

SECTION '2' – Applications meriting special consideration

Application No : 12/00441/VAR

Ward:
Copers Cope

Address : Sunnyfields Day Nursery 19 Bromley
Grove Shortlands Bromley BR2 0LP

OS Grid Ref: E: 538882 N: 169019

Applicant : Sunnyfields Day Nursery

Objections : YES

Description of Development:

Variation of condition 3 of permission ref. 01/03390/VAR to increase the number of children, aged between 3 months and 7 years, attending the day nursery to 62, with the use being restricted to between 07:30 and 18:30 Monday to Friday.

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
London City Airport Safeguarding
London City Airport Safeguarding Birds

Proposal

- Planning permission was granted under reference DC/97/03152 for change of use from nursing home to day nursery on ground and first floors and three bedroom on second floor.
- The permission included a condition which restricted the number of children attending the nursery to no more than 20 at any one time in order to safeguard the amenities of local residents and to ensure that the proposal did not have an unsatisfactory impact on on-street parking or highway safety.
- In 1999, permission was granted to vary this condition to allow for up to 28 children at the day nursery, and in February 2002, permission was granted under reference 01/03390 for the variation of Condition 4 of 99/00775 granted for use as day nursery which limits number of children to 28 and their ages to between 3 months and 7 years with the use being restricted to between 08:00 and 18:00 Mondays to Fridays, to permit 33 children between the ages of 3 months and 7 years with the additional uses of after school club in school terms between 15:00 – 18:00 and holiday club in school holidays between 08:00 – 18:00 for 12 children aged 4 to 11 years.
- This approval also had conditions attached relating to the number of children to attend the nursery at any one time.

- The current proposal therefore is to vary Condition 3 of 01/03390 to allow up to 62 children to be accommodated at any one time.
- The application form states that the proposed increase in the number of children is from 45 to 62 children. However there does not appear to be any property history which specifically granted permission for the day nursery to accommodate 45 children on a daily basis, therefore the applicant was asked for confirmation.
- The applicant responded by stating that planning permission was granted for 45 children broken down as 33 day nursery attendees and 12 for the after school club. The applicant went on to state that the after school club was closed in 2008, therefore the number of children from the after school club was added to the day nursery.
- This however appears to be a breach of condition, as the most recent planning permission of 01/03390 and the conditions within it were very specific. As such, it may be considered that the lawful number of children allowed to use the day nursery at present is 33 children between the ages of 3 months and 7 years, and the current application is not only seeking to increase the number of children allowed at the day nursery but also regularise the number already using it.
- The current application does not involve any building work, and no changes will be made to the external appearance of the building.

Location

The application site is located on the southern side of Bromley Grove and hosts a detached building which has a lawful use as a children's day nursery.

Comments from Local Residents

Nearby residents were notified of the application and representations of support were received which can be summarised as follows:

- do not hesitate to support the application;
- nursery owners very professional;
- good neighbours;
- never appeared to be any ill feeling in the road when collecting children;
- the neighbourhood prefer the day nursery use than and of the past uses;
- nursery has operated from this site for a number of years and has not caused any inconvenience.

Nearby residents were notified of the application and representations of objection were received which can be summarised as follows:

nursery provision is a valuable service for which neighbouring residents are prepared to accept a fair share of inconvenience;
 however noise levels from Sunnyfields has already reached (and sometimes exceeds) the maximum tolerable level, both in terms of decibels and duration;
 a 38% increase in child numbers is bound to increase levels of noise;
 children cannot be expected to let off steam in an adult-controlled undertone;

- not aware of public consultation over the increase from 32 to 45 children, which the application claims is the current authorised number;
- in which case, baseline for the current application should be 32 (making 62 into a 97% increase);
- sympathise with the plight of Bromley Grove residents whose driveways are routinely blocked by cars delivering and collecting children;
- whilst parking in Bromley Grove is technically unrestricted, in the everyday practical sense it is severely limited;
- have regularly missed rubbish collections as waste vehicles cannot manoeuvre along Bromley Grove to collect rubbish due to inconsiderate parking near nursery;
- over-use of the building in a residential road;
- parking facilities in the road are already overused and will not be able to accommodate the extra traffic;
- an increase in child numbers will lead to an increase in staff numbers, therefore increasing the need for daytime parking;
- there is no provision for car parking for the residents of the two flats above the nursery;
- photographs provided at 7am and 11am to show on-street parking availability along Bromley Grove;
- children may play outdoors for many hours a day, for five days a week and for all but a couple of weeks per year;
- the problem is particularly acute during summer months;
- inevitably a lot of noise is generated by forty-five children but also by the staff supervising them;
- the increased disturbance that an extra seventeen children would produce, either in extra volume or for extended time, would be unreasonable.

A petition has also been submitted by a number of nearby properties which can be summarised as follows:

- parents collecting children park across my driveway;
- have difficulty entering or exiting my drive due to parked vehicles;
- visitors and service-providers cannot park conveniently nearby;
- there is difficult access for council refuse collection;
- noisy morning and afternoon from children in the garden play-area;
- there is a large demand for parking space in Bromley Grove, and the problems can only get worse with more children attending Sunnyfields.

Any further comments received will be reported verbally at the meeting.

Comments from Consultees

Highways Engineers – The increase in the number of children will have an impact upon parking demand and traffic generation within the local road network. There is off-street parking within the curtilage of the site which allows up to 4 cars to be parked and possibility of 2 drop off vehicles. The applicant has provided parents arrival and departure time, however the survey results do not indicate the current modes of travel of the existing users. It is welcomed that 2 out of 10 (20%) of staff

members drive to the site. No information was provided with a day time survey on street parking within 200 metres of the site between 0800 – 0930 and 1600 – 1800 which would help to give an understanding of availability of on street parking during peak hours.

Early Years and Childcare Services – strongly support the current application. The applicant is an established childcare provider in the Borough, running two provisions with overall OfSTED ratings of ‘Good’ with ‘Outstanding’ for partnership with parents/carers.

The applicant has considered the impact of the increase, has actively consulted neighbours, and the nursery is in an excellent position for public transport. The increase in children will therefore have minimal impact on the environment. Full day care in the Borough is insufficient, and the application therefore addresses local and national childcare developments, with the increased number of places being sought offering additional places in an area that is limited of full-time childcare.

Waste Services – Details of new bin area required. Could be covered by condition should permission be granted.

No comments were received from Environmental Health at the time of the report being written.

Any further comments received will be reported verbally at the meeting.

Planning Considerations

The application falls to be determined in accordance with the following policies of the Unitary Development Plan and the London Plan:

- BE1 Design of New Development
- BE11 Conservation Areas
- C7 Educational and Pre-School Facilities
- T1 Transport Demand
- T2 Assessment of Transport Effects
- T18 Road Safety

Recently, Planning Policy Statements and Planning Policy Guidance notes were replaced by the adopted National Planning Policy Framework (NPPF). This is also a material consideration for the determination of the application.

Planning History

There have been several planning applications in relation to this site. The most recent and relevant applications were as follows:

97/03152/FUL – Change of use from nursing home to day nursery. Permission granted subject to conditions.

99/00775/VAR - variation of condition 03 of permission 97/3152 granted for use as day nursery to increase number of children from 20 to 28. Permission granted subject to conditions.

01/03390/VAR - Variation of Condition 04 of permission 99.00775 granted for use as day nursery which limits number of children to 28 and their ages to between 3 months and 7 years with the use being restricted to between 0800 and 1800 Mondays to Fridays, to permit 33 children between the ages of 3 months and 7 years with the additional uses of after school club in school terms between 1500 – 1800 and holiday club in school holidays between 0800 – 1800 for 12 children aged 4 to 11 years. Permission granted subject to conditions.

Conclusions

Members may consider that the main issues relating to the application are the impact of the increased number of children attending the nursery on the residential amenities of nearby residents, and the effects on traffic, parking, and general conditions of road safety in Bromley Grove and the surrounding road network.

There have been numerous concerns raised from nearby residents about the increase in noise which may result from the additional children. At present there are 45 children attending the nursery albeit the most recent planning permission granted under 01/03390 allowed for 33 children in the day nursery and the additional 12 children have been added from the after school club which was closed in 2008 and the numbers combined with the day nursery. Whilst some additional noise may be incurred when the children are in the outside rear playground, this is not likely to be at all times of the year and would probably be weather dependant.

Furthermore, the nursery is only in use Mondays to Fridays between the hours of 0800 and 1800 (as per condition 3 of permission ref.01/03390). As the lawful number of children allowed to attend the day nursery is 33, Members should consider the increase in numbers from 33 to 62, and to allow operating times from 0730 to 1830 Monday to Friday. The lawful operating hours appear to be between 0800 to 1800, as approved under Condition 3 of application reference 01/03390, however the Design and Access Statement states in page 1 that “the main nursery is open from 8am to 6pm Monday to Friday all year round, but there is a restricted service between 7.30-8am and 6-6.30pm to give some parents extra flexibility, but also to help stagger arrival and departure times.”

However, as the 01/03390 permission only allowed 33 children to attend the day nursery between 0800 - 1800, the impact of the increase from 33 to 62 children as well as the additional opening hours must now be considered. On the one hand, as the breach of condition in terms of the number of children attending the day nursery (added to since the closure of the after school club) has been ongoing since 2008 and the matter has only been raised by local residents as a result of this current application to increase the number of children further, it may be considered that current noise levels caused by 45 nursery attendees are not significantly detrimental to the enjoyment of surrounding properties. However Members must carefully consider whether allowing a further increase in numbers of

children to 62 would lead to an excessively detrimental impact upon nearby residents. On the other hand, neighbours may have come to accept that the noise levels currently experienced are those to be expected from 33 nursery attendees and, should this application be refused and the breach of condition remedied, noise levels may decrease to more acceptable levels.

Members may therefore consider that the increase in numbers of children from 33 to 62 children is a significant increase which may be likely to result in a significant loss of amenity to local residents. Furthermore, the applicant has stated that the numbers of children attending the day nursery have not increased since October 2001, but that the nursery now finds it necessary to allow enough economies of scale to ensure future sustainability of the business in light of rising costs and maximising high staff : child ratios. However Members are reminded that although Condition 3 a) of 01/03390 allowed for 33 children to attend the day nursery and Condition 3 b) allowed for a further 12 children to attend the after school club, when this facility closed down in 2008 the number of children allowed to attend the day nursery was added by the applicant to the day nursery, without agreement by the Local Planning Authority, which increased the numbers attending the day nursery. Therefore Members can see that the numbers of children at the day nursery have in fact been increased since 2001.

The second main issue relating to the application is the impact on parking demand, traffic generation and general conditions of Highways safety in the vicinity of the nursery. Whilst Members may welcome that only 2 out of 10 (20%) staff members drive to the site, and there is off street parking facility within the curtilage of the site which allows for up to 4 cars to be parked and the possibility of 2 drop-off vehicles, Members may consider that the increase in the number of children will have a significant impact on parking demand and traffic generation within the local road network.

To summarise, Members need to consider whether or not the increase in the number of children attending the nursery would lead to an increase in noise levels significant enough to have an unduly harmful effect on the amenities of nearby residents. At present the lawful number of children allowed to attend the day nursery is 33, by way of Condition 3 of permission 01/03390, even though it would appear that in July 2008 the numbers granted to use the after school club (12 children) were added to the numbers using the day nursery, and the day nursery has been operating with 45 children in attendance ever since. The application now seeks to increase this number to 62. In terms of the effect on parking in the surrounding road network, there appears to be limited on-street parking spaces available for additional demand during the hours of maximum parking demand and Members must therefore carefully consider whether the additional number of children would significantly impact upon the local road network.

Background papers referred to during production of this report comprise all correspondence on files refs. 97/03152, 99/00775, 01/03390, and 12/00441, excluding exempt information.

as amended by documents received on 05.03.2012

RECOMMENDATION: PERMISSION BE REFUSED

The reasons for refusal are:

- 1 The proposed increase in the number of children attending the day nursery would be detrimental to the amenities of adjacent and nearby residents by reason of the additional noise and disturbance generated, contrary to Policies BE1 and T18 of the Unitary Development Plan.

Further recommendation

Enforcement action authorised to regularise the number of children currently using the day nursery, in accordance with permission DC/01/03390.

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