
Appeal Decision

Site visit made on 15 November 2016

by Alexander Walker MPlan MRTPI

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

Decision date: 01 February 2017

Appeal Ref: APP/E5330/W/16/3157489

134 Timbercroft Lane, Plumstead SE18 2SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Dr S Scott of Eurohaus against Royal Borough of Greenwich Council.
 - The application Ref 16/2132/F, is dated 27 June 2016.
 - The development proposed is the change of use from B1 office space to new 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 new D1 children's nursery to include erection of new fence and landscaping of courtyard at 134 Timbercroft Lane, Plumstead SE18 2SG in accordance with the terms of the application, Ref 16/2132/F, dated 27 June 2016, subject to the conditions contained in the Schedule attached to this decision.

Application for costs

2. An application for costs was made by Dr S Scott of Eurohaus against Royal Borough of Greenwich Council. This application is the subject of a separate Decision.

Procedural Matters

3. As the appeal is against a failure to give notice within the prescribed period of a decision on an application for planning permission, no reasons for refusal have been submitted. However, the Council has submitted a Statement of Case which outlines its principal concerns.
4. Following the submission of the appeal an appeal decision¹ was issued for a similar development on the same site as the proposed. The decision was allowed. The approved change of use that was the subject of the appeal decision is for a children's nursery, which would accommodate up to 39 children. The current proposal is for up to 33 children.

¹ Appeal Ref APP/E5330/W/16/3153390

Main Issues

5. The main issues are as follows:

- i) the effect of the development on the living conditions of the occupants of neighbouring residential properties; and,
- ii) the effect of the development on highway safety.

Reasons

Living Conditions

6. The appeal site comprises a large, single-storey building and a separate one and two-storey building. A driveway between the neighbouring Church of Ascension and a row of two-storey terrace dwellings provides access off Timbercroft Lane. On the opposite side of the Lane is Timbercroft Primary school. The north, south and west boundaries of the site back on to the rear gardens of neighbouring residential properties.
7. The proposed outdoor play areas would comprise a ball play area that would have an extending pull out awning and would be located between the two buildings; and, a quiet play area on the northern boundary. Both of these play areas would be enclosed by a low fence.
8. The southern boundary of the ball play area, which forms the boundary with the adjacent properties on Barden Street comprises a high brick wall. The northern boundary of the site comprises a close boarded timber fence.
9. The appellant has submitted a Noise Impact Assessment, carried out by Eurohaus. The assessment identifies that internal noise would barely be audible and therefore would not cause a nuisance. In respect of external noise, this could be up to 65db at a peak play area, with an average of 57db, which could result in a noise problem at the north east boundary during play times as the sound level would be between 3db and 6db higher than present. The Council have not disputed the findings of the assessment.
10. To mitigate the identified noise problem, a 2.5m high acoustic fence would be erected on the northern boundary, which could reduce noise levels by up to 10db, and break times would be staggered. In addition, conditions could be imposed to restrict the number of children using the outdoor space at any one time and the opening times of the nursery.
11. Given the proximity of the site to the primary school and church there will already be a certain degree of noise affecting the occupants of nearby residential properties. However, I am satisfied that the proposed mitigation measures would adequately limit the amount of noise generated from the nursery. Furthermore, the nursery would be operating during the daytime hours, therefore reducing any potential harmful effects.
12. In addition to the above, I have also had regard to the recent appeal decision². The current proposal seeks permission for fewer children attending the nursery; up to 33 rather than the permitted 39. As up to 39 children was not considered to have any significant harm in respect of the living conditions of neighbouring residents, I find no reason why up to 33 children would have any greater harm.

² Appeal Ref APP/E5330/W/16/3153390

13. I find therefore, that the proposal would not significantly harm the living conditions of the occupants of the neighbouring residential properties. As such, it would comply with Policies DH1, DH(b) and E(a) of the Royal Borough of Greenwich Council Core Strategy with Detailed Policies (CS) 2014, which, amongst other matters, seek to ensure that development is of a high quality design, provides a positive relationship between the proposed and existing urban context and does not cause an unacceptable loss of amenity to adjacent occupiers through the emission of noise.

Highway Safety

14. The south side of Timbercroft Lane has unrestricted parking, with the exception of a single disabled parking bay outside one of the residential properties and a 'Keep Clear' box at the entrance to the appeal site. On the school side of the Lane, there are yellow zigzag lines adjacent to the school entrance preventing vehicles stopping on them between the hours of 8am and 5pm Monday to Friday. There are similar zigzag lines outside another entrance to the school on Flaxton Road. Many of the residential properties along this stretch of Timbercroft Lane and the adjacent streets do not have on-site parking. During my site visit, which was in the middle of the day, I observed that there were a number of vacant on-street parking spaces along Timbercroft Lane and the nearby streets within the vicinity of the site.
15. Notwithstanding the site's Public Transport Accessibility Level rating of 2, there is a bus stop within proximity of the appeal site that provides access to Plumstead, Woolwich and the wider area. Furthermore, there are railway stations approximately 1 mile from the site. The submitted Transport Assessment confirms that this falls within the Institution of Highways and Transportation acceptable walking distance guidelines for schools.
16. Based on travel to work and car ownership data for the borough's population taken from the 2011 census, the assessment confirms that approximately 20% of the children would arrive by car. This would equate to approximately 6 or 7 vehicles that would drop off/pick children. Notwithstanding the evidence submitted in the assessment, the Council estimate that approximately 50% of the children would arrive by car. However, there is no indication of what evidence this estimate has been based on. On the evidence before me, I find that there would be sufficient on-street parking provision.
17. Concern has been raised that the demand for on-street parking for the nursery would coincide with that for the adjacent school. However, the nursery would be open earlier than the school and therefore there would be a reduction in the number of visitors that would coincide with the school opening time. I have regard to the concerns expressed by local residents regarding the traffic problems already generated by activities taking place at the neighbouring church. However, such activities would unlikely take place during the peak drop off/pick-up times of the nursery.
18. The Council also raise concern regarding the location of the proposed development. Policy CH1 of the CS supports new community facilities where there are identified local needs and where the development is in line with the strategy for the provision of services. These facilities must be accessible and be in or on the edge of town or local centres. Whilst there is no evidence before me of any identified need, I note that the previous appeal decision referred to a need for childcare places for 2 year olds in this part of the

borough. As the proposal is for nursery childcare, such uses are typically found in residential areas and serve a local catchment. Therefore, it is reasonable to conclude that many of the children attending the nursery would be within walking distance of the site.

19. There is conflicting evidence in the appellant's submission as to how many staff there would be, ranging from 8 to 13. The appellant states that staff would be recruited from the local area, and therefore minimising travel issues. However, there is no indication of how this would be achieved or any mechanism to ensure that this would be the case for all future staff. Nevertheless, I am satisfied that the site is accessible to alternative forms of transport to the private car and therefore any increase in on-street parking demand as a result of staff parking would be limited.
20. In addition to the above, I have had regard to the recent appeal decision, which found that the attendance of the nursery by up to 39 children would not be harmful to highway safety. Based on the evidence before me, I find no reason to find that fewer children would have any greater effect to highway safety.
21. I find therefore that the proposal would not significantly harmful highway safety. As such, it would comply with Policies DH1, CH1 and IMI of the CS, which, amongst other matters, seek to ensure that development takes account of patterns of activity, movement and circulation particularly for pedestrians, promotes walking and offsets any additional demand for infrastructure. It would also accord with Policy 6.3 of the London Plan which states that development should not adversely affect safety on the transport network.
22. In their evidence, the Council refer to Policy IM(c) of the CS, which relates to parking standards. Of their own admission, the Council have no parking standards for the proposed development. I note that the Inspector for the previous appeal concluded that the development was in accordance with Policy IM(c). However, in the absence of any parking standards I do not find that this policy is relevant to the appeal before me.

Other Matters

23. I note the concerns raised regarding the potential for the number of children to increase over time. However, it is only open to me to consider the proposal before me.
24. I acknowledge the concerns regarding the erection of the acoustic fence, which would be higher than the existing fence. However, I am satisfied that the appearance of the fence could be adequately controlled by condition requiring details of all boundary treatments.
25. In respect of foul sewerage, the suitability of the existing buildings and fire safety standards there is no substantive evidence that the proposal would have any significant harmful effect in respect of these matters

Conditions

26. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.

27. In the interests of safeguarding the living conditions of neighbouring residents, conditions are necessary regarding the hours of operation, demolition and construction; the number of children permitted to use the outdoor play areas; the playing of live or amplified outdoor music; ventilation; and, noise mitigation measures. For the same reason, a condition is necessary limiting the number of children attending the nursery at any one time to no more than 33 as the appeal and the evidence submitted has been considered on this basis.
28. In addition, given the proximity of the site to residential properties, a condition restricting the use of site to a nursery is necessary in the interests of safeguarding the living conditions of the neighbouring residents.
29. A condition regarding drainage details is required in the interests of flood prevention.
30. In the interests of the character and appearance of the area conditions regarding details of the awning, acoustic fencing, landscaping and refuse storage are also necessary. A condition is also required to ensure that the publicly accessible building is accessible to all.
31. The Council suggest a condition requiring the submission of a Travel Plan. However, the submitted Transport Assessment incorporated a Travel Plan. Therefore such a condition is not necessary. In the interests of encouraging sustainable modes of transport and highway safety a condition is necessary requiring details of cycle storage.
32. The Council have also suggested that a preliminary risk assessment is undertaken due to the previous commercial use of the site. However, a Land Check contaminated land and asbestos survey accompanied the submission and indicated that there is no evidence of any contamination on the site. Nevertheless, a condition requiring the testing of any soil brought on to the site for the play areas is necessary in the interests of public safety.
33. I have had regard to the suggested requirement for an Air Quality Impact Assessment. However, given the scale and nature of the proposed development such a requirement would be unduly onerous and would fail test of reasonableness.

Conclusion

34. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4547/001 RevC, 4547/002 RevC; 003

RevC; 004 RevC; 005 RevC; 006 RevC; 007 RevC; 008 RevC; 009 RevC; 010 RevC; 011 RevC; 012 RevC; 013 RevC; 014 RevC; 015 RevC; 016 RevC; 017 RevC; 018 RevC; Planning Statement dated June 2016; Transport Statement dated June 2016, Noise Impact Assessment dated June 2016; and Design and Access Statement dated June 2016.

- 3) 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.
- 4) 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).
- 5) The number of children attending the nursery at any one time shall not exceed 33.
- 6) The number of children using the outdoor space at any one time shall be limited to 10.
- 7) The playing of live or amplified music shall not take place on the site.
- 8) 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 approved details.
- 9) 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.
- 10) 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 prior to the commencement of the use.
- 11) 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 details shall include the appearance of the cycle storage facilities. The approved details shall be completed prior to the commencement of the use.
- 12) 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.
- 13) 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 be implemented fully in accordance with the approved details.

- 14) 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.
- 15) Before the use is commenced, details of a ventilation system for the removal and treatment of cooking odours which include measures to mitigate system noise are to be submitted to and agreed in writing by the local planning authority. The approved details shall be fully implemented prior to the first use of the development hereby permitted and shall be maintained thereafter.
- 16) Prior to the commencement of the use 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.
- 17) 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 in writing by the local planning authority.
- 18) 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.