

**KEY INFORMATION**

**Ward** Strathmartine

**Proposal**

Increase in number of children from 12 up to 25 at mixed use of dwellinghouse and children's day nursery

**Address**

309 Strathmartine Road  
Dundee  
DD3 8NS

**Applicant**

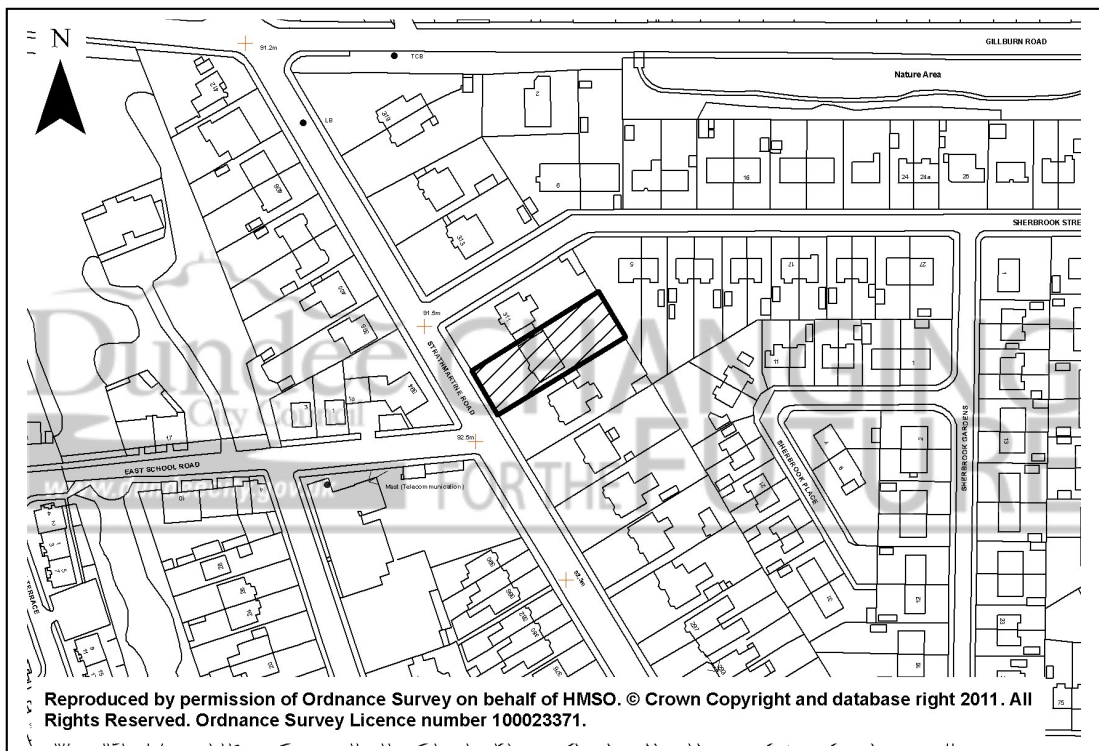
Ms Janette Brown  
309 Strathmartine Road  
Dundee  
DD3 8NS

**Agent**

Jane Fox  
Fox Planning Consultancy  
Glengate  
Kirriemuir  
Angus  
DD8 4HD

**Registered** 30 Sep 2011

**Case Officer** Paul Macari



Reproduced by permission of Ordnance Survey on behalf of HMSO. © Crown Copyright and database right 2011. All Rights Reserved. Ordnance Survey Licence number 100023371.

## Consent Sought for Additional Children at Strathmartine Road

The increase in the number of children from 12 up to 25 at mixed use of dwellinghouse and children's day nursery is **RECOMMENDED FOR REFUSAL**. Report by Director of City Development.

**RECOMMENDATION**

The proposals fail to satisfy the requirements of the Development Plan. The concerns of the Objectors are supported. There are no material considerations that justify the approval of planning permission. Accordingly, the application is recommended for **REFUSAL**.

**SUMMARY OF REPORT**

- This application seeks planning permission to increase the number of children from 12 to 25 at the mixed use of dwellinghouse and children's day nursery at 309 Strathmartine Road, Dundee.
- Policy 1 (Vibrant and Sustainable Communities) and Policy 19 (Private Day Nurseries) of the Dundee Local Plan Review 2005 are relevant to the outcome of this planning application.
- 14 valid letters of objection, 5 letters of support and 4 petitions with a total of 50 signatures have also been submitted in support of this planning application.
- The concerns of the objectors are supported.
- The proposals fail to satisfy the requirements of the Development Plan.

## DESCRIPTION OF PROPOSAL

This application seeks planning permission to increase the number of children from 12 to 25 attending a mixed use house and children's day nursery at 309 Strathmartine Road, Dundee.

The proposals do not involve any internal or external alterations to the existing children's day nursery/dwellinghouse. The existing nursery benefits from an 8 space car park in the front garden grounds of the property at 309 Strathmartine Road. 3 of the 8 parking spaces are dedicated for parent pick up and dropping off, 2 spaces are dedicated to the residents of the house at 309 Strathmartine Road and 3 spaces are dedicated to staff. The existing nursery/house benefits from 396m<sup>2</sup> of private garden ground to the rear of the house/nursery building.

Planning application ref: 10/00447/FULL was granted permission on appeal by the DPEA for the part change of use of the extended dwelling at 309 Strathmartine Road to form a children's day nursery for up to 12 children including the applicant's and employees own children. The number of children attending the nursery was restricted by condition.

In accordance with the Council's Scheme of Delegation this application is being reported to the Development Management Committee at the request of an Elected Member.

## SITE DESCRIPTION

The application site is a detached stone built one and a half storey house with a driveway and parking space. There is an enclosed rear garden. A large rear extension has recently been completed and provides additional residential accommodation.

The house lies on the east side of Strathmartine Road, a busy local distributor which carries traffic to and from the Kingsway. Strathmartine Road is also a bus route. The area is predominantly residential with long established detached and semi-detached properties in mature gardens. On the west side of the road lies the

former Downfield School now in use as offices.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

### Dundee Local Plan 2005

The following policies are of relevance:

- Policy 1: Vibrant and Sustainable Communities; and
- Policy 19: Private Day Nurseries.

## Non Statutory Statements of Council Policy

There are no relevant documents.

## SITE HISTORY

Planning application ref: 10/00026/FULL was granted on 26 March 2010 for the erection of a two storey rear extension to the property to provide additional living accommodation. The permission is subject to the following condition; "This consent is in respect of an extension to a domestic dwelling only and does not permit any sub-division or commercial use of any part of the premises as extended". The extension has recently been completed.

Planning application ref: 10/00447/FULL sought retrospective planning permission for the change of use to mixed use of dwelling and children's day nursery for 12 children at 309 Strathmartine Road. This application was refused planning permission by the Development Management Committee in 2011. The Council's decision was appealed by the applicant and the DPEA overturned the Council's decision to refuse planning permission and granted permission for the change of use.

## PUBLIC PARTICIPATION

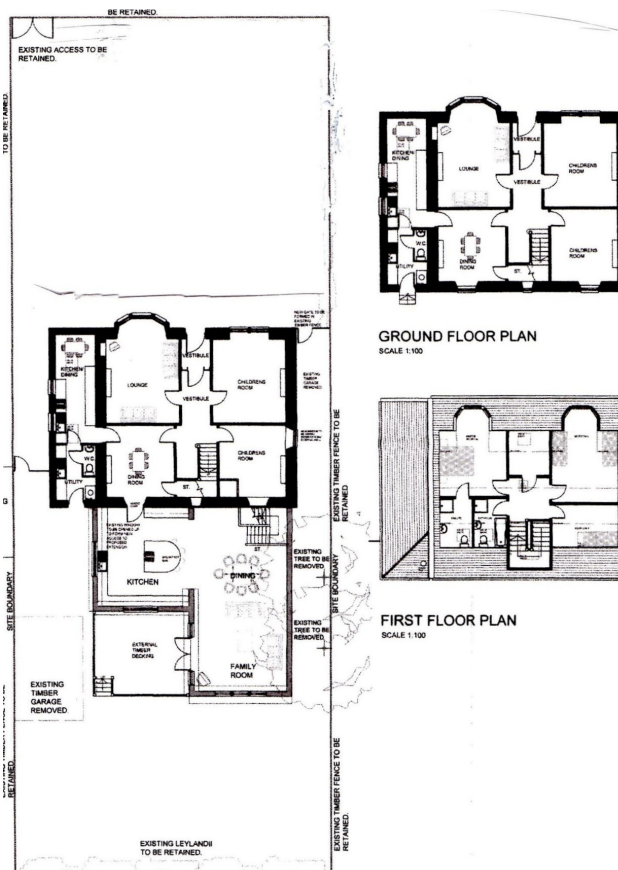
The Council has carried out the statutory neighbour notification procedure as stipulated in Section 19 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

14 valid letters of objection have been received from neighbouring residents. The valid concerns raised include:

- road safety;
- noise disturbance; and
- impact on residential amenity.

Many of the objection letters also contain invalid objections such as the impact that the proposed nursery has on property values in the surrounding area or references to the character of the applicant. These concerns will not be taken account of in the assessment of the proposals.

It has come to the Council's attention that a neighbouring resident of the application site has altered the statutory neighbour notification letter issued by the Council and re-



## SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

distributed it to neighbours in an attempt to generate additional objections to the current planning application that is the subject of this report.

In addition to the 14 letters of objection received by the Council, 5 letters of support and 4 petitions with a total of 50 signatures have also been submitted in respect of this planning application. The main reasons for support of the current proposals are that the existing nursery facility is conveniently located, provides a useful community facility, the nursery provides local employment, the nursery is located on a bus route and has ample on-site parking, the nursery is well run and there is always sufficient staff for the number children in attendance, the children are well behaved and do not cause excessive noise disturbance, the garden area is private and does not impact on neighbours privacy.

Members will already have had access to copies of the objection letters and the letters and petitions in support and the issues raised are discussed in the "Observations" section below.

**CONSULTATIONS**

No adverse comments have been received from consultees.

**OBSERVATIONS**

Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.

**The Development Plan**

The provisions of the development plan relevant to the determination of this application are specified in the Policy Background section above.

It is the aim of Policy 1 (Vibrant and Sustainable Communities) of the Dundee Local Plan Review 2005 to support proposals that will minimise impact on the level of environmental quality afforded to neighbouring residential properties by virtue of layout, design, traffic

movement and parking issues, noise disturbance or smell nuisance.

Child care facilities are an important element in the social and economic fabric of the City and the provision of a good range of facilities close to home or work place assist parents and children. However, the environmental quality enjoyed by residents is also important and this policy requires that new developments seek to minimise any adverse affects.



In terms of layout and design, works to facilitate the use of the premises at 309 Strathmartine Road as a nursery have previously been completed. In this instance the application site maintains the residential character and appearance of the Strathmartine Road streetscape and does not adversely affect the level of environmental quality afforded to neighbouring properties by virtue of layout and design.



In terms of vehicle movement and parking issues it is considered that the potential increase in vehicle movements caused by an increase in the number of children attending the nursery (from 12 to 25) shall adversely

affect the level of road safety on Strathmartine Road. This is because at any one time the car parking area in the front garden of the property at 309 Strathmartine Road can only accommodate 3 parent vehicles. Therefore should all or most of the 25 children require to be dropped off at the nursery at the same time or for example over a half hour period this would generate significant traffic congestion on Strathmartine Road with up to 22 cars parking on the street in close proximity to junctions between Strathmartine Road and Sherbrook Street, East School Road and Gillburn Road. In addition extra cars parking on the street immediately outside the application site will block the visibility of vehicles exiting neighbouring properties or the application to the detriment of road safety. Given the potential number of vehicles attempting to gain access to the application site and the lack of turning facilities once all spaces within the site are occupied it is possible that parents will be required to reverse out of the application site on to Strathmartine Road. Given the likelihood of there being parked cars on either side of the vehicle access serving 309 Strathmartine Road should this application be approved, the visibility of cars exiting the application site in reverse will be severely diminished to the detriment of road and pedestrian safety.

In this instance an increase in vehicle numbers and movements caused by an increase in the number of children attending the nursery at 309 Strathmartine Road will adversely affect road safety on Strathmartine Road.

In terms of noise disturbance it is acknowledged that at any one time there may not be 25 children attending the nursery but rather the number of children attending may be staggered through out the day depending on each child's care requirements. However, this means that throughout the nursery day there will be several groups of children playing in the garden which will intensify the frequency in which significant instances of noise disturbance are generated. As the application site is situated within a dense residential area

frequent instances of noise disturbance from children playing outdoors will adversely affect the level of environmental quality afforded to neighbouring residential properties.

It is concluded that the use of the property at 309 Strathmartine Road as a mixed use of dwelling and children's day nursery for up to 25 children, at any one time, fails to comply with Policy 1 in respect of parking and traffic movement issues and noise. Policy 1 also requires that any new development also comply with other policies in the plan.

Policy 19 (Private Day Nurseries) is supportive of proposals involving the development of well located nurseries offering good quality facilities in a pleasant surrounding environment, planning permission will only be granted where proposals are in accordance with the guidelines contained in Appendix 4 of the Local Plan. In general proposals that provide for more than 50 full time places (or equivalent) will not be supported, nor will sites on major or heavily trafficked roads be considered suitable. Nursery premises should be situated wholly or predominantly on the ground floor and should have ground floor access, including ramped access suitable for wheelchairs and pushchairs. Tenement buildings/flatted accommodation are not considered suitable. Adequate sound insulation to the satisfaction of the Head of Environmental Protection should be provided.

The site lies on a heavily trafficked road which carries local traffic to and from the Kingsway and is also a bus route. It is considered that, for this reason, the use of this site as a nursery for up to 25 children has the potential to generate a significant number of vehicle movements to the detriment of road safety on Strathmartine Road. In this instance the proposals do not satisfy the requirements of Policy 19.

The criteria in Appendix 4 for Private Nurseries in residential areas is as follows:

- Outdoor play space for 11-50 children - 9m<sup>2</sup> per child up to at least 400m<sup>2</sup>.
- Staff parking - one dedicated space per 3 staff members.
- Dropping off - Up to 25 children - 3 spaces.

- Size and proximity to other private nurseries - not within 250m of an existing private nursery.

### Outdoor Play Space

In respect of the provision for the nursery, there is a degree of ambiguity in the wording of the Appendix 4. Nurseries should provide 9m<sup>2</sup> per child up to at least 400m<sup>2</sup>. For 25 children, Appendix 4 requires nurseries to provide no less than 225m<sup>2</sup> of outdoor play space. The existing nursery has 228m<sup>2</sup> of out door play space in the rear garden of the property at 309 Strathmartine Road and therefore complies with this aspect of Appendix 4.

### Parking Requirements

Appendix 4 requires nurseries to have 1 in-curtilage dedicated car parking space for every 3 staff members. For nurseries with up to 25 children attending, 3 in-curtilage dedicated pick up/drop off car parking spaces will be required.

For a nursery providing care for 25 children, the Care Commission stipulate that there must be a children to staff ratio of 3:1 for children under 2 years old, for children aged 2-3 there must be a staff ratio of 5:1 and for children aged between 3 and 16 years old the child to staff ratio is 8:1. On this basis a nursery providing care for 25 children aged between 2 and 3 years old would require 5 members of staff to be on site at any given time. A nursery providing care for 25 children between 3 and 16 years old would require 4 members of staff to be on site at any given time. A nursery providing care for 25 children under 2 years old would require 9 staff to be on site at any given time.

The 8 car parking spaces contained within the car parking area to the front of the nursery can be divided up as follows, 3 spaces for pick up/drop off, 3 spaces for staff and 2 spaces for the residents of the house at 309 Strathmartine Road.

Therefore the proposals satisfy the quantitative requirements of Appendix 4 for in terms of parking requirements.

### Proximity to Other Nurseries

There are no private day nurseries within 250 m radius of the site.

Although the proposed nursery satisfies the quantitative requirements of Appendix 4 of the adopted Local Plan, the location of the application site on a heavily trafficked road and the likely road safety hazards that shall arise from up to 22 additional cars parking on Strathmartine Road at any given time are indicative that the application site is not suitably located for a nursery providing care for up to 25 children. The proposals are therefore contrary to the requirements of Policy 19. Therefore the proposals also fail to satisfy Policy 1 which requires applications to meet other policies in the Plan.

It is concluded from the foregoing that the proposal does not comply with the provisions of the Development Plan.

### Other Material Considerations

The other material considerations to be taken into account are as follows:

- a Appeal Decision PPA-180-2010

The applicant appealed the Council's decision to refuse planning application ref: 10/00447/FULL which sought planning permission for the formation of a mixed use dwellinghouse and nursery for up to 12 children at 309 Strathmartine Road, Dundee.

The Council refused planning permission on the grounds that the proposed 12 child nursery was contrary to Policies 1 and 19 of the adopted Local Plan due to the impact of the development on neighbouring properties in terms of noise and the potential impact on road safety.

The appointed Reporter concluded that there was sufficient off street parking facilities to prevent issues of road safety from arising from the creation of a 12 child nursery at 309 Strathmartine Road and that through the use of conditions a 12 child nursery would not generate significant instances of noise disturbance to the detriment of residential amenity. The appointed Reporter granted planning permission for the proposed mixed use house and day nursery for up to 12 children at 309 Strathmartine Road subject to conditions. The conditions applied restrict then umber of

children cared for at the proposed nursery to 12 only, the hours of operation of the nursery (0800 until 1800hours Mondays to Fridays only), the erection of 1.8m high fencing in the rear garden and the formation of 6 dedicated parking spaces in the front garden grounds when the nursery is operational.

The appointed Reporter has highlighted through out her report that the location of the application site on a busy road and the form of the application site is acceptable for use as a nursery for a maximum of 12 children only. Indeed it is the small number of children attending the nursery that is used to justify the approval of planning permission against the Council's concerns.

The Reporter also highlighted that concerns relating to parents parking on double yellow lines to the north of the application site on Strathmartine Road to drop off and collect children from the nursery was not a material planning consideration but rather the responsibility for Tayside Police.

The assessment of the current proposals against the Development Plan above has demonstrated that an increase in the number of children attending the nursery from 12 to 25 will adversely affect the level of road and pedestrian safety on Strathmartine Road. This is because although the proposals satisfy the quantitative requirements of Appendix 4 the potential increase of on street parking in the vicinity of the application site for up to 22 cars will block the visibility of vehicles exiting the application site and neighbouring properties on to Strathmartine Road. In addition the Reporter concluded that 12 children playing outside in the nursery garden would not generate significant instances of noise disturbance to the detriment of environmental quality. However, an increase in the number of children attending the nursery will intensify the frequency and potential occurrence of instances of significant noise disturbance

generated by children playing in the nursery garden which will have an adverse impact on the level of environmental quality afforded to neighbouring properties.

b Supporting Statement

A supporting statement has been submitted as part of planning application ref: 11/00458/FULL. The supporting statement details the background to the current proposals and gives a general account of the current operations at the 12 child day nursery at 309 Strathmartine Road. The remainder of the supporting statement can be split into 8 sections.

The Site and Its Surroundings - the applicant's agent describes the application site in great detail and explains that the rear garden area has an area of 396m<sup>2</sup> which includes the raised decked area and areas of side garden to the north and south of the extended house. The supporting statement highlights that the rear garden area provides an amenity/play space comprising of both grassed and patio areas. The agent highlights that the rear garden is private and is screened by 1.8m high fencing and hedging up to 3m in height which prevents children playing outside from looking into neighbouring properties.

The agent describes the application site as being located in a predominantly residential area with a number of commercial uses nearby. The supporting statement lists the commercial properties in the vicinity of the application site and this has been verified by the Reporters decision for the appeal against planning application ref: 10/00447/FULL and the Case Officer's site visit.

From the Case Officer's site visit it was noted that there is a grassed area with children's play equipment located to the east of the rear garden which is separated from the areas of hard standing which surfaces the remainder of the rear garden by 1m high timber fencing and gates. The areas of hard standing surrounding the extended house

slope from west to east with the northern area of side garden used for the storage of play equipment. Given the sloping nature of the areas of hard standing these areas of the rear garden are not considered to be strictly usable as outdoor play space for the children. However, as concluded in the Observations section above, the grassed area of the rear garden is of a sufficient area to satisfy the requirements of Appendix 4 of Policy 19 of the Dundee Local Plan Review 2005.

The Appeal Decision - the agent quotes extensively from the Reporters decision on planning application ref: 10/00447/FULL but does not draw any conclusions as to how the proposed increase in numbers will impact on the level of environmental quality and road and pedestrian safety afforded to neighbouring properties.

Planning Policy Considerations - the supporting statement details the policies in the Dundee Local Plan Review 2005 that are relevant to the proposed development but does not assess whether the proposals satisfy the requirements of the Development Plan.

Highway/Parking Considerations - the supporting statement describes in the application site and the surrounding Strathmartine Road corridor in fullness and highlights the ways in which the existing nursery satisfies previous road safety concerns and satisfies the quantitative requirements of the Development Plan. However, the supporting statement fails to consider the impact of up to 22 additional cars attempting to gain access to the application site or parking on Strathmartine Road in the immediate vicinity of the application site. Instead the agent states that it is unlikely that all 25 children would be dropped off or collected at the same time and that the increased number of vehicles associated with the proposed development would be absorbed by the existing road network without detriment to road or pedestrian safety.



Impact Upon Residential Amenity and Environmental Quality - the supporting statement highlights that the application site complies with the quantitative requirements of the Development Plan and therefore the increased number of children coupled with the professionalism of staff and nursery management will not impact on the level of environmental quality and residential amenity afforded to neighbouring properties.

Proximity to Other Nursery Facilities - the supporting statement highlights that there are no other nurseries within 250m of the application site and that this matter was addressed in the assessment of planning application ref: 10/00447/FULL by the Appeal Reporter.

Provision of an Important Community Facility - the supporting statement contends that the proposed development complies with the requirements of the Development Plan and that the application is conveniently located to provide an important community facility. In addition the supporting statement highlights that there is a growing demand for nursery facilities such as the existing facility available at 309 Strathmartine Road.

The supporting statement goes on to state that the nursery facilities and the professionalism of the organisation provide a unique child care facility that is akin to a home environment.

The assertions of the supporting statement do not marry with the conclusions drawn from the assessment of the proposals against the Development Plan above. It has been demonstrated that an increase in the number of children attending the day nursery from 12 to 25 will adversely affect the level of environmental quality afforded to neighbouring properties in terms of vehicle movement and parking issues and noise disturbance. In addition the above assessment of the current proposals against the requirements of Policy 19 of the adopted Local Plan has highlighted that the application site is inappropriately located to

serve as a day nursery for up to 25 children.

c Views of Objectors

14 valid letters of objection have been received from neighbouring residents. The valid concerns raised include:

Road Safety - the concerns of the Objectors relating to road safety have been addressed in the assessment of the proposals against the Development Plan. It has been concluded that proposed 25 child day nursery has the potential to adversely affect road and pedestrian safety on Strathmartine Road. The concerns of the Objectors in this instance are supported.

Noise disturbance - the concerns of the Objectors relating to noise disturbance have been addressed in the assessment of the proposals against the Development Plan. It has been concluded that proposed 25 child day nursery has the potential to adversely affect the level of environmental quality afforded to neighbouring properties by virtue of noise disturbance. The concerns of the Objectors in this instance are supported.

Impact on residential amenity - the combined impact of noise disturbance and the impact on road safety that the proposed 25 child nursery will generate shall adversely affect the level of residential amenity afforded to neighbouring properties. In this instance the concerns of the Objectors are supported.

d Views of Supporters

5 letters of support and 4 petitions with a total of 50 signatures have been submitted in respect of the current proposals.

The letters and petitions of support highlight the high standard of care the existing 12 child nursery at 309 Strathmartine Road administers to children in attendance. The letters of support also highlight the good behaviour of the children and staff at the nursery and also the convenient location.

The letters and petitions of support do not raise any material

planning considerations apart from the convenient location of the application site. While the location of the site may be considered convenient it has been demonstrated in the assessment of the proposals against the Development Plan above that the location of the application site is not suitable for a 25 child day nursery due to the impact of increased vehicle movements and parking pressures on road and pedestrian safety as well as the increase in noise disturbance from up to 25 children playing outside.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be refused.

## Design

The proposals do not give rise to any design issues.

## CONCLUSION

The proposals fail to satisfy the requirements of the Development Plan. The concerns of the Objectors are supported. There are no material considerations that justify the approval of planning permission. Accordingly it is recommended that planning permission is refused.

## RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:

### Reasons

- 1 The proposed development is contrary to Policy 19 - "Private Day Nurseries" of the Dundee Local Plan Review 2005 as the use fails to comply due to its location on a heavily trafficked road and the impact that additional vehicles parking on Strathmartine Road will have on pedestrian and road safety. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.

- 2 The proposed development is contrary to Policy 1 (Vibrant and Sustainable Communities) of the Dundee Local Plan Review 2005 as the use of this detached house for a mixed use of dwelling and children's day nursery for 25 children fails to comply in respect of parking and traffic movement issues and noise and with other policies in the plan. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.