

# PLANNING APPLICATION NUMBER: P21/1402

Type of approval sought	Full Planning Permission
Ward	Wordsley Ward
Agent	
Case Officer	James Mead
Location:	<b>3, GUARDIANS WALK, WORDSLEY, STOURBRIDGE, DY8 5TH</b>
Proposal	<b>CHANGE OF USE OF RESIDENTIAL PROPERTY TO A MIXED USE OF RESIDENTIAL AND CHILDMINDING (RETROSPECTIVE)</b>
Recommendation Summary:	<b>REFUSE AND ENFORCE</b>

## SITE AND SURROUNDINGS

1. The application site is a relatively modern two storey pitched roof detached house located at 3 Guardians Walk, Wordsley. The property benefits from a driveway to the front with two parking spaces provided. An integral garage has been converted within the property to provide additional accommodation within the house to support the childminding use.
2. There is a private garden area to the rear of the house. Boundaries consist of fencing, with Number 23 Guardians Walk beyond the rear boundary; the occupiers of which have planted high hedging along their rear boundary. No 1 Guardians Walk is to the west and set forward of the application property and No 5 Guardians Walk is to the east, set slightly forward and slightly higher than the application site.
3. The house sits within the perimeter block of residential houses, most of which are detached and two storeys. The surrounding area is wholly residential in character.

## PROPOSAL

4. This application proposes the retrospective change of use of the property for use as a mixed use of residential and childminding.

5. Childminding takes place Monday to Friday between the hours of 7.30am and 5.30pm, with up to 10 children being looked after by 3 members of staff (the applicant and two assistants working in one day). One on site car parking space is available for staff parking. There is an informal arrangement in place with a neighbour for additional parking.

## HISTORY

6. There is no relevant planning history associated with this site.

## PUBLIC CONSULTATION

7. Letters of notification were sent to the occupiers of six surrounding residential properties. The deadline for comments was 24<sup>th</sup> October 2021.
8. Two letters of objection have been received from the occupiers of nearby residential properties, objecting to the application on the following grounds
  - Noise from children playing in the garden all day, prevents working from home and normal enjoyment of our home.
  - Significant increases in traffic at drop off and pick up times. Causing obstruction to existing residents.
  - Residents affected by commercial activity of a business in a exclusively residential area.
  - Covenants restrict all properties to residential use only.
  - This would set a precedent if approved.
9. Councillor Kerry Lewis has requested the application be determined by Planning Committee stating *"The implications this will have on jobs will be detrimental and not forgetting the children who attend this setting who are in a stable environment"*
10. Councillor Miller supports the proposal, stating *"I support this application it does not cause any problems. The parents come, drop or collect children and are gone within minutes. The biggest problem on this estate is the amount of delivery drivers driving fast, parking over drives, roads being blocked"*

11. In addition, two letters in support of the application have been received from a local resident and one member of staff. These are summarised as follows.

- We have no concern, the use is considered, well intentioned and does not affect the use of property.
- We have no concerns over noise levels
- There are no parking issues
- It does not affect property values
- There is no excessive traffic
- This is a vital service to the community
- Children of frontline workers are cared for
- Set as 'Good' by Ofsted

## OTHER CONSULTATION

12. Head of Planning and Development (Highway Engineer):

Fundamental concern due to the lack of parking.

13. Head of Environmental Safety and Health:

It is noted that the rear garden of the application property is in relatively close proximity to several other gardens. There is potential for behavioural noise from children using the garden to adversely affect other residents in the immediate area. Recommended a 12-month temporary consent.

## RELEVANT PLANNING POLICY

14. National Planning Guidance

- National Planning Policy Framework (2021)
- Technical Guidance to the National Planning Policy Framework (2012)
- Planning Practice Guidance (2014)
- Community Infrastructure Levy Regulations (as amended) (2014)

15. Black Country Core Strategy (2011)

- CSP2 Development outside the Growth Network
- TRAN2 Managing Transport Impacts of New Development
- ENV2 Historic Character and Local Distinctiveness

16. Dudley Borough Development Strategy (2017)
  - S1 Presumption in favour of Sustainable Development
  - S17 Access & Impact of Development on the Transport Network
  - D2 Incompatible Land Uses
  - D5 Noise Pollution
  
17. Supplementary Planning Guidance/Documents
  - Parking Standards Supplementary Planning Document (2017)

## ASSESSMENT

18. The main issues are
  - Working from Home
  - Policy
  - Neighbour Amenity – Noise
  - Parking and Highway Safety.
  - Need

### Working from Home

19. The Government guidelines encourage people to work from home as long as this does not cause unacceptable harm to the amenity of the area or more importantly immediate neighbours. The key test is whether the overall character of the house will materially change as a result of the business.
  
20. As a general rule operating a childminding business from your home does not require planning permission so long as no more than 6 children are being cared for by one childminder in line with Ofsted regulations. However, when there is a need to employ assistants to look after a higher number of children, there is a requirement to seek planning permission as this is considered to materially change the character of the house. This is because the home would no longer be primarily used as a private residence; there would be marked rise in traffic and people calling at the house; it involves business activities unusual in a residential area and could cause disturbance and create other forms of nuisance such as noise and smells to neighbouring occupiers.

## Policy

21. Dudley Borough Development Strategy Policies D2 and D5 considered relevant from an amenity point of view.
22. Policy D2 - Incompatible Land Uses, for example states *“Development will not be permitted if it is incompatible, in terms of its environmental impact, with the surrounding uses.*

*“This will particularly be as a result of the amenity of the occupiers of existing and proposed buildings and the users of the public realm at or near to the site potentially being subject to undue harm as a result of development, especially by virtue of noise and disturbance, light and air pollution, and odours and fumes. This especially relates to the amenity of the occupiers of dwellings”.*

23. Policy D5 - Noise Pollution, takes a similar stance stating that proposals which are noise generating and which have an impact on amenity will not be supported.

## Neighbour Amenity – Noise

24. While, the above policy does not preclude such uses in residential areas, providing there is no harm to the living conditions of nearby residents. In general, larger more commercial operation should be located in areas of mixed commercial development and should not cause demonstrable harm to the occupiers of nearby dwellings.
25. In this instance, the Environmental Safety and Health Team note that the rear garden of the application property is in relatively close proximity to several other gardens and there is potential for behavioural noise from children using the garden to adversely affect other residents in the immediate area. While timing of the use of the garden could be controlled via a condition or as suggested a temporary consent given, some local residents refer to the noise from children playing being unduly loud and disruptive and audible both in their gardens and their houses. The noise arising from upto 10 children playing in what is a relatively small outdoor area is likely to cause undue noise and disturbance to nearby occupiers.
26. In addition, noise and disturbance would also be generated by the comings and goings of additional vehicles and people to the property. This includes from the banging of car doors, revving of engines and general noise from parents and children entering and leaving the property. These activities take place in relatively close proximity to nearby houses and are

likely to be noisy and intrusive, particularly early in the morning at drop off times when background noise would generally be diminished.

27. It is therefore considered that the proposal would be harmful to the living conditions of nearby occupiers with particular reference to noise and disturbance and would be sufficient in this instance to warrant refusal of the application. The proposal would be contrary to policies D2 and D5 of the Dudley Borough Development Strategy and guidance contained within the NPPF (2021).

#### Parking and Highway Safety

28. As outlined within policies TRAN2 of the Black Country Core Strategy and Policy S17 of the Dudley Borough Development Strategy there is a requirement to ensure that development proposals do not result in significant transport implications. In support of these policies, the Parking Standards SPD recognises the need to provide the *“right amount of parking provision in the right place and to the right size”*. In doing so paragraph 3.2 outlines that *“Developments that suggest likely on-street parking which would create or exacerbate issues of highway safety will not be supported.”*
29. The property is indicated to be a four-bedroom dwelling that at the time of construction required 3 off-street parking spaces. It is evident from photos of the site that the property has removed the integral garage and reduced the parking capacity at the house. The applicant has stated that staff or customers may also park on a neighbouring driveway by agreement with the resident. Such an agreement cannot be supported as part of the business operation as this may be taken away at any point by the neighbour and cannot be controlled through a planning condition. In any event the applicant states that her own car will be parked on the drive, with one space available for a member of staff, leaving no off street parking for parents to drop off or pick up.
30. Some children could be from the local area and walked to the site, and there is a possibility that customers may have more than one child attending the site with a potential for linked trips. Nevertheless, some people will arrive by car and have no option to park on the road outside the house. The proposal has the potential to lead to considerable increase in the number of vehicles seeking to park on Guardians Walk and could compromise the free flow of traffic.

31. The proposed change of use to permit childminding at the property will therefore increase the observed parking problems on this road, creating a potential obstruction and highway safety emergency access issue. As such the development has the potential to have a detrimental impact on highway safety, which is contrary to Black Country Core Policy TRAN2 - Managing Transport Impacts of New Development, and Dudley Borough Development Strategy. Policies S17 - Access & Impact of Development on the Transport Network and guidance contained within the National Planning Policy Framework (2021).

## CONCLUSION

32. The proposed development is considered to harmful to amenity of adjoining neighbours by way of noise and disturbance. In addition, there would be an unacceptable impact on highway safety. Consideration has been given to policies within the Black Country Core Strategy (2013) and the Dudley Borough Development Strategy (2017).

## RECOMMENDATION

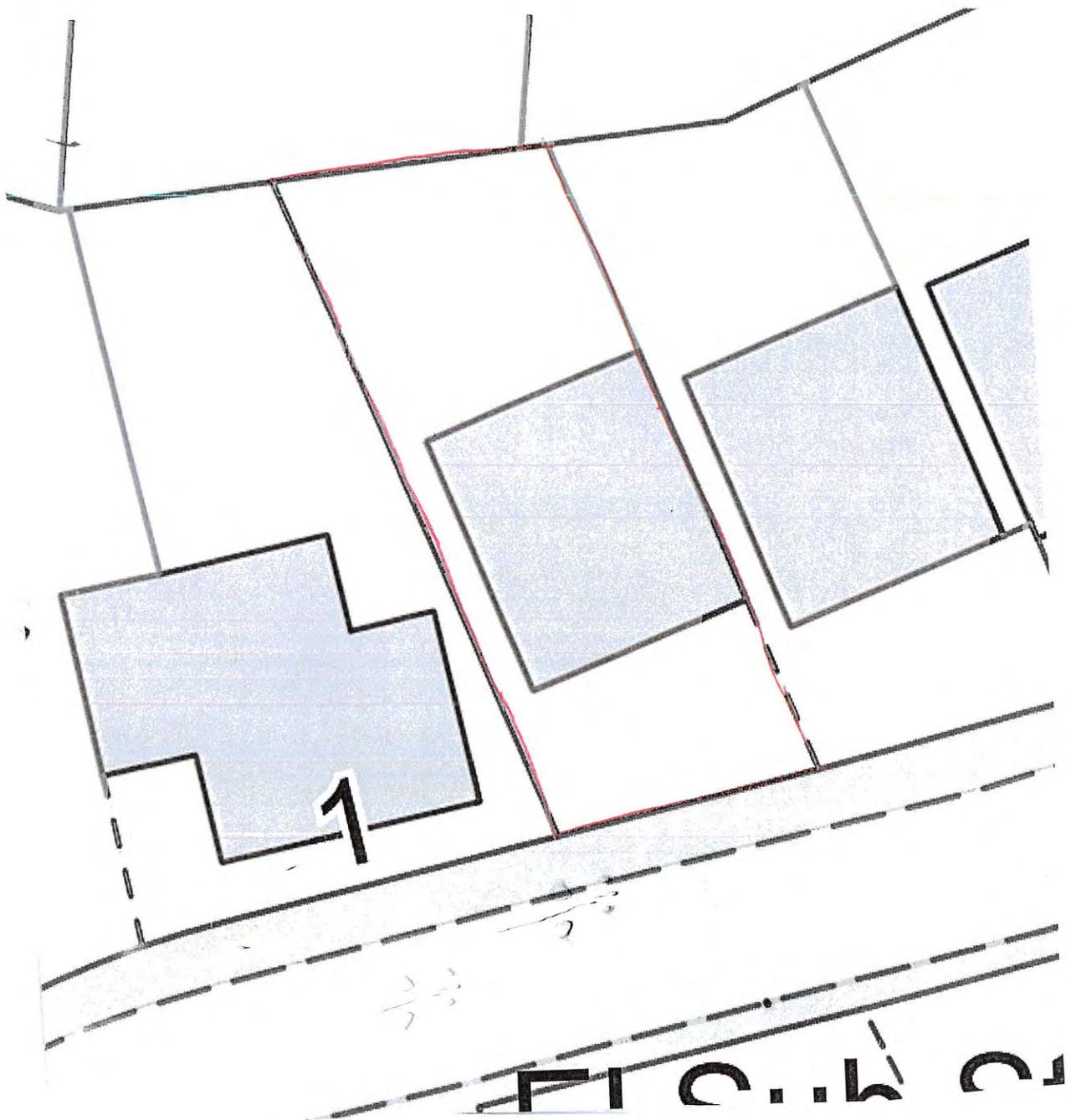
It is recommended that the application be REFUSED and enforcement action authorised.

Conditions and/or reasons:

1. The intensification of the childminding use in close proximity to adjoining residential premises would have a significantly detrimental impact on neighbour amenity by way of noise and general disturbance associated with the operation. The proposed developed is there considered to be contrary to Policies D2 (Incompatible Land Uses) and D5 (Noise Pollution) of the Dudley Borough Development Strategy 2017 and guidance contained within the National Planning Policy Framework 2021.
2. The proposed development would not provide a sufficient level of parking and would displace vehicles onto the highway resulting in the increased risk to highway safety, as well as interfering with the free flow of traffic on the highway and unacceptable traffic congestion or inconvenience to other users of the highway. As such the proposed development is contrary to Black Country Core Policy TRAN2 - Managing Transport Impacts of New Development, and Dudley Borough Development Strategy Policy S17 - Access & Impact of Development on the Transport Network; the provisions of the Car Parking Standards SPD (2017) and guidance contained within the National Planning Policy Framework (2021).



Location Plan (1:1250)



Block Plan (1:200)