

DELEGATED APPLICATION REPORT

Ward: Tilehurst

App Ref: 220252/FUL

Address: 110 St Michaels Road, Reading, RG30 4SE

Proposals: Retrospective change of use of outbuilding and ground floor of dwellinghouse (Class C3) to mixed use (childminding business for up to 9 children and residential - Sui Generis) (amended description)

Case Officer: Mr David Brett

Applicant: Kellie Fairchild

Date received (valid from): 23/02/2022

Target Decision date: 06/05/2022, extension of time on decision agreed from 20/04/2022

1. INTRODUCTION

The application site is a semi-detached dwelling located on St Michaels Road, Tilehurst. The surrounding area is considered predominantly residential with a mix of semi-detached and detached dwellings. 110 St Michaels Road benefits from a large garden, with the rear boundary at least 45m away from the rear elevation of the main house.



Fig 1. Front of 110 St Michaels Road. Photo taken by case officer on 16/03/2022.



Fig 2. Front of outbuilding at 110 St Michaels Road. Photo taken by case officer on 16/03/2022.

The proposal site is not within a Conservation Area or a listed building.

A site visit was undertaken by the case officer on 16/03/2022.

2. PROPOSAL AND SUPPORTING INFORMATION

The application seeks the following retrospective planning permission for a change of use of the outbuilding and ground floor to the main house to a mixed use of residential and childminding, under the Sui Generis Use Class. The areas in which the mixed use is sought has been demonstrated on plans, with the areas in red indicating the mixed use.



Fig 3. Ground Floor Plan of 110 St Michaels Road - areas in red indicating mixed use for childminding and residential.

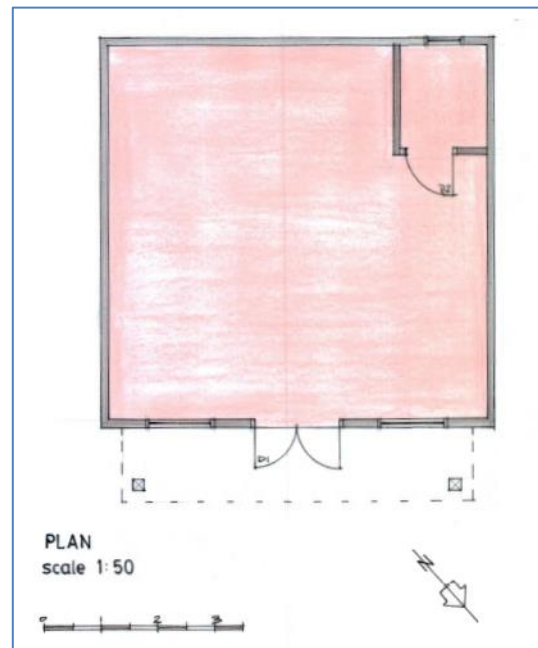


Fig 4. Outbuilding Plan of 110 St Michaels Road - areas in red indicating mixed use for childminding and residential.

The application form states that the mixed use for residential and childminding commenced in January 2021. This planning application seeks permission for this use for up to 9 children at any one time for the childminding setting / business. The childminding runs from Monday to Thursday (not on Friday to Sunday), with opening hours from 7:30am to 6:00pm. Three members of staff are employed at the childminding setting on a term time only basis, meaning that the setting can only operate at maximum of 9 children for 38 weeks of the year. Out of term time, there is currently only three children attending the childminding setting.

No physical alterations are proposed. The existing outbuilding was constructed following the approval of Certificate of Lawfulness (Proposed) application 201433 (see section 3). It is acknowledged that the outbuilding is used for the purposes of childminding, a use of which is not lawful based on the type of application that the outbuilding was permitted under. This use, however, is now being considered retrospectively under this planning application.

This planning application was submitted following a Planning Enforcement investigation at the site, where it was established that a planning application was needed for the use taking place.

The following plans and documents have been submitted for consideration under this application:

- Site Location Plan
- Block & Site Plan
- Nursery Plan - 11
- House Plans & Elevations - 12 Rev C
- Planning, Design & Access Statement

Received on 23/02/2022

3. RELEVANT PLANNING HISTORY

201433/CLP - Certificate of Lawfulness for proposed construction of a rear outbuilding - Application Permitted on 02/12/2020

210905/CLP - Certificate of Lawfulness for Proposed Hip to Gable loft conversion, rear dormer, and 3 front rooflights - Application Permitted on 28/07/2021

4. CONSULTATIONS

4.1 The following addresses were consulted by letter.

- 108 St Michaels Road, Tilehurst, Reading, RG30 4RX
- 112 St Michaels Road, Tilehurst, Reading, RG30 4SE
- 372 The Meadway, Tilehurst, Reading, RG30 4NX
- 374 The Meadway, Tilehurst, Reading, RG30 4NX
- 3 Keswick Close, Tilehurst, Reading, RG30 4SD*
- 3A Keswick Close, Tilehurst, Reading, RG30 4SD*

*3A was originally to be consulted by letter on the application as adjoining neighbour to 110 St Michaels Road, however, number 3 were sent the letter in error. This error was recognised early on in the application and 3A were sent a letter on 16/03/2022.

A site notice was erected on 10/03/2022 for a period of 21 days, expiring on 31/03/2022.

A total of 19 response were received to the public consultation of the application. These responses are broken down as follows:

- Objections: 5
- Support: 12
- Observations (neither objecting nor supporting): 2

Summary of the objections received and will be discussed in the appraisal section of this report:

- Noise and disturbance arising from the development.
- Impact of development on on-street vehicle parking and highway safety.
- The use of the garden building for childminding.

Summary of comments received in support of the application:

- The quality of care and education at the childminding setting.
- Value as a community asset.

The following objections were also raised but are not considered material planning considerations.

- Loss of property value.
- Personal circumstances.

4.2 The following consultees were consulted:

Reading Borough Council, Environmental Protection (EP) - Response received on 10/03/2022

- *Recommend conditions restricting the hours/days of the childminding use and the numbers of children to those currently in place, in order to minimise the noise impact on neighbours and to prevent intensification of the use.*
- *If objections are received from neighbours in relation to noise, then please inform EP so noise issues being reported can be further considered.*

Officer Note

The Environmental Protection Officer was informed of noise concerns raised through the consultation responses and so officers continued discussions regarding the application. This will be discussed in the appraisal section of this report.

Reading Borough Council, Transport - Response received on 01/04/2022

- *In principle, there are no transport objections subject to the applicant widening the existing dropped crossing. However, a condition should be applied to cap the number of children to a maximum of 9 children to ensure that there is sufficient on-site parking during the drop-off/pick-up times.*

5. EQUALITY ACT 2010

In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

6. LEGAL AND PLANNING POLICY CONTEXT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'. The following local and national planning policy and guidance is relevant to this application:

National Policy

National Planning Policy Framework
National Planning Practice Guidance

Reading Borough Local Plan (Adopted November 2019)

CC8 Safeguarding amenity
TR1 Achieving the Transport Strategy
TR3 Access, Traffic and Highway-Related Matters
TR5 Car and Cycle Parking and Electric Vehicle Charging
OU1 New and Existing Community Facilities

7. APPRAISAL

7.1 Principle of Development

It is widely considered in case law and appeal decisions that up to 6 children (in accordance with Ofsted requirements - at least one person aged 18 or over for every 6 children being looked after) under the age of 8 playing in a residential garden and any noise arising would likely be characteristic of a residential use within a residential surrounding area. However, more than 6 children may not. As this application seeks permission for a childminding setting with 9 children attending at any one time; there is considered to have been a change to the character of the property due to the intensification of the use. This application seeks to establish whether this change in character is harmful to the host dwelling or the surrounding area.

It could be considered a fallback for the applicant that should this planning permission be refused, the applicant would be able to continue to run the childminding setting for up no more than six children. This application also provides an opportunity to assess the existing situation and apply planning restrictions where necessary and appropriate.

The applicant has confirmed that since January 2021 the childminding setting has looked after 9 children at any one time per day, and employees three staff. Therefore, it is considered that there has been a change of character to the dwelling and the surrounding area, as the childminding activities at the property can no longer be considered ancillary.

Policy OU1 has a general presumption in favour of new community facilities. In accordance with Policy OU1 paragraph 4.7.2 discusses the definition of a community facility. In this instance a childminding setting is considered a small-scale education facility, providing a benefit to the community. The benefit being childcare support for families in the Tilehurst area and beyond. Policy OU1 states that new, extended or improved community facilities will be supported, subject to other policies in the plan. Community facilities are also supported where there is a choice in the means of travel. Paragraph 4.7.1 highlights that good quality community facilities are crucial to ensuring that Reading is a place in which people want to live and continue living.

In this instance, the main considerations with a mixed use development within a residential area are the impact on the living conditions of nearby residents, and traffic and highway matters. There are no objections to the principle of the development (albeit sought retrospectively) as per policy OU1 discussed above, provided that the development is considered acceptable following the assessment against local planning policies, in particular Policies, CC8, TR3 and TR5 of the Reading Borough Local Plan.

7.2 Safeguarding Amenity

In accordance with Policy CC8 of the Reading Borough Local Plan; development will not cause a detrimental impact on the living environment of existing residential properties or unacceptable living conditions for new residential properties, in terms of:

- Privacy and overlooking;
- Access to sunlight and daylight;
- Visual dominance and overbearing effects of a development;
- Harm to outlook;
- **Noise and disturbance;**
- Artificial lighting;
- Vibration;
- Dust and fumes;
- Smell;
- Crime and safety; or
- Wind, where the proposals involve new development of more than 8 storeys

In terms of privacy and overlooking; access to sunlight and daylight; visual dominance and overbearing effects of a development; harm to outlook; vibration; dust and fumes; smell; crime and safety; and, wind matters, the proposed use is not considered to result in any detrimental impacts to neighbouring or nearby occupiers, when compared with the existing context.

In terms of artificial lighting, the applicant has not specified any such proposals and therefore no detrimental impacts are envisaged. It is however noted (based on the officer site visit) that there are external lights to the porch of the outbuilding, however, these are not considered to have a detrimental impact on the living conditions of nearby residents such as 3a Keswick Close due to the size and angle of the lighting. The lighting to the front of the outbuilding is largely obscured from 3a Keswick Close.

As such, the main consideration in this case is in relation to noise and disturbance matters. It is considered relevant at this point to reiterate that the use for which planning permission is being sought - a mixed use of residential and childminding - has been in this use since January 2021. The first noise complaint which the Council appears to have on record was received in December 2021. As stated in paragraph 7.1 above, it is widely considered that up to 6 children under the age of 8 playing in a residential garden and any noise arising would likely be characteristic of a residential use within a residential surrounding area.

Within the main house at 110 St Michaels Road, the mixed use of childminding use and residential has been specified to cover the whole of the ground floor. For prolonged periods of time during the use as a childminding setting, it is expected that the children will be located either within the dining room or the living room. In terms of impact on neighbours through noise transferred between the properties, there is a buffer of the hallway and kitchen between the living room, dining room and the internal wall between 110 and 112 St Michaels Road. Therefore, any noise transferred within the dwelling is considered to be minimal. This is also considered the case in relation to 108 St Michaels Road, where the side wall of 108 St Michaels Road is separated from the side walls of the living room and dining room at 110 St Michaels Road by the garage serving number 110.

Turning to the outdoor space, number 110 benefits from a large rear garden, as do many of the residents along St Michaels Road. A waist high picket fence is located halfway down the garden at 110 St Michaels Road, behind which is the outbuilding that was approved under application 201433.

The garden has been identified by the applicant as a key area of the setting where a number of learning activities take place. The focus of garden activities is said to be activities such as learning crafts and vegetable planting. It is stated that these are planned sessions with adult supervision and are not “free flow” playing. The staff are there to supervise and minimise neighbour disturbance.

The Environmental Protection (EP) officer raised a concern with regards to noise and disturbance generated from the mixed use. Conditions have been suggested by EP to restrict the hours for the childminding setting and the number of children attending the childminding setting at any one time. This is to prevent the intensification of the use and minimise noise disturbance to neighbours. EP also requested and received comments received to the application concerning noise for further consideration.

A condition has been recommended that would restrict the number of children attending the childminding setting to 9 at any time. The applicant has stated in the Travel Plan that setting is only open to three children out of term time. The agent has stated a willingness to further restrict the number of children at the childminding setting to 6 out of term time, however, it is considered by officers that this would not be reasonable or necessary (within the context of 9 children being permitted in term time and there being no basis for specifically restricting numbers below this outside of term time, where potentially the need for such a setting could actually be greater outside term-time). Based on this, the agent has subsequently stated that they would agree to the condition restricting the number of children at the childminding setting at a time to 9. This condition is recommended to protect local residents from unreasonable disturbance arising from further intensification of the childminding use and to ensure that there is sufficient on-site parking during the drop-off/pick-up times, in accordance with Policies CC8 and TR3 of the Reading Borough Local Plan 2019.

Noise generated from children playing within residential gardens is considered characteristic of a suburban residential area. The noise generated from the childminding use is not taking place at unsocial hours between 18:00 and 7:30am (when the childminding setting opens). To ensure that the childminding setting does not operate outside of the opening hours stated advised by the applicant (which are Monday to Thursday, so 4 days a week and not on Friday-Sunday), the days/times in which the childminding setting is open will be secured via condition. This is to protect local residents from unreasonable disturbance arising from the use in accordance with Policy CC8 of the Reading Borough Local Plan 2019.

Conditions restricting the use of the garden space for the childminding facility were also discussed with EP. The conditions suggested regarding the use of the garden space concerned limiting the use of the garden for childminding use to two 2 hour time slots, and the number of children within the garden in relation to the childminding use to 6. Such conditions have been used in appeal decisions, such as the appeal referenced by the applicant within their Planning, Design and Access Statement - appeal reference APP/N1920/W/17/3188425. The inclusion of conditions restricting the use of the garden space for the childminding setting as described above were discussed with the applicant.

The enforceability and reasonableness of such conditions is a matter that was raised by the agent. Upon further consideration, given the large nature of the rear garden and lack of technical evidence with regards to noise generated from the childminding use, it is not considered that there is not a reasonable basis to include such conditions in this specific instance. Whilst recognising the concerns from EP, officers are of the view that conditions restricting the use of the garden space in relation to the childminding use would not satisfy the six tests, in particular necessity (given that other conditions controlling the childminding use had been agreed), enforceability, and reasonableness. Therefore, conditions restricting the garden space will not be included.

A temporary planning permission was also suggested to the agent. The agent stated that given that the mixed use has been ongoing since January 2021, it is considered that the childminding setting is now a known quantity in terms of its impact. Officers are content with this response.

Overall, the development is not considered to harm the living conditions to neighbouring properties or the surrounding area, there is no technical evidence that would suggest that the noise levels referenced in neighbour comments are harmful to the point of refusal. It is considered that the effective increase from 6 (possible without the need for an application to be required/submitted) to 9 children does not significantly alter the noise levels generated from a use that would otherwise be considered permitted development. It is also considered pertinent to raise that the dwelling and the outbuilding could easily be returned to a wholly residential use should the childminding use cease in the future for whatever reason.

Therefore, subject to conditions, the development is considered in overall terms to be in accordance with policy CC8 of the Reading Borough Local Plan, subject to the conditions stated.

7.3 Transport

As per the response from Transport Development Control; there are no transport objections to the application, subject to the applicant widening the existing dropped kerb. The applicant has requested that this be addressed via planning condition. Therefore, a condition will be added that will require the applicant to submit an application for a dropped kerb within three months of any approval decision.

Transport Development Control have also recommended a condition restricting the maximum number of children attending the childminding setting to 9 at anyone times, this is to ensure that there is sufficient on-site parking during the drop-off/pick-up times. This is considered reasonable and in line with Policies CC8 and TR3 of the Reading Borough Local Plan.

Transport Development Control have applied the parking requirements for a day nursery in assessing the parking requirements for the mixed use. This consists of 1 parking space per 2 FTE staff, and 1 drop off space per 10 pupils. The travel plan submitted details that three people are employed for the childminding setting, therefore, two on site vehicle parking spaces are required. With 1 drop off space required as there are no more than 10 pupils at any one time. The travel plan stated that there is space on the driveway for three vehicles.

Upon visiting the site, there were no vehicles parked on the driveway, however, three members of staff were present at the time. In terms of on street parking; there wasn't any. Despite the time of day that the site visit, it is difficult to envisage the parking situation being significantly harmful as a result of the pick up and drop off children at the childminding setting alone. It is also recognised that not all of the children will be dropped off and collected by car. St Michaels Road benefits from transport options including the number 15 bus, with St Michaels Road itself being on the West Reading (Tilehurst & Prospect Park) cycle route as part of the Reading cycle network. There are various methods of transport to and from the childminding facility available to members of staff and clients. In accordance with Policy OU1, the childminding setting is located in an area where there is a choice of means of travel (including walking and cycling).

The public consultation comments received to this application are conflicting; some comments state that they have seen other neighbours driveways being blocked, some comments stating that they see no issue in terms of on street parking and highway safety. There is no evidence that would suggest that the childminding setting is causing a harmful level of on street parking or compromising highway safety. Therefore, the mixed use is considered in accordance with Policies TR3 and TR5 of the Reading Borough Local Plan.

There have also been neighbour comments regarding noise generated from engines starting up in the morning and car doors opening and closing between the hours of 7am and 8am. This is considered typical noise of for a suburban residential area during these hours, for instance commuters travelling to places of work.



Fig 5. The highway outside of 110 St Michaels Road. Photos taken by the case officer on 16/03/2022 at 10:55am.

7.4 Discussions with Agent

As mentioned above, there have been discussions with agent regarding the suitability of planning conditions attached to any approval. The agent has stated that the applicant would be agreeable to conditions concerning opening times and the number children allowed to attend the childminding facility at a given time. The applicant was not willing to agree conditions restricting the use of the private outdoor space. Given the lack of technical evidence to support conditions restricting the use of the private garden space, and lack of clear enforceability of such conditions, officers do not consider that such a condition would pass the six tests of a planning condition in this specific instance. Moreover, the conditions managing opening hours and the number of children attending the childminding setting are considered reasonable and suitably address concerns that more than an increased number of children would attend the childminding setting to a point where noise may be harmful to neighbouring residents. The agent has agreed to the inclusion of the conditions suggested for any approval of this application.

8. CONCLUSION

The development has been assessed and the use is considered to be in accordance with the above relevant policies, subject to the recommended conditions and planning permission can be granted. A suitable planning balance has been applied when weighing up the benefits of the scheme (generally supportive policy position for the principle of childminding facilities) versus the potential harmful amenity impacts (noise and disturbance) and it is considered that the benefits outweigh any harmful impacts, with the harmful impacts managed through the recommended conditions.

9. RECOMMENDATION

GRANT

10. CONDITIONS

AP1: Approved Plans

The development hereby permitted shall ONLY be carried out in accordance with the following approved plans:

Plans considered:

- Site Location Plan
- Block & Site Plan
- Nursery Plan - 11
- House Plans & Elevations - 12 Rev C

Received on 23/02/2022

REASON: For the avoidance of doubt and to ensure that the development is carried out and adhered to in accordance with the application form and associated details hereby approved.

Childminding Use

The childminding use shall not be open to children attending the childminding facility outside the hours of 07:30 to 18:00 on Mondays to Thursdays and not at any time on Fridays, Saturdays, Sundays, Bank or Statutory Holidays.

REASON: In order to protect local residents from unreasonable disturbance arising from the use in accordance with Policy CC8 of the Reading Borough Local Plan 2019.

Number of Children

The number of children attending the premises for the childminding use hereby approved shall not exceed 9 at any time.

REASON: In order to protect local residents from unreasonable disturbance arising from the use and to ensure that there is sufficient on-site parking during the drop-off/pick-up times, in accordance with Policies CC8 and TR3 of the Reading Borough Local Plan 2019.

DC4: Vehicular Access (To Be Approved)

Within 3 months of this permission full details of the vehicle access serving the development shall be submitted to for approval in writing by the Local Planning Authority. The vehicle access shall thereafter be constructed in accordance with the approved details within 3 months of the date of details being approved.

REASON: In the interests of road safety in accordance with Policies TR1 and TR3 of the Reading Borough Local Plan 2019.

11. INFORMATIVES

Standard Informatives