

SECTION '2' – Applications meriting special consideration

Application No : 17/02523/RECON

Ward:
Clock House

Address : New Bowers 1 Thornsett Road Penge
London SE20 7XB

OS Grid Ref: E: 534647 N: 169095

Applicant : Mr Eshan Bhatia

Objections : YES

Description of Development:

Variation of Condition 1 of planning permission reference: 02/03198/FULL4 to allow the children attending the day nursery/playgroup to be between the ages of 0 and 5 years and not more than 32 children to be accommodated at any one time.

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 51

Proposal

Planning permission is sought to vary condition 1 of planning permission 02/03198/FULL4 to allow the children attending the day nursery/playgroup to be between the ages of 0 and 5 years and not more than 32 children to be accommodated at any one time.

Condition1 of planning permission 02/03198/FULL4 currently reads as follows:-

The children attending the day nursery/play group shall be between the ages of 2 and 5 years and not more than 20 children shall be accommodated at any one time.

The planning application is accompanied by a Transport Assessment and a Design & Access Statement.

Members may recall that a similar planning application was refused at Plan Sub 3 on 16th March 2017 for "Erection of a single storey rear extension, reconfiguration of internal layout, increase in the number of children between 0-5 years from 20-45. Increase in opening hours (Monday-Friday 7:30-18:30). Two off street parking spaces, bike store, refuse store and landscaping".

Location

The application site is a semi-detached property located on the northern side of Thornsett Rd, Penge. The area is predominately residential in character and the property (formerly Norris Nursery) has been vacant since July 2016. The rear garden area was used as play space during operational hours and the property is bounded on all three sides of the rear garden curtilages of properties on Thornsett Road, Thornsett Place and Thornsett Terrace.

Consultations

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

- o Noise from the extra children and staff especially when they are all in the garden. We experience a lot of noise, shouting and banging on the walls when there were 20 children
- o Damage to property
- o Parking. Parents are always blocking driveways
- o Added congestion
- o Thornsett Road is not suitable for a nursery. It should be located on a more suitable site to accommodate this large amount of children.

Consultee comments

Drainage - No comment

Bromley Early Years - The government has committed to doubling the amount of free childcare from 15 to 30 hours a week for working parents of three and four year olds from September 2017. The additional hours will enable families to work and supports parents who wish to work, or to work more hours. The local authority has a duty to ensure that there are sufficient places for parents wishing to access their entitlement. We are aware, however, from our recent Sufficiency Report 2016 that the number of places in day nurseries, preschools and childminders is not sufficient for the anticipated high demand for the 30 hours free childcare.

Whilst the Sufficiency Report indicates that there may be an adequate number of childcare places in the Clockhouse ward (see attached) there is a lack of places in 3 of the 4 wards that surround Clockhouse - these are Copers Cope, Crystal Palace and Kelsey & Eden Park (see attached). We know that parents requiring childcare in these wards will travel within the area to access their 30 hours entitlement and demand will "spill over" into both the Clockhouse and Penge & Cator wards. It is essential that there is availability in these wards if we hope to have any chance of fulfilling our duty to ensure sufficient places for parents in the London postcode areas of the borough.

There are already two Ladybird Day Nurseries in the borough. The nursery in Beckenham offers a Good standard of care (Ofsted inspection 6/5/2014) and the one in Anerley is rated as Satisfactory (Ofsted inspection 8/4/2013). The Quality Improvement Officer who has been working with the owners at their existing nursery in Anerley and another new one in Anerley has assured me that they have been keen to work with her to ensure that they deliver a high standard of care and education.

With regards to the current free entitlement of 15 hours, the nurseries have always encouraged and supported their parents to take up their full entitlement. The owners of the nurseries have booked to attend a meeting this month to discuss the delivery of the 30 hours scheme. I fully expect that they will be supportive of the new government initiative and will work with us to implement the 30 hours childcare at their settings in the borough. It is already clear that they are taking the proposed changes to the entitlement seriously and want to expand to meet the demand from parents

For these reasons we support this application as it will enable more parents in the London Borough Bromley to access their full entitlement to free childcare in a good quality setting.

Environmental Heath - There is no definitive point at which the noise from the children becomes unacceptable. Thinking only about the noise, if the number of children doubles then the increase would be noticeable and measurable. An increase from 20 to 32 (a 60% increase) would have much less of an impact and if managed properly could be almost insignificant.

Furthermore, the demand for places for under 2yr olds was supported by anecdotal evidence (not in the least scientific) from friends and colleagues. I understand the difficulties of imposing a Condition which would enforce the claim that any increase will be taken up by younger children but if a Condition were imposed requiring a Noise Management Plan to be submitted this would give us control over the use of the outside area, and as the younger age groups are less likely to have outside play time this could be used as evidence that the external noise would increase less than expected (and certainly less than the previous applications where additional numbers were spread across a wider age range).

Highways - The site is located to the north of Thornsett Road in an area with PTAL rate of 2 on a scale of 0 - 6b, where 6b is the most accessible. Parking is permitted on both sides of the carriageway on both Thornsett Road and Thornsett Place.

Two car parking spaces are proposed at the site frontage. Also, two Sheffield cycle stands will be provided.

Trip Generation

Trip generation for the proposed extended nursery has been calculated using data supplied by Ladybird Nurseries from a survey conducted at a similar site, Laybird Nurseries in Anerley (SE20 8NQ).

It is expected that 45 children in total will attend the proposed nursery daily, together with 14 staff that are spread evenly across five nine-hour shifts commencing at half-hourly intervals from 08:00 onwards.

The calculations were based on a number of assumptions, as follows:

- o Each car contains a single child
- o All staff travel by car
- o Total number of children = 32
- o Total number of staff = 10
- o 28% of clients travel by car

The number of users travelling to the nursery by car will be in the region of 28%. Most are likely to walk, as the nursery is central to a large residential area.

Parking

This office has expressed concern over the quantum of parking available to carers dropping off and picking up children at the nursery. The site has a PTAL score of 2; it is surrounded by residential development putting it within easy walking distance of many potential users.

However, because of the relatively low PTAL rating, it is accepted that a number of users will drive to the facility. This has been identified as 28% at another local Ladybird nursery.

There are to be two on-site parking spaces, the majority of parking by necessity would occur on-street. In order to establish that sufficient parking on Thornsett Road is available, especially during the busiest morning and evening peak hour periods a parking survey was conducted on Tuesday 18th January 2017 during 08:00-10:00 and 16:00-18:00 within 75m of the proposed development site.

To summarise, the number of vacant on-street parking spaces within 75m of Norris Nursery during the survey hours ranged between 16 and 19 spaces.

Given that no more than eight clients and their children arrive by car, and stay on average for five minutes, it is evident that there is more than sufficient parking available for drop off and pick up, together with reasonable parking available for staff members.

If minded to approve; please include the following with any permission:

H03 (Car Parking)

H22 (Cycle/ pram parking)

Planning Considerations

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

BE1 Design of New Development
C1 Community Facilities
C7 Educational and Pre-School Facilities
EMP8 Use of Dwellings for Business Purposes
T2 Assessment of Transport Effects
T3 Parking
T6 Pedestrians
T7 Cyclists
T18 Road Safety

The London Plan and National Planning Policy Framework are also key considerations in determination of this application.

The above policies are considered to be consistent with the principles and objectives of the National Planning Policy Framework.

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 closed on December 31st 2016 (under The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended). It is anticipated that the submission of the draft Local Plan will be to the Secretary of State in mid 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

The application premises has a long planning history. The last four planning applications are set out below:-

Under planning application ref:- 16/04893/FULL1 planning permission was refused for Erection of a single storey rear extension, reconfiguration of internal layout, increase in the number of children between 0-5 years from 20-45. Increase in opening hours (Monday-Friday 7:30-18:30). Two off street parking spaces, bike store, refuse store and landscaping. The reason for refusal read as follows:-

The proposals would result in an over intensive use of the property and site, including the rear extension being proposed, which would be detrimental to the amenities of nearby residents and users of the host property by reason of noise and disturbance and reduced space around the building due to the rear extension thereby contrary to Policy BE1 of the Unitary Development Plan.

Under planning application ref: 03/01275/VAR planning permission was refused for variation of condition 1 of permission ref:- 02/03198 to allow an increase in the number of children from 20 to 34.

Under planning application ref:- 02/03198/FULL4 planning permission was granted for continued use without complying with condition 1 attached to temporary permission 01/03603 granted for continued use as a day nursery to enable use to be permanent.

Under planning application ref:- 01/03603/RENEW planning permission was granted for continued use as a day nursery.

Conclusions

The main planning considerations relevant to this application are:

- o Background and the need to vary the condition
- o Noise and disturbance
- o 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

The use of the day nursery ceased on 31st July 2016. The applicant applied at the beginning of 2017 to reopen and refurbish the existing nursery and build a single storey rear extension which would have added two additional playrooms in the rear extension and result in the internal reconfiguration of the existing ground and first floors. The proposed floorplans also showed 3 x playrooms on the ground floor (previously there were 2), quiet room, toilet and kitchen. On the first floor 2 playrooms were shown, office/staff room and toilets. The applicant also sought to increase the number of child places from 20 to 45 (an increase of an additional 25 children broken down into three age groups).

Supporting documents stated that the family has owned nurseries in the Borough for over 20years and currently owns three other nurseries. Due to excessive demand No.1 Thornsett Rd has been purchased to try and alleviate demand in branches close by. For

several years the nurseries have experienced a rapid increase in demand for childcare places in Anerley and currently there are no spaces for children aged 0-2 years until September 2018 and for children aged 2-4years until August 2018 with the nurseries having to turn away applications for places each week. Bromley Early years have been consulted and they were in agreement that the SE20 area is in desperate need of additional spaces for children aged under 5yrs. The need for nursery places is increasing with working parents requiring facilities to drop their children off early and pick them up after work; hence the reason for the increase in opening hours half an hour at either end of the day.

The Bromley Early Years team also confirmed there is a need for more childcare places especially in Anerley as a result of the Government's Policy to double the amount of free childcare from 15 to 30 hours a week for working parents of three and four year olds from September 2017. Like every local authority Bromley has to ensure that there are sufficient places for parents wishing to access their entitlement. The Borough is aware from a recent Sufficiency Report 2016 that the number of places in day nurseries, preschools and childminders is not sufficient for the anticipated high demand for the 30 hours free childcare.

Whilst the Sufficiency Report indicated that there may be an adequate number of childcare places in the Clockhouse ward there is a lack of places in 3 of the 4 wards that surround Clockhouse - these are Copers Cope, Crystal Palace and Kelsey & Eden Park. Bromley is aware that parents requiring childcare in these wards will travel within the area to access their 30 hours entitlement and demand will "spill over" into both the Clockhouse and Penge & Cator wards. The bottom line as outlined by the Bromley Early Years team was to ensure there was availability in these wards if the Council hope to have any chance of fulfilling its duty to ensure sufficient places for parents in the London postcode areas of the borough.

Current application

Following refusal of the last planning application the agent has submitted a variation of condition application to the Council to vary condition 1 of the 2002 permission which limits the number of children attending the day nursery to 20 children between the ages of 2-5yrs. The applicant is seeking to raise the number of children able to use the site to 32 between the ages of 0-5 (an increase of 12 children).

The agent's justification for varying the condition is that demand for nursery facilities and others like it has increased in terms of population demographics and it is considered that a degree of flexibility to address the demand need is required especially for children under the age of 2.

Noise and disturbance

A material consideration to the determination of this current planning application is planning application ref:- reference 03/01275/VAR, which was refused in 2003 to vary condition 1 of permission ref:- 02/03198 to allow an increase in the number of children from 20 to 34. This application was refused on the basis that the proposed increase in the number of children would result in an over intensive use of a non-residential use; this being a semi-detached property detrimental to the amenities of adjoining residents by reason of additional noise and disturbance.

The current application now proposes to increase the number of childcare places to 32; 2 less places than what was refused back in 2003 & 13 spaces less than that previously refused by the last application (ref:- 16/04893).

The Council's Environmental Health Officer has provided new comments stating "there is no definitive point at which the noise from the children becomes unacceptable. Thinking only about the noise, if the number of children doubles then the increase would be noticeable and measurable. An increase from 20 to 32 (a 60% increase) would have much less of an impact and if managed properly could be almost insignificant.

Furthermore, the demand for places for under 2yr olds was supported by anecdotal evidence (not in the least scientific) from friends and colleagues. I understand the difficulties of imposing a Condition which would enforce the claim that any increase will be taken up by younger children but if a Condition were imposed requiring a Noise Management Plan to be submitted this would give us control over the use of the outside area, and as the younger age groups are less likely to have outside play time this could be used as evidence that the external noise would increase less than expected (and certainly less than the previous applications where additional numbers were spread across a wider age range").

The rear garden/play area is bounded on all three sides by rear gardens. The property which will be most affected with by the increase in the number of children is the adjoining semi No.1a Thornsett Road. Whilst a high garden fence separates the two properties the increase in the number of children will lead to more noise during break times, however the increase in the number of children using the facility is going to come from those in the 0-2 age range (who are least likely to go outside).

Analysing the age breakdown of children, as follows:-

0-2 years:	12 children
2-3 years:	10 children
3-5 years	10 children
Total =	32 children

An analysis of the makeup of the intended 32 children shows that the main increase in the intended numbers is for an increase in the intake of babies/toddlers; 20 being in the 2-5 age range; 32 children in total. The current condition allows for 20 children in the 2-5 age range. Therefore the usage of the external area is unlikely to increase noticeably given the age group that which will use the space will remain in the 2-5years range with babies and toddlers largely being cared for indoors.

It is not considered practicable or enforceable to put forward a planning condition to limit the number of children who could be allowed to play outside at any one time but the Environmental Health Officer has given his support to the application subject to a noise survey.

Several letters of objections have been received from neighbours regarding the noise and disturbance associated with allowing a higher number of child places and increased comings and goings to the site. One letter states that whilst there is no objection to the nursery reopening maintaining the original number of 20 children they object to an increase to 32 children; given the property is located in a residential road.

Highways and Parking

A key consideration in an application of this type is the impact of the proposal on the surrounding highway network, and parking pressure arising from the increase in drop-off/pick-ups by parents of users of the facility.

Policy C7 supports proposals for pre-school facilities provided they are located so as to maximise access by means of transport other than the car, and should be located within the communities they serve, often provided within residential properties, thereby necessitating the protection of residential amenity. The site has a PTAL rating of 2 and Thornsett Road is a standard residential road. The agent has submitted a Transport Assessment which has been assessed by the Council's Highways Officer.

The site will provide 2 off-street parking spaces and 3 spaces for cycle racks for staff and visitors. Parking is permitted on Thornsett Road on both sides of the road. A parking survey was carried out on 28.01.2017 and concluded that sufficient spaces existed for additional drop off and pickups Monday-Friday between the hours of 0730-1830.

A number of objections from local residents have detailed parking issues and congestion as being problematic in the immediate area. Based on the transport assessment put forward by the agent The Council's Highway Officer has reviewed the current application and has not raised objection in this regard.

Summary

Members will need to decide whether the need for additional early child care spaces outweigh the harm the increase in child numbers will have on neighbouring amenity in terms of creating additional noise and disturbance. It is considered that acceptable mitigation measures can be put in place to control and mitigate the impacts.

Background papers referred to during production of this report comprise all correspondence on the file ref(s) DC/17/02523 / DC/16/04893 / DC/03/01274 / & DC/02/03198 and any other applications on the site set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: APPROVAL

subject to the following conditions:

- 1 The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision notice.**

REASON: Section 91, Town and Country Planning Act 1990.

- 2 Unless otherwise agreed in writing by the Local Planning Authority the materials to be used for the external surfaces of the development hereby permitted shall as far as is practicable match those of the existing building.**

REASON: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and the visual amenities of the area.

- 3** The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.

REASON: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

- 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.

- 5** Before any part of the development hereby permitted is first occupied, bicycle parking (including covered storage facilities where appropriate) shall be provided at the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and the bicycle parking/storage facilities shall be permanently retained thereafter.

Reason: In order to comply with Policy T7 of the Unitary Development Plan and Policy 6.9 of the London Plan and in order to provide adequate bicycle parking facilities at the site in the interest of reducing reliance on private car transport.

- 6** A Noise Management Plan shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of the development. The Noise Management Plan should give details of the existing and proposed use of the external amenity area as well as containing times/days, numbers of children, age range and activity.

Reason: To ensure that the proposed development does not prejudice the amenities enjoyed by occupiers of properties in the vicinity.