

SECTION '2' – Applications meriting special consideration

Application No : 16/04331/RECON

Ward:
Penge And Cator

Address : 62 Kings Hall Road Beckenham BR3
1LS

OS Grid Ref: E: 536207 N: 169928

Applicant : Mr Steven Fenn

Objections : YES

Description of Development:

Variation of Condition 4 of planning permission Ref: 09/03023/FULL1 to (a) allow up to 72 children and 20 staff to be accommodated at any one time and (b) allow the use of the premises as a children's nursery between 7.00am and 7.30pm Monday to Fridays inclusive at 62 Kings Hall Road, Beckenham.

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 25

Proposal

Planning permission is sought for the variation of Condition 4 of planning permission Ref: 09/03023/FULL1 to (a) allow up to 72 children and 20 staff to be accommodated at any one time and (b) allow the use of the premises as a children's nursery between 7.00am and 7.30pm Monday to Fridays inclusive at 62 Kings Hall Road, Beckenham.

Currently the number of children is limited to 58 and staff to 17 persons.

The applicants have also proposed to restrict the number of children accommodated at the nursery in its first half hour of opening (i.e. between 7.00am - 7.30am) to 15.

No physical alteration to the building is proposed as part of this variation. The extensions built under planning ref 09/03023 and the rear outbuilding under planning ref 11/01600/ will remain unaltered and used as existing.

Although not included as part of the application the applicant has indicated that they are willing to increase the height and style of the boundary fence to residential properties on Densole Close to a 2m height close boarded structure which can be secured through planning conditions.

Location

The property is an existing day care nursery which currently is permitted to operate between 7.30am and 8pm Monday to Friday excluding weekends and Bank Holidays. The nursery is situated within a substantially extended detached house

which was formerly one pair of semi-detached properties covering two floors and rooms in the roof.

The area is predominantly residential in character and there is an area of hard standing fronting Kings Hall Road currently used for car parking. The premises have been in use as a day nursery since 1988. The rear garden area is used as a play space during operational hours and there is an additional rear garden outbuilding used as an extra play room for the children. To the rear of the site is the railway line. To the west of the garden play area are the rear garden curtilages of properties on Densole Close. To the east of the site is the rear garden curtilage of No64 King's Hall Road.

Consultations

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

- The site is only open to 18.00 currently not 20.00 as stated.
- Opening earlier will negatively affect neighbouring residents causing more noise and disturbance at an earlier time.
- The application is a further incremental attempt to increase child numbers which will be followed by further similar applications.
- Noise from children in the garden is loud with constants use of the garden outbuilding during opening hours.
- Will greatly affect the residents of Densole Close most who are elderly and spend more time at home.
- Any increase in the numbers of children will make parking and congestion worse in the immediate roads hazardous to road safety.
- Concerns regarding the extent of the Councils direct notifications.
- Increase in children and opening hours will increase noise pollution.
- Concerns regarding the unauthorised use of parking in Densole Close by users of the Nursery being dangerous.
- An increase in morning and evening drop off will have a materially adverse effect on the amenities of local residents and conditions for road users on surrounding roads.
- Travel Plan has not been submitted as require by 2009 permission.
- General comments from many objectors have stated that they feel the submitted Transport Assessment is inaccurate and the evidence submitted is incorrect.
- Data from websites has been submitted by objectors highlighting illegal parking incidences and stories regarding accident blackspots in the area.
- Nursery provision is already well provided for in Beckenham.
- Levels of noise differ throughout the day and therefore noise proof evidence submitted is easy to disguise the real problems if data is taken at a quiet time.
- A higher fence will not stop noise and will shade further the residents garden in Densole Close.
- The situation has not changed in term of noise and disturbance from the previous Appeal Decision to dismiss the case on the grounds of an adverse effect on the living conditions of neighbouring residents.

Officer response: The above comments are addressed in the assessment below.

- Concerns regarding the date of the parking survey was conducted on the Mayoral election day on 5/5/16.

Officer response: The Harris Academy has confirmed that they were open as normal on that day.

Internal consultations

Highways: The site is located in an area with PTAL rate of 3 (on a scale of 0 - 6b, where 6b is the most accessible).

The current proposals seek to increase the permitted number of children and staff at the site to 72 children (14 additional) and 20 staff (3 additional) at any one time. No material alterations would be made to the site, including the access arrangements. The normal nursery operational hours are 0730 - 2000, Monday to Friday, as permitted by Condition 4 of the April 2010 consent. The majority of arrivals and departures occur during the normal operational hours between 0730 and 2000. As part of the current proposals, the usual hours of operation of the nursery would be altered to 0700 - 1930, Monday to Friday. As such, the total hours of operation would not be extended but would be shifted by 30 minutes from the end of the day to the start of the day.

Staff Travel Patterns.

27 staff employed at the nursery, 23 completed the survey which translates to a response rate of 85%. The results show that all staff work full time hours over a five day week, Monday to Friday. The majority of the nursery nurses work on a shift system which comprises a 07:30 - 17:00 shift and a 08:50 - 18:00 shift. Catering staff and lunchtime assistants generally work mid-morning to mid-afternoon. The mode of travel that employees use to get to/from work is often affected by the distance they live away from work.

The responses show that 34% of staff live under 3 miles from the nursery, the majority of staff (61%) live between 4-10 miles to get to work.

Mode of Travel	Staff No.	%
Bus	7	30
Train/tram	7	30
Walk	3	13
Car driver-	3	13
Car passenger	2	9
Car driver/ shared	1	4
Total	23	100

Table above shows the existing Modal Split of Nursery Staff and indicates that the majority of staff (73%) travel to and from work by non-car modes of travel such as bus, train and on-foot and 13% of staff travel to work in single occupancy vehicles.

Parent Travel Surveys.

The staff travel survey dated October 2014 included the results of a parent travel survey, which detailed methods of travel to and from the nursery, as well as postcode data to determine where parents/children at the nursery reside. The survey highlighted that children generally arrive at the nursery between the hours of 07:45 - 08:30. In the evening, children are generally collected between 17:00 and 18:00, with the most popular collection time being 17:30.

The current modal split of parents travelling to the nursery is set out in Table below

Mode of Travel	%
Bus	2
Train/tram	5
Cycle	2
Walk	46
Car driver	46
Total	100

Currently, 46% of parents walk to the nursery and 46% bring their children to the nursery by car. A total 5% of trips are made by train with the smallest proportions 2% by bus and bicycle.

Car Parking Demand/Traffic impact.

On the bases of the above surveys 17% of the new staff will arrive by car which equates to 1 staff and parent 10 additional cars throughout the operational day.

Car Parking Survey.

The survey was conducted on Tuesday 4th March 2014 between the twelve hour period of 07:00hrs and 19:00hrs. Data was gathered over 15 minute periods. However, at the request of this office the data has been amended in line with 'Lambeth Parking Survey Methodology' where the extent of the parking survey is limited to 200m from the application site. This office also requested that the assessment would be focused on morning drop off (07:30- 09:00hrs) and afternoon pick up (16:30 and 18:00hrs). The new area study area has a total of 121 car parking spaces available on-street.

The survey demonstrated that during the morning drop off period of 07:30 - 09:00hrs on street parking increased from 56 to 72 cars, or 46% to 62% of the available capacity. This indicates that 49 car parking spaces were available throughout the morning drop off period. Similarly the evening pick up period of 16:30 - 18:00hrs on street parking decreased from 68 to 58 cars, or 56% to 48% of the available capacity. The data indicates that 52 car parking spaces were available throughout the evening drop off period.

Therefore the additional car parking demand generated by the application (5 cars in the morning drop-off and 6 cars in the evening drop off) can be accommodated within the available on-street parking.

Environmental Health: The application includes the Noise assessment prepared by Sharpes Redmore (Project no 1616071). The Environmental Health Officer concurs with the conclusions that the noise impact of the proposal will be minimal with regard to both drop-off noise and noise from activities in the garden.

No objections to permission being granted are raised provided that the Nursery's commitment with regard to maximum number at any one time, and early morning admissions, are both reproduced in conditions.

Planning Considerations

London Plan

Policy 3.16 Protection and Enhancement of Social Infrastructure

Policy 3.18 Education facilities

Policy 6.9 Cycling

Policy 6.10 Walking

Policy 6.11 Smoothing traffic flow and tackling congestion

Policy 6.12 Road network capacity

Policy 6.13 Parking.

Unitary Development Plan

T1 Transport Demand

T2 Assessment of Transport Effects

T3 Parking

C1 Community Facilities

C7 Educational and Pre School Facilities

BE1 Design of New Development

Emerging Bromley Local Plan:

The Council is preparing a Local Plan and commenced a period of consultation on its proposed submission draft of the Local Plan on November 14th 2016 which closes on December 31st 2016 (under The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended). It is anticipated that an updated Local Development Scheme will be submitted to Development Control Committee on November 24th 2016 and Executive Committee on November 30th 2016, indicating the submission of the draft Local Plan to the Secretary of State in the early part of 2017. These documents are a material consideration. The weight attached to the draft policies increases as the Local Plan process advances.

Draft Policy 20 - Community Facilities

Draft Policy 27 - Education

Draft Policy 30 - Parking

Draft Policy 32 - Road Safety

Draft Policy 33 - Access for All

Draft Policy 37 - General Design of Development

Draft Policy 77 - Landscape Quality and Character
Draft Policy 119 - Noise Pollution
Draft Policy 120 - Air Quality
Draft Policy 123 - Sustainable Design and Construction

Planning History

88/04253/FUL. Planning permission was granted on 21st December 1988 for a single storey side extension and change of use of ground floor from residential to a day nursery.

02/01998/FULL2. Planning permission was granted on 5th December 2002 for the change of use of first floor from residential to a day nursery.

08/01528/FULL1 Planning permission was refused and dismissed at appeal for a part one/two storey side/rear extension. The Inspector concluded that the single storey rear extension was incongruous and out of keeping with surrounding development due to its excessive depth. The Inspector also concluded that due to the limited available rear garden area the increase in staff and children would result in an over intensive use of the site harmful to living conditions of adjoining properties.

09/03023/FULL1. Planning permission was approved for a single storey side and part one/two storey rear extensions to children's nursery to increase number of children from 36 to 58.

Condition 4 of the decision was added as follows:

(a) The children attending the day nursery/play group shall be between the ages of 0 and 6 years and not more than 58 children and 17 staff shall be accommodated at any one time.

(b) The use of the premises as a children's nursery shall be limited to Mondays to Fridays inclusive between the hours of 7.30am and 8.00pm.

11/01600/FULL1. Planning permission was approved for a detached single storey building rear for use as and ancillary playroom.

14/01672/VAR: Variation of Condition 4 (a) of permission ref: 09/03023/FULL1 to allow up to 86 children and 25 staff to be accommodated at any one time. Refused 26.11.2014

Refusal Reason:

The proposals would result in an overintensive use of the property, which would be detrimental to the amenities of nearby residents by reason of noise, disturbance and vehicular activity, thereby contrary to Policy BE1 of the Unitary Development Plan.

The application was subsequently dismissed at Appeal.

The Inspector concluded that the proposed increase in children and staff at the premises would cause a significant adverse impact on the living conditions of neighbouring occupiers by reason of noise and disturbance conflicting with Policy BE1 of the Bromley Unitary Development Plan (2006), which requires that all development should respect the amenity of occupiers of neighbouring buildings and those of future occupants and ensure their environments are not harmed, amongst other things, by noise and disturbance.

Conclusions

The main planning considerations relevant to this application are:

- The impact of the increased numbers of users of the site and additional staff on the residential amenity of neighbouring properties.
- Traffic, parking and servicing.

Policy C1 of the UDP is concerned with community facilities and states that a proposal for development that meets an identified education needs of particular communities or areas of the Borough will normally be permitted provided the site is in an accessible location.

Policy C7 of the UDP is concerned with educational and pre-school facilities and states that applications for new or extensions to existing establishments will be permitted provided they are located so as to maximise access by means of transport other than the car.

Policy BE1 also requires that development should respect the amenity of occupiers of neighbouring buildings and those of future occupants and ensure their environments are not harmed by noise and disturbance.

Background

This application is a resubmission of the 2014 application. The resubmission is now for a lesser quantum in terms of the increase in children numbers and staff as detailed above.

The submitted supporting statement details a 'Childcare Sufficiency' assessment that was undertaken by the London Borough of Bromley in October 2015 to look at the Borough's childcare services at ward level. In summary, the Council's report identifies in its assessment that in the Penge and Cator ward, in which the site is situated, there was an identified need for place creation and need for an increased take up and quality of provision of the required 0-5 year old childcare places, identifying a shortfall of provision in Penge and Cator. Members will be aware of the additional demand for primary school places currently being experienced in the Borough in the same way as the demand detailed above is for pre-school places.

It is noted that the planning condition imposed in 2009 to limit the number of children allowed to attend the nursery was to control the use of the site in terms of neighbouring amenity. However, in the intervening time, demand for the facility and others like it has increased in terms of population demographics and it is considered that some further flexibility to address the demand need is required.

Noise and disturbance

In the previous Appeal the Inspector identified that the proposed increases in users and staff would lead to an overintensive use of the property detrimental to the amenities of nearby residents by reason of noise, disturbance and vehicle activity. As the Inspector identified, this conclusion was largely based on their own observations at the site visit with neither the Council nor the applicant submitting factual evidence to clarify the point. As such it was concluded that the level of noise due to increased user numbers was 'likely' to be greater than that as was present at the time.

The current application has sought to address this point with an evidenced survey of the site carried out by an acoustic consultant. From this a comprehensive Noise Survey and Assessment has been submitted. The report concludes that with minor mitigation measures suggested the nursery could operate with the variation in numbers proposed without any significant harm from any adverse impacts from noise on the health and quality of life on existing nearby residents.

The report has been comprehensively reviewed by the Council's Environmental Health Officer who has not raised any objection to the conclusions that the noise impact of the proposal will be minimal with regard to both drop-off noise to the front of the property and noise from activities in the rear garden.

No alteration of the building will take place and therefore in practice the increase in usage numbers will mainly affect the external garden area where there may be a greater number of children using space at any one time. An analysis of the makeup of the intended 72 users provided in the application shows that the main increase in the intended numbers is for an increase in the intake of babies by 12 and only 4 extra toddlers and a decrease in the preschool age group by 2. Therefore the usage of the external area is not likely to increase noticeably given the age group that will use the space will remain largely similar given that babies will be most likely cared for indoors.

Furthermore, the usage of the space is currently controlled by the operators of the nursery in terms of age group use and numbers. It has been indicated that there would currently never be more than 20 children outside at any one point and mainly between 10am and 4pm. Suggestions have also been put forward by the applicant to limit the numbers of early arrivals to 15 between 07.00 and 07.30 to also mitigate any perceived level of extra noise and disturbance.

It is considered therefore, that subject to formal planning conditions which can control the numbers outside to a maximum of 20 children and the numbers of early arrivals, that with the increased usage of the site the external effect of noise and disturbance would be minimally altered as approximately the same amount of children would use the external garden area as currently exists on site.

Therefore, in terms of the planning balance, given the Inspectors conclusion were observational, the lesser level of increase in user and staff numbers now proposed and that now clear evidence has been submitted and ratified by the Councils own

Environmental Health Officer, it is not considered that there is sufficient reason to withhold planning permission on the basis of increased noise and disturbance.

Highways and Parking

London Plan and UDP Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. Car parking standards within the UDP and London Plan should be used as a basis for assessment.

A number of objections from local residents have detailed parking issues and congestion as being problematic in the immediate area. An extensive and updated travel assessment has been undertaken by the applicants in 2016. The Council's Highway Officer has reviewed the current application and has not raised objection in this regard. It is also noted that the previous Appeal Inspector gave limited weight to this given the evidence submitted and agreed with by the Council.

From the revised and updated survey information supplied it is not anticipated that the additional usage of the site will be problematic to local parking conditions in the immediate vicinity.

Summary

Therefore given the above sustainable impacts and the justified need for the demand for extra places, the variation of the original planning condition to increase the numbers of children from 58 to 72 and staff from 17 to 20 is considered acceptable subject to planning conditions that can control and mitigate the impacts of the increase.

RECOMMENDATION: PERMISSION

Subject to the following conditions:

- 1 Notwithstanding the details hereby approved within 3 months of the date of this Decision Notice details of an acoustic boundary structure to be located along the flank boundary of the rear curtilage adjoining of No's 1 to 10 Densole Close shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be permanently retained thereafter.**

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of visual amenity and the amenities of adjacent properties.

- 2 (a) The children attending the day nursery/play group shall be between the ages of 0 and 6 years and not more than 72 children and 20 staff shall be accommodated at any one time.**

(b) The use of the premises as a children's nursery shall be limited to Mondays to Fridays inclusive between the hours of 7.00am and 7.30pm.

(c) A maximum number of 15 children shall attend the day nursery/play group Mondays to Fridays between the hours of 07.00am to 7.30am.

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the amenities of nearby properties.

3 No more than 20 children shall be allowed into the rear curtilage play space area at any one time.

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the amenities of nearby properties.

4 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) Order (England) 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.

Reason: 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.