

SECTION '2' – Applications meriting special consideration

Application No : 14/03125/FULL2

Ward:
Plaistow And Sundridge

Address : 1 Edward Road Bromley BR1 3NG

OS Grid Ref: E: 540891 N: 170303

Applicant : Mrs F Antonio

Objections : YES

Description of Development:

Change of use from house in multiple occupation (HMO)(used by 6 unrelated persons) to a day Nursery (Class D1) for a maximum number of 36 children with associated car parking spaces, refuse storage, cycle parking and 2m high front boundary wall and railings.

Key designations:

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

Proposal

- It is proposed to convert the existing ground and first floors to a Children's Day Nursery (Use Class D1)
- The second floor is to remain as a residential unit for use by members of staff
- to the rear of the site landscaping and a 2.5m high acoustic absorptive barrier is proposed around the garden boundary, the acoustic fencing would be of a timber construction however no elevations have been provided
- the nursery would cater for a maximum of 36 children, aged up to 5 years
- up to 7 staff are anticipated
- the proposed opening hours are between 07:30 - 18:30 Monday to Fridays, with drop-off and collection times between 07:45 and 18:00
- 1 additional vehicular access is proposed resulting in 2 vehicle accesses at the front to create a separate entrance and exit for pick-up and drop-offs
- 2 off-street car parking spaces including 1 disabled bay are also proposed
- secured cycle parking facilities will be provided for 4 cycles
- parking/storage for buggies will be provided within the building
- pedestrian access is as existing through the front door
- a 2m high front boundary wall with railings and boundary columns are proposed with bin storage immediately behind.

The following additional/revised information has been received:

- Technical parking and transport note (21/01/2015)
- Transport statement (21/01/2015)
- Swept path analysis (21/01/2015)
- Revised acoustic testing report and details of acoustic fence (19/02/2015)
- Second floor plans (existing and proposed) (02/04/2015)
- Supporting email from Agent (02/04/2015)
- Revised second floor plan showing residential unit retained (22/05/2015)
- Supporting statement (03/06/2015)

Location

- the application site consists of a two storey with accommodation in the roof detached building which has been deemed to have a lawful use as an House in Multiple Occupation (HMO) falling within Class C4, for not more than six residents
- the surrounding area is predominantly residential in character consisting of large detached houses with large rear gardens
- some buildings in the surrounding area have been converted into flats and others are used as residential institutions
- the application site lies just north of the junction of Edward Road with Plaistow Lane which is a Local Distributor Road
- there is currently 1 vehicular access
- the site is not within a Conservation Area although the land immediately to e site forms part of the Sundridge Avenue conservation area which then extends out to cover the area to the north-west
- immediately adjacent the site to the north-east is 3 Edward Road, a single dwellinghouse
- Immediately to the south-west is 1a Edward Road, also used as a single dwelling
- The site has a low Public Transport Accessibility Level (PTAL) rating of 2

Consultations

Comments from Local Residents

Nearby owners/occupiers were notified of the application and representations were received which can be summarised as follows:

- insufficient parking for customers, delivery staff, etc
- road cannot handle more cars, delivery lorries, noise, refuse, etc
- parking problems already in road
- no need for a nursery in the area, there are 7 others
- 36 children will make a significant amount of noise
- Street was designed as a residential street and should remain that way
- School children cross Edward Road junction
- No safe provision for parking or dropping off
- Parking problems made worse by lack of yellow lines
- Would aggravate traffic and parking problems

- In breach of covenants of the Scotts Estate
- Should revert to a family home
- Will affect peace and tranquillity of local residents
- Noise from back garden will interrupt enjoyment from own garden
- Fence abutting rear would affect outlook and would deflect noise upwards
- Disruptive to neighbouring residents
- Over-intensive use of property
- There are 21 other nurseries in BR1 area
- Any external signs or posters would further erode residential character of area
- Front garden area too small to provide car parking, cycle store and drop-off point safely
- Staff numbers too low to run an orderly day nursery
- How is it to be funded?
- Is it part of an existing group?
- How will it be regulated?
- Lack of suitable fire escape
- Access arrangements will not reduce likely congestion
- Where are the "associated parking spaces"?
- People living in this part of road are mainly retired and at their properties more during the day
- Fence not likely to be attractive to neighbours on either side
- Not clear whether maximum of 36 children relates to occupancy at any one time or in any one day
- Size of swept drive impractical
- Parking survey does not reflect true situation
- Edward road not a cul-de-sac
- Can residential and nursery activities co-exist
- Cars will be queuing to enter and exit
- Parked cars fully occupy adjacent roadside at all times of peak activity
- Fence too high for a domestic setting
- Turn from Edward Road to Plaistow Lane is a blind bend
- No cyclist will park bicycle 5 minutes' walk from destination
- Plaistow Lane not a cycling route
- Not adequately accessible by bicycle
- Transport statement is dated April 2014 and thus a year old and contains a lot of inaccuracies
- Acoustic testing report was carried out during winter months, figures may be different in summer months when children play outside more
- Unacceptably high additional levels of traffic flow and congestion
- Unreasonable reduction in road safety affecting vehicles and pedestrians.

Comments from Consultees

The Councils' Highways Development Engineers have considered the revised transport information submitted and have raised no objections to the proposal.

The Council's Environmental Health Officer has considered the revised noise report and has raised no objections.

The Metropolitan Police Crime Prevention Design Advisor states there is a lack of detail with regard to how secured by design standards will be incorporated into the design of the development. A 'Secured by Design' condition is therefore recommended should permission be given so that the development achieves full SBD accreditation.

Education and Childcare Services have stated that:

The Sufficiency Report that is being referred to is dated 2011 so the information is out of date and there is not a current report available (to show the need for nursery places in this area). However in the last 12-18 months there have been 3 successful planning applications in the immediate vicinity two of which are open and offering up to 102 full-time childcare places. There will be an additional 60 places available in the third premises which will form part of an existing registered day nursery with an OfSTED 'Outstanding' rating.

This is not an area of the borough where the Council is seeking to develop 2 year old government funded places.

With reference to the Applicant's statement that there is 'inadequate provision for special needs nurseries in Bromley' it is expected that all settings should be inclusive and make their accommodation available to all children regardless of their Special Educational Need (SEN) or disability. (Ref; EYFS 3.67 Providers must have arrangements in place to support children with SEN or disabilities). There are two established childcare settings in the borough that provide care for children with complex special needs.

As part of their business plan the client may have identified a need for places in the area and it would be their decision, if planning permission was granted to open another childcare setting. OfSTED would carry out the registration process and Early Years would work with the setting to support quality and the delivery of the Early Years Foundation Stage.

Planning Considerations

Planning Considerations

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

- BE1 Design of New Development
- BE7 Railings, Boundary Walls and Other Means of Enclosure
- C1 Community Facilities
- C7 Educational and Pre-School Facilities
- EMP8 Use of Dwellings for Business Purposes
- H1 Housing Supply
- T1 Transport Demand
- T2 Assessment of Transport Effects
- T3 Parking
- T5 Access for People with Restricted Mobility

T6 Pedestrians
T7 Cyclists
T9 Public Transport
T10 Public Transport
T15 Traffic Management
T17 Servicing of Premises
T18 Road Safety

London Plan (March 2015):

3.14 Existing housing
3.16 Protection and Enhancement of Social Infrastructure
3.18 Education Facilities
6.3 Assessing effects of development on transport capacity
6.9 Cycling
6.13 Parking
7.3 Designing Out Crime
7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate Soundscapes

The National Planning Policy Framework 2012

Planning History

There is a long and extensive planning history relating to the site. The more recent cases are summarised below:

- In 2011 under ref.10/02755 a single storey rear extension and change of use to Class C2 (residential institution) comprising mother and baby living accommodation with various shared facilities and ancillary office/staff accommodation was refused planning permission. The application was subsequently dismissed at Appeal.
- An Enforcement Notice was issued on 9th May 2011 in respect of the change of use to Class C2 and an Appeal against the notice was dismissed.
- In 2011 under ref.11/02415 planning permission was refused retrospectively for use as house in multiple occupation (HMO) including 3 rooms on top floor for mother and baby occupation.
- A further enforcement notice was issued in respect of the unauthorised change of use of the dwelling to a HMO for up to 16 people on 2nd Feb 2012. The notice was appealed and was allowed on the terms that the use as an HMO was lawful provided no more than 6 residents were in occupation, giving the remainder of the tenants 6 months to find alternative accommodation (decision date 12th September 2012).
- In 2012 under ref.12/00833 a certificate of lawfulness for an existing use for the use of the building as a house in multiple occupation by 6 unrelated individuals was refused. The decision was upheld at Appeal based on there

being more than 6 individuals residing at the premises (decision date 17th April 2013).

- In 2013 under ref.12/03319 planning permission was refused for the change of use to a house in multiple occupation (sui generis) for not more than 12 persons in 8 households. A subsequent appeal was dismissed.

- In 2014 under ref.14/00104 a certificate of lawful development deemed the Use of 1 Edward Road as 6 residential units for unrelated individuals as a lawful use of the site.

Conclusions

Conclusions

The main issues relating to the application are the impact that it would have on the amenities of the occupants of surrounding premises, the effect it would have on housing supply in the Borough and the impact it would have on highways safety and parking in the area.

The application site has a lawful use as an HMO for not more than six residents and is currently occupied. This use was deemed lawful in 2014 however prior to this there has been a long and complex planning history relating to the uses of the site. There have also been numerous complaints about the site to the Council's Environmental Health department relating to noise, disturbance and fly-tipping.

Policy H1 of the UDP resists the loss of housing through redevelopment or change of use, except where accommodation is unsuitable and incapable of being adapted for continued residential use or where the proposal meets an identified need for community facilities. The London Plan, at policy 3.14 also resists the loss of housing, including affordable. Also of relevance is policy EMP8 of the UDP which says that the Council will normally permit the use, by the householder, of part of a dwelling for business purposes only where the business use is secondary to the primary residential use of the property.

As part of the development proposal the second floor would be retained as a 2 bedroom residential unit for staff accommodation. The applicant says in their supporting statement that "Staff working late at night or early in the morning or on duty will be accommodated on the second floor".

A number of planning applications for childcare settings have recently been approved in the vicinity, two of which are open and offering up to 102 full-time childcare places. There will be an additional 60 places available when a third premises opens. As such there is not considered to be an identified need for such a community facility as is proposed. In light of the above, the proposal would be in breach of policy H1 of the UDP. However, as a residential element would be retained as staff accommodation, Members may consider that, on balance, the proposal would not have a significantly detrimental effect on the Borough's housing supply.

Furthermore, in support of their proposal, the applicant argues that there is inadequate provision for special needs nurseries in the Borough and the proposed use would help to address this inadequacy. While the Council expects that all settings should be inclusive and make their accommodation available to all children regardless of their Special Educational Need (SEN) or disability, Members may agree that an additional childcare setting in this area would be beneficial to the community.

With regard to the impact on the amenities of the occupiers of surrounding residential buildings, a revised acoustic testing report was submitted and measures have been proposed to protect neighbouring occupiers from adverse noise levels. These measures include reducing the outside activity time periods to three 15 minute sessions per day and erecting a 2.5m acoustic absorptive barrier around the garden boundary. Consequently, the Council's Environmental Health officer has raised no objections to the proposal and, subject to conditions restricting children numbers and opening times of the setting, the proposal is, on balance, unlikely to result in significant noise and disturbance to neighbouring residents.

The proposed 2.5m high fence would be positioned around the rear garden boundary starting from the back of the application building. In terms of the impact it would have on the amenities of neighbouring occupiers, the most significantly affected would be No.3 Edward Road, to the north-east of the application site. The proposed fence would be in close proximity to the rear ground floor windows of No.3 and would give rise to a degree of overshadowing at the neighbouring site, particularly to the recessed garden area to the rear. It would also appear somewhat prominent. However, in this case Members may consider that the additional 30cm height above that of a typical garden fence, which is proposed in order to mitigate undue noise levels, is, on balance, acceptable.

With regard to the proposed front boundary treatment, there is a 1.8m fence opposite the application site around the perimeter of Whiteaves and, as such, the proposed front boundary wall and railings would, in principle, appear acceptable. A condition is recommended to ensure full details of all boundary treatments are subsequently submitted.

The site has a low PTAL rating and the applicant has supplied information relating to how they propose to reduce the reliance on travelling to the nursery by car. This includes references to the physical layout of the site which would provide limited off-street car parking; the provision of 4 cycle parking spaces for staff; a Travel Plan Co-ordinator to provide travel planning advice to mobility impaired persons; the introduction of car sharing amongst staff and parents; the provision of storage space within the building for buggies for those who have walked; identifying suitable pedestrian routes and suggesting improvements of those routes to the Local Authority; identifying principal public transport routes and identifying measures to improve passenger's journeys. While the planning statement acknowledges that kerb-side parking would also occur, in terms of highways, transport and road safety issues, the proposal is not considered to result in a significant detrimental impact. Conditions are recommended, should permission be granted, including details to be submitted relating to visibility splays, parking bay size and parking layout.

It is clear that there will be an impact on adjacent properties as a result of this proposal and a judgement needs to be made about whether the impact is unduly harmful. Accordingly, Members will need to take account of the plans that have been submitted for this site and the comments made by residents during the consultation process. However, based on the above it is considered that the development in the manner proposed is acceptable in that it would not have a significantly harmful impact on the amenities of occupiers of surrounding residential properties, or on road safety in the vicinity. Furthermore, the proposal would retain a small element of residential use which would help to mitigate the loss of housing at the site.

Background papers referred to during production of this report comprise all correspondence on the file refs 14/03125; 14/00104; 12/03319; 12/00833; 11/02415 and 10/02755 set out in the planning history section above, excluding exempt information.

as amended by documents received on 21.01.2015 19.02.2015 02.04.2015

RECOMMENDATION: PERMISSION

Subject to the following conditions:

1ACA01 Commencement of development within 3 yrs

ACA01R A01 Reason 3 years

2ACK01 Compliance with submitted plan

In order to comply with Policies BE1, EMP8, H1, T2, T3 and T18 of the Unitary Development Plan and in the interest of the residential amenities of the area, housing supply in the Borough and in the interests of road safety and promoting sustainable modes of transport

3 Before commencement of the use of the land or building hereby permitted parking spaces and/or garages and turning space shall be completed in accordance with the approved details and thereafter shall be kept available for such use and no permitted development whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.

It is necessary to ensure that before the use commences the site is capable of providing the parking spaces, as approved, in order to comply with Policy T3 of the Unitary Development Plan and to avoid development without adequate parking or garage provision, which is likely to lead to parking inconvenient to other road users and would be detrimental to amenities and prejudicial to road safety.

4 Prior to the commencement of the use hereby permitted, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan should include measures to promote and encourage the use of alternative modes of transport to the car. It shall also include a timetable for the implementation of the proposed measures and details of the mechanisms for implementation and for annual monitoring and updating.

The Travel Plan shall be implemented in accordance with the agreed timescale and details.

Before the use commences it is necessary to ensure appropriate management of transport implications of the development and to ensure the development accords with Policy T2 of the Unitary Development Plan

5ACH12	Vis. splays (vehicular access) (2 in)	3.3 x 2.4 x 3.3m	1m		
ACH12R	Reason H12				
6ACH22	Bicycle Parking				
ACH22R	Reason H22				
7ACH32	Highway Drainage				
ADH32R	Reason H32				
8ACA07	Boundary enclosure - no detail submitted				
ACA07R	Reason A07				
9ACH04	Size of parking bays/garages				
ACH04R	Reason H04				
10ACJ12	Use as day nursery/playgroup (5 insert)	3 months	5 years	36	
	07:30 18:30				
ACJ12R	J12 reason				

INFORMATIVE(S)

1 RDI16