking plan.

**WDC Environmental Health:** The applicants have been advised to contact Environmental Health should the planning application be successful.

### **RELEVANT POLICIES**

(DW) ENV1 - Definition of the Green Belt (Warwick District Local Plan 1995)  
(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)  
(DW) H13 - Loss of Existing Residential Accommodation and Development within Existing Residential Areas (Warwick District Local Plan 1995)  
DAP1 - Protecting the Green Belt (Warwick District 1996 - 2011 First Deposit Version)

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)

DP2 - Amenity (Warwick District Local Plan 1996 - 2011 First Deposit Version)

DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011 First Deposit Version)

DP8 - Parking (Warwick District Local Plan 1996 - 2011 First Deposit Version)

## **PLANNING HISTORY**

A number of planning applications were made on the site between 1957 and 1972, for extensions, outbuildings, widening of the access, and a new shop and flat. There are no recent planning applications.

## **KEY ISSUES**

### **The Site and its Location**

The property is currently a detached previously extended building with shop at ground floor and flat to the rear and above. There is a wide vehicular access to the front and a tarmac parking area and turning space, able to accommodate 5-6 vehicles. To the side is a vehicular access running to various detached garages and outbuildings in the rear garden which adjoin the side boundary with no. 161. The large rear garden is over 60 metres long and 17 metres wide, with boundaries consisting of 1.8 metre close boarded fencing with some hedging and trees.

### **Details of the Development**

It is proposed to change the use of the whole property to a children's day nursery (use class D1). The maximum number of children attending would not exceed thirty six, with ten members of staff, and it would operate between 08.00 and 18.00 Monday to Friday, not including bank holidays.

### **Assessment**

The main issues to be addressed are impact on neighbouring amenity, and traffic (including parking and access). The site has an existing in/out vehicular access with good visibility, large parking area and turning space so that vehicles can enter and leave the site in a forward gear. The Highway Authority does not raise objection, subject to normal conditions controlling the access, so a refusal on highway safety grounds could not be supported. The applicant would also be required to submit for approval a Green Travel Plan, in order to promote sustainable transport choices, the objective being to encourage alternative ways of travelling to the car. The bus stop directly outside the property on both sides of the road provides such an alternative, and does not raise safety concerns with the Highway Authority.

The building is positioned close to the north-west side of the plot, very close to the boundary with no.161. The boundary with no.161 is currently made up of existing outbuildings and a large tree, all of which extend down the garden for over 30 metres. The vehicle access to the rear runs down the south-west side of the building, away from the boundary with no.167, such that there is a gap of 8.0 metres between the boundary and no.163. The neighbouring detached

residential properties are set within large gardens, as is the applicant. The use of the garden, despite its size, could be limited as is usual practice for day nurseries adjoining residential neighbours, by limiting the number of children in the garden at one time, and its hours of use.

The applicant was recently granted planning permission (W04 / 1645) in November 2004 to increase the number of children at their day nursery at no.179 Cromwell Lane to 28. This site has been operating under a number of planning conditions since the original approval in 1997, and similar conditions could be imposed at this site to minimise noise and disturbance to adjacent residential properties. Subject to the recommended conditions that are imposed at most approved nurseries in residential areas, and in the absence of objections from Environmental Health, it is considered that impact on neighbouring amenity could be controlled to acceptable levels.

Policy (DW)H13 of the 1995 Local Plan states that proposals for non-residential uses in established residential areas will be considered with regard to the established character and amenity of the area. As the existing property is in mixed residential/commercial use, it is not considered that the change would have a serious adverse impact. The opening hours of the existing shop are not limited and it does not create noise or traffic problems, however, an alternative A1 use could operate unlimited opening hours, significantly increase vehicle movements, and create much more disturbance than a day nursery limited by planning conditions. Impact on sewers or drainage is not a planning matter.

### **REASON FOR RECOMMENDATION**

The proposal is considered to comply with the policies listed above.

### **RECOMMENDATION**

GRANT subject to the following conditions :

- 1 The development hereby permitted must be begun not later than the expiration of five years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990.
- 2 The total number of children attending the nursery shall not at any time exceed 36 and the nursery shall only be operated between the hours of 08.00 and 18.00 on weekdays only (not including bank holidays). **REASON** : To protect the amenities of surrounding properties, in accordance with Policy ENV3 of the Warwick District Local Plan.
- 3 No more than 6 children shall be allowed to play outside at any one time and they shall at all times be supervised by at least one suitably qualified person. **REASON**: To protect the amenities of surrounding properties, in accordance with Policy ENV3 of the Warwick District Local Plan.
- 4 The development hereby permitted shall not be occupied until the applicant has submitted and the Local Planning Authority (in consultation with the Highway Authority) has approved in writing a Green Travel Plan and the measures to be carried out in that plan. **REASON** : To minimise the number of motor vehicles coming to the nursery, reduce congestion, and

minimise vehicle impacts on the environment in accordance with Policy (DW) ENV3 of the Warwick District Local Plan 1995.

- 5 The development hereby permitted shall not be commenced until the existing vehicular access to the site has been widened so as to provide an access not less than 5.0 metres, as measured from the near edge of the public highway carriageway. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 6 Any gates erected at the entrance to the site for cars shall not be hung so as to open to within 5.5 metres of the near edge of the public highway carriageway. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 7 The development hereby permitted shall not be occupied until there is available vehicular turning space within the site so that vehicles are able to enter and leave the public highway in a forward gear. Such area shall thereafter be kept available for that purpose. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 8 The development hereby permitted shall not be commenced until space has been provided and set out within the site for the parking of cars, in accordance with details to be approved in writing by the Local Planning Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.

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