

Appeal Decision

Site visit made on 3 October 2016

by Claire Victory BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 January 2017

Appeal Ref: APP/E5330/W/16/3153390

134 Timbercroft Lane, Plumstead, Greenwich SE18 2SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs S Scott (Eurohaus) against the decision of Royal Borough of Greenwich Council.
 - The application Ref 15/1662/F, dated 7 June 2015, was refused by notice dated 31 May 2016.
 - The development proposed is a change of use from B1 office space to D1 children's nursery to include erection of new fence and landscaping of courtyard.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from B1 office space to D1 children's nursery to include erection of new fence and landscaping of courtyard at 134 Timbercroft Lane, Plumstead, Greenwich SE18 2SG, in accordance with the terms of the application, Ref 15/1662/F, dated 7 June 2015, subject to the conditions in the attached schedule.

Main Issues

2. The main issues in the appeal are the effect of the proposal on the living conditions of surrounding residents and the effect of the proposal on highway safety.

Reasons

3. The appeal site is surrounded on three sides by the rear gardens of two storey predominantly terraced dwellings on Timbercroft Lane, Flaxton Road and Barden Street, and vehicular and pedestrian access is taken from Timbercroft Lane. To the south east of the access is the Church of the Ascension. Timbercroft Primary School is located a short distance away on the opposite side of Timbercroft Lane.
 4. The site comprises a single storey building last used for storage and a two storey office building, facing onto a small yard. The premises were vacant but at the time of the site visit the office building was let. The updated appeal statement and transport assessment states that the proposed nursery would accommodate up to 39 children and up to 9 staff per day, from 0730 to 1830 Monday to Friday.
 5. An external play area is proposed between the two buildings along the southern boundary of the site. This would be covered by a retractable awning. Whilst the play area would abut the rear gardens of properties on Barden
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Street, where the existing boundary is formed of a brick wall of approximately 3m in height. A further sitting out area is proposed close to the northern boundary of the site, adjacent to the rear gardens of properties on Timbercroft Lane.

6. Policy E(a) of the Core Strategy with Detailed Policies (CS) (2014) seeks to separate residential properties from problem uses. The appellant has provided a noise assessment carried out in May 2015. This indicates that the internal noise levels will be broadly commensurate with the current noise levels on site, which are highest during the morning and afternoon peak times and likely to coincide with pick up and drop off at the nearby school. The assessment further notes that the noise levels during outdoor play would be typically about 3dB to 6dB higher than that the current noise environment without mitigation, particularly along the northern boundary of the site. The Council has not challenged the conclusions of this assessment. There would be a small to medium change in the noise character of the area. For a residential area this would have a moderate to substantial effect on the occupiers of adjoining properties, and thus noise mitigation is required for the development to be acceptable.
7. Notwithstanding that light industrial B1 class uses are by their nature compatible with a residential environment, the Council has confirmed that there are currently no controls on the hours of operation or noise mitigation measures in place for the current use. The noise impact is proposed to be mitigated by the erection of acoustic fencing along the northern boundary of the site. The technical specification of the proposed fencing indicates that it should reduce sound by approximately 10dB. The hours of operation of the nursery and number of children attending can be controlled. In addition, the periods when children play outside are likely to be intermittent, and a condition could be imposed to limit the number of children doing so at any one time.
8. Furthermore, whilst the site is located within a largely residential area, there is already likely to be some incidental noise and activity associated with the nearby Primary School and Church. The slightly higher levels of noise that are likely to occur as a result of the development would be during the daytime and can be adequately mitigated. On this basis I consider that the proposed use would not lead to an unacceptable level of noise and disturbance in the locality.
9. Taking all of the above into account, I conclude that there would be no harm to the living conditions of surrounding residents, and there would be no conflict with CS policies DH1, DH (b), and E(a). These seek, amongst other things, to ensure that new developments are in a suitable location, are of a high quality design, provide a positive relationship between the proposed and existing urban context, and to not result in unacceptable loss of amenity through reducing privacy or through the emission of noise.

Highway Safety

10. No off-street car parking is proposed for staff or for pick-up and drop-off of children to the nursery. The Council is concerned that the proposal would generate an increased demand for on-street car parking in what it describes as an already heavily congested area.
11. The site has a Public Transport Accessibility Level of 2 on an index of 1 to 6 where 6 is excellent. Nonetheless, that index is based on the metropolitan

- area of London including major transport hubs, whereas local facilities in more suburban areas would not be expected to be within the upper accessibility range.
12. There is a bus route on Timbercroft Lane providing services about every 10-12 minutes to Plumstead, Woolwich and other nearby centres, and there is a rail station about a mile away. This falls within the acceptable upper limit for travel with a buggy recommended by the Institute for Highways and Transport. The proposed drawings indicate that bicycle storage will be available for staff and this can be secured through the imposition of a condition.
 13. The submitted transport assessment refers to Census data which indicates that 42% of households in the Borough do not have a vehicle, and a further 42% have one car, whilst 29.7% of people drive to work. On this basis the Assessment estimates that approximately 20% of children would arrive by car, which equates to about 6 or 7 vehicles dropping off or picking up children each morning and afternoon. However the Council considers an estimate of 50% of children arriving by car is more realistic, in light of the more central location of other facilities run by the appellant. The proportion of children arriving at the Primary School is also said to be about 50%, but no source of this estimate is unknown.
 14. The site is not located within a Controlled Parking Zone, but there are some on-street parking restrictions around the school, including a short stretch of zig-zag lines opposite the Primary School, and restrictions at street corners. The parking survey carried out by the appellant indicates that there are no parking issues in the locality. The Council accepts there is some capacity for further parking to occur on street and at the time of my visit (12:00) I saw that there was capacity for car parking within adjacent roads. No parking survey has been undertaken by the Council.
 15. The slightly earlier opening time for the nursery than the school would stagger drop-offs in the morning peak. Whilst there are some restrictions in the immediate vicinity of the appeal site, sufficient on-street capacity would still be available within the wider area to accommodate the likely demand. Although residents have expressed concern regarding the cumulative impact of existing traffic generated by church services, funerals and weddings, these events are likely to take place during the weekend or outside peak daytime periods. The Highways Authority has no objection to the scheme and there is no compelling evidence before me that the proposal would unacceptably increase the risk to highway safety in the surrounding area.
 16. The Council also considers that the appeal site is not a suitable location for the nursery given its overall strategy for the location of community facilities. CS Policy CHI supports the development of new and improved community facilities where there are identified local needs and where development is in line with the strategy for the provision of services. Facilities must be easily accessible for all and be located in or on the edge of town or local centres unless a special need for a location elsewhere can be demonstrated.
 17. The Council's Area Childcare Officer has indicated that there is a need in this part of the Borough for childcare places for 2 year olds. The appeal site is not located within a designated centre. However, primary and early years settings tend to be situated within residential areas and the proximity to Timbercroft Primary School would create opportunities for linked trips. Given the local

demand the nursery is likely to have a local catchment, such that potential users of the service may live within a reasonable walking distance.

18. For the above reasons, I conclude that the proposed development would not be harmful to highway safety, and would accord with CS policies IM (b), IM(c) and CHI, and Policies 6.9 and 6.13 of the London Plan (2015).

Other Matters

19. Adjoining occupiers have expressed concerns with the erection of a proposed acoustic fence, but information submitted with the appeal indicates this would be a timber fence and not significantly taller than existing fences along the northern boundary of the site. As such, I am satisfied that a condition requiring full details of all boundary treatments would ensure the fence is of an acceptable height and appearance.
20. I note that three prior approval applications¹ were refused on the appeal site, on the basis of insufficient information, but in relation to the proposal before me, I am satisfied that there is adequate information to determine the appeal.
21. I have taken account of all other matters raised, including the pressure on the foul sewage network from additional toilets, the adequacy of the existing warehouse building for the proposed use, and compliance with fire safety standards, but these none of these matters would lead me to any different overall conclusion.

Conditions and Conclusion

22. I have found that the development would be acceptable for the reasons set out above, subject to certain conditions, with due regard to advice in the National Planning Practice Guidance.
23. I have specified the approved plans for the avoidance of doubt. I shall impose conditions limiting the hours of use, the hours of demolition and construction, the number of children permitted to use the outside play areas at any one time, and to prevent the playing of live or amplified music on the site, all to safeguard the amenities of neighbouring occupiers.
24. For the avoidance of doubt and to safeguard the amenity of adjoining occupiers I have also imposed a condition limiting the number of children attending the nursery to a maximum of 39 as set out in the updated appeal statement and transport assessments, as the proposal has been assessed and found to be acceptable on that basis.
25. Full details of the proposed noise mitigation measures identified in the submitted noise impact assessment are required to be submitted to safeguard the amenities of neighbouring occupiers. Details of the proposed acoustic fencing, as specified on the submitted plans and of the proposed awning, hard and soft landscaping, and refuse storage and collection areas are required to safeguard the character and appearance of the area. Details of drainage are required to be submitted and approved to prevent surface water run-off beyond the site.

¹ Refs 15/0175/PN2; 15/0660/PN2; 15/1724/PN2

26. As the nursery would be a publicly accessible building, details of the access arrangements are required to be submitted and approved to ensure access for all, in accordance with CS Policies CHI and DHI.
27. A condition is necessary to require the provision and retention of a bicycle store for staff use in the interests of highway safety and to encourage more sustainable patterns of travel. However I shall not impose the Council's suggested condition for a Travel Plan since one has been submitted by the appellant at section 8 of the Transport Assessment.
28. The Council consider a preliminary risk assessment is necessary due to the previous commercial use of the site, but a Land Check contaminated land survey and asbestos survey have already been provided which indicates no evidence of contamination on site. However, a condition requiring testing of any soil brought on site for use in the creation of play areas or soft landscaping is necessary to safeguard the amenity of users of the nursery.
29. An air quality impact assessment is considered to be overly onerous for the nature and scale of the proposal and so I shall not impose such a condition.
30. Finally, whilst I have found that the development as proposed is acceptable, a condition would be necessary to prevent a change to any other uses within the D1 use class, as an open D1 use may lead to different noise and traffic impacts that have not been assessed as part of this proposal.
31. For the above reasons I conclude that the appeal should be allowed.

Claire Victory

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 4547/002 RevA; 003 RevA; 004 RevA; 005 RevA; 006 RevA; 007 RevA; 008 RevA; 009 RevA; 010 RevA; 011 RevA; 012 RevB; 013 RevB; 014 RevA; 015 RevA; 016 RevA; 017 RevA; 018 RevA; Planning Statement updated December 2015; Transport Statement updated December 2015, Noise Impact Assessment; and Design and Access Statement.
- 2) The Class D1 use hereby permitted shall be restricted to the following hours: Monday to Friday 0800 to 1800 hours; Saturdays 0800 to 1300 hours and not at all on Sundays and Bank Holidays or Public Holidays.
- 3) The property shall be used as a children's nursery only and for no other purpose falling within Class D1 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 4) The number of children attending the nursery at any one time shall not exceed 39.
- 5) The number of children using the outdoor space at any one time shall be limited to 10.
- 6) The playing of live or amplified music shall not take place from the site.
- 7) Full details of the proposed awning shall be submitted to and approved in writing by the local planning authority before any work on the site commences. The scheme shall thereafter be implemented in accordance with the approval.
- 8) Before the development is commenced, details of all hard and soft landscaping arrangements including replacement tree, or shrub planting indicating species and size shall be submitted to and approved in writing by the local planning authority. The hard landscaping shall be completed in accordance with the approved details before the use is first occupied. The soft landscaping shall be completed within 12 months, or by the end of the first planting season after the completion of the development in accordance with the approved details.
- 9) Before the use is commenced, full details of all walls, acoustic fencing, railings, gates or other means of enclosure to be erected at the site, and any alteration to existing boundary treatment shall be submitted to and approved in writing by the local planning authority, and shall be erected and fully completed in accordance with the approved details.
- 10) Before commencement of the approved use, full details shall be submitted to and approved in writing by the local planning authority demonstrating that the development hereby approved will adequately provide for cycle storage for the approved use. The approved details shall include the appearance of the cycle storage facilities.
- 11) Before commencement of the approved use, refuse storage facilities and collection arrangements shall be provided in accordance with the full details

- which shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be retained as such thereafter.
- 12) No development shall commence until details of a scheme for access for people with disabilities is submitted to and approved in writing by the local planning authority. Such details shall incorporate a ramp at a gradient of not more than 1:12. The development shall then be implemented fully in accordance with the approved details.
 - 13) Demolition and building works required to implement this development shall only be carried out between the hours of: Monday to Friday 0800 to 1800 hours; Saturdays 0800 to 1300 and not at all on Sundays and Bank Holidays or Public Holidays.
 - 14) Details of noise mitigation measures on the basis of the submitted noise impact assessment must be provided and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved details and retained as such thereafter.
 - 15) Before the use is commenced, any soil brought on site for play area creation and/or landscaping activities must be fully tested and soil chemical analysis must be submitted to and approved by the local planning authority.
 - 16) Full details of the drainage to be installed on site and mitigation measures to reduce the consequences and probability of flooding on the site shall be submitted to and approved in writing by the local planning authority. These measures shall be implemented in accordance with the approved details prior to the commencement of the use.