



Appeal Decision

Site visit made on 5 January 2022

by Cullum J A Parker BA(Hons) MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 January 2022

Appeal Ref: APP/G5180/W/20/3258537

2 The Gatehouse, Willoughby Lane, Bromley, Kent BR1 3FZ

- 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 Mr Paul Murphy against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/00334/FULL2, dated 22 January 2020, was refused by notice dated 16 June 2020.
 - The development proposed is described as '*change of use from residential to D1 Day nursery use*'.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use from residential to D1 Day nursery use at 2 The Gatehouse, Willoughby Lane, Bromley, Kent BR1 3FZ in accordance with the terms of the application, Ref DC/20/00334/FULL2, dated 22 January 2020, subject to the conditions set out in Appendix A.

Background and Main Issues

2. The appeal proposal seeks planning permission and not listed building consent. I have, therefore, not considered in any significant detail the impact of any internal works which may or may not require listed building consent. That is a separate matters for the main parties to pursue if necessary.
3. The appeal site lies within defined 'Metropolitan Open Land' (MOL). This is generally considered London's equivalent of Green Belt. The main parties agree in this instance the proposal would not represent inappropriate development – which by definition is harmful to the Green Belt – given that it would represent the re-use of a building of permanent and substantial construction, with no external alterations to facilitate the proposed use, and the proposal would preserve the openness of the MOL. Given the circumstances of this case I agree with that position.
4. The main issues therefore are:
 - The effect of the proposal on the character and appearance of the area; with particular reference to the appeal building, which is a Listed Building, and located within a Grade II Registered Park and Gardens,
 - The effect of the proposal on highway safety, and,

- Whether or not the proposed loss of a residential dwelling would be detrimental to the provision of housing stock within the Borough.

Reasons

Character and appearance

5. The proposed change of use would see around 30 children aged between 3 months to 5 years in three – Baby, Toddler and Pre-school - rooms respectively. There would be roughly 7 Full-Time Equivalent (FTE) members of staff, with the nursery open from between 7:30 to 18:30.
6. The appeal site comprises an unusually shaped building that the Local Planning Authority considers is located within the curtilage of the Grade I listed Sundridge Park Mansion. The Appellant, whilst unclear as to what they consider the listing level is (the suggestion being Grade II) nonetheless do not dispute that the building should be considered as curtilage listed, and therefore subject to the same considerations as a listed building under s66(1) of the LBCAA 1990, as amended. I have proceeded on this basis.
7. The significance of the appeal building, as set out by the Council in its statement, derives from the fact it is an ancillary building set within the landscaped grounds of a former large country park. Whilst accepting the appeal building does not reflect the same design or quality of the Grade I listed building, the presence of the gate house reflects that there is a grander building further along Willoughby Lane.
8. The Appellant's *Grounds of Appeal* confirm that there would be no external changes to the building required to facilitate the proposed use¹. Internally the main changes would be to repurpose the toilet room facilities as a toilet/changing area and at first floor the repositioning of a wall between bedroom 2 and the 'ensuite' which would become a toilet area/changing area. In the main, these would replicate rooms or uses previously approved under other permissions or consents.
9. I acknowledge the Council's concerns in terms of elements of the proposal such as the provision of an intercom video system, replacement bathroom suites and what work may be required in terms of fire safety works. However, in terms of the former these are not shown on the submitted drawings. Moreover, it would be open to the LPA to consider many of these matters in greater detail at any listed building consent stage or with the need for further planning permission. Nonetheless, the submitted drawings show limited internal changes proposed and any such alterations, which are almost identical to the 'existing' layout, would not result in any harm to the listed building.
10. In terms of setting of the Grade I building and the impact on the Registered Park and Gardens (RPG), the LPA point to Historic England's good practice advice², which sets out that the 'importance of setting lies in what it contributes to the significance of the heritage asset or the ability to appreciate it'. In this respect, the appeal building would remain in visual and locational terms as a gate house building into the Sundridge Park Mansion and the wider RPG. This would remain unchanged. Visitors to the RPG and Grade I listed building would continue to experience a gate house at this entrance to the

¹ Grounds of Appeal Statement Ref 20/182, Page 7, Para. 4.7

² *The Setting of Heritage Assets' Good Practice Advice in Planning 3* (December 2017)

estate. Moreover, they would be able to appreciate the significance of all three heritage assets – the Grade I listed building, the curtilage listed appeal building and the RPG.

11. In such circumstances I find that, at worse, the proposal would have neutral impact and would not detract from the significance of these heritage assets. Furthermore, I do not find that the proposal would result in any harm to significance of the heritage assets; considerations which I give considerable importance and weight to.
12. Accordingly, the proposal would accord with Policy 38 of the *Bromley Local Plan 2019* (BLP), which, amongst other aims, seeks to permit applications for development involving a listed building or its setting, or for a change of use of a listed building, provided that the character, appearance and special interest of the listed building are preserved. It would also accord with similar policies set out in the *National Planning Policy Framework 2021* (the Framework) including those set out in Chapter 16 – Conserving and Enhancing the Historic Environment.

Highway safety

13. The appeal site is located on the junction of Plaistow Lane – which leads to the A2212 and South Circular to the north and Park Road which connects to Bromley Town centre to the south – and Willoughby Lane, which is a private road leading to Sundridge Mansion Park estate. Whilst the appeal site has a Public Transport Accessibility Level (PTAL) rating of 2 out of 0-6b, I saw from my site inspection that there are bus stops on the short walking journey to Sundridge Park railway station; which itself provides onwards travel north to Grove Park and south to Bromley North.
14. There is also a free car park close by, which I understand could be used by members of staff, and a mixture of controlled and non-controlled on street parking areas which could be utilised by parents and carers for the dropping off and collection of children at the proposed nursery. I am reinforced in my view that such options have a pragmatic and realistic likelihood of being used by the fact that Plaistow Lane is served by pedestrian footpaths.
15. In addition to the opportunities above, there would be four parking spaces available on site for parents and carers to drop-off and collect children. In practical terms, whilst their usage is potentially feasible, it is clear from the swept path analysis undertaken by the Appellant's transport specialists that such arrangements would involve a number of small movements to use all four spaces effectively.
16. Furthermore, I remain doubtful that the manoeuvres involved, whereby car drivers would need to reverse into the site through relatively narrow brick pillar gates or go in forwards and reverse within the site, would be attractive to many. In such instances, it is more likely that people dropping and collecting children will not use Willoughby Lane and utilise other parking opportunities or public transport links nearby and/or walk to the site.
17. I note the concerns of the local highways authority about the lack of a footpath along Willoughby Lane. However the part of the Lane likely to be used by parents is a very short part off Plaistow Lane where there are footpaths. But in

reality there will be a number of ways in which visitors to the appeal site could access it.

18. I also note the concerns raised by interested parties over the potential for conflict between pedestrians and other road users. However, for the reasons considered above and the specifics of this appeal site, I find that the proposal would not significantly adversely affect road safety.
19. Accordingly, the proposal would accord with Policy 31 and Policy 32 of the BLP, which, amongst other aims, seek to ensure any new develop likely to be a significant generator of travel should be located in positions accessible by a range of transport modes, including public transport, walking and cycling. It would also accord with the Policies of the Framework which include Paragraph 111 which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Impact on housing stock

20. Policy 1 of the BLP sets out that Council will make provision for housing supply. The same policy goes on to set out that housing supply will be achieved by resisting the loss of existing housing except where the proposal meets an identified need for community facilities. I have not been directed to any specific supporting text which defines what 'identified need' means in practice or what level any such need should meet to be an identified need.
21. At the application stage the Council's 'Early Years Team' did not object to the provision of additional childcare spaces within the Borough. The Council's statement³ indicates that within the specific ward the current childcare ratio in the ward is mid-range and at an acceptable level for one ward (based upon unpublished data). However, it has not been clearly detailed as to the geographical extent of the ward, or what level of provision or need there is within adjoining wards.
22. Moreover, the proposal is, by the Council's own Early Year experts, in line with Statutory Local Guidance which favours expansion of existing childcare providers. In light of this, as a matter of planning judgement, I consider that the proposal would provide a community facility that meets an identified need in this case. As such, the proposal would accord with the aforesaid aims of Policy 1 of the BLP.

Other Matters

23. In the main, I have considered above the concerns raised by numerous interested parties. Concern has been raised with regard to air quality within the locality and the potential impact this may have on human health and of children attending the nursery. However, I have been provided with little data or information on what the levels are in this location and how this would make the location unacceptable. In this respect I do not find that there are other matters arising which justify the dismissal of the appeal.

³ Page 18, Paragraphs 8.10-8.13

Conditions

24. The Council has suggested a number of conditions within Appendix 3 of its statement. The Appellant has no objection to their imposition subject to consideration against the relevant 'test'. I have considered the suggested conditions in light of Paragraphs 56 and 57 of the Framework and the national Planning Practice Guidance on the use of planning conditions.
25. A time limit for implementation condition is necessary to provide certainty. Conditions requiring details of the parking for any building operative vehicles and the delivery of materials is reasonable to minimise the impact on pedestrians and other highway users.
26. A condition requiring details of lighting for the access drive and car parking areas is necessary to ensure the safety of visitors whilst protecting visual amenity by reducing light pollution through the use of sensitive lighting.
27. Similarly, conditions requiring details of buggy and bicycle storage, and a travel plan are necessary and reasonable to promote sustainable travel modes. A condition requiring details of on-site parking and garages to be submitted is not necessary given that such details have been provided within the submitted information. Instead, rewording the condition by limiting it to retaining the parking and garage areas would be reasonable and necessary to ensure adequate parking is provided on site.
28. A condition limiting numbers of children on the site and hours of operation are necessary to protect the living conditions of nearby occupants. Likewise, a condition requiring the submission of a noise management plan is necessary to also protect the living conditions of neighbouring occupiers.
29. A condition requiring the submission of details of any works to the listed building to determine whether listed building consent is required would be onerous. It is not necessary when there exists separate regulatory regime for consideration of such matters. Moreover, it is clear from the submitted information that it is well understood the building benefits from the protection afforded to listed buildings.
30. A condition requiring details of how the parking area would be separated from the outdoor space is necessary in this instance given the location of the site within MOL and the Registered Park and Garden to consider any visual impact such enclosure may have. It is also necessary and reasonable to promote and protect the safety of children using the nursery from highway dangers.
31. Lastly, whilst not suggested, a condition requiring the development to be carried out in accordance with the submitted drawings is necessary and reasonable to provide certainty and for the avoidance of doubt.

Conclusion

32. The proposed change of use would accord with the adopted development plan and there are no material considerations that indicate a decision otherwise than in accordance with it.
33. For the reasons given above I conclude that the appeal should be allowed.

C Parker INSPECTOR

Appendix A – List of conditions imposed

- 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: 22/01 Proposed block plan, 22/02 Existing and proposed floor plans, 22/03 Existing/proposed elevations, 22/04 Existing block plan, and 22/01 Proposed block plan (annotated with existing car park).
- 3) Prior to the commencement of the change of use hereby approved provision shall be made to accommodate operatives and construction vehicles off-loading, parking and turning within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority and such provision shall remain available for such uses throughout the course of development.
- 4) The children attending the day nursery / play group shall be between the ages of 3 months and 5 years, and not more than 30 children shall be accommodated within the building and / or the grounds at any one time.
- 5) The use of the building and land as use class D1 Day nursery shall be limited to Mondays to Fridays inclusive between the hours of 7.30am and 6.30pm; and not at all on Saturdays, Sundays, and public or bank holidays.
- 6) Details of arrangements for bicycle and buggy parking (including covered storage facilities where appropriate) shall be submitted to and approved in writing by the Local Planning Authority prior to the change of use hereby approved. The arrangements as approved shall be completed before the change of use hereby permitted is first implemented, and permanently retained thereafter.
- 7) (a) Details of a scheme to light the access drive and car parking areas hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to the implementation of the change of use hereby permitted.
(b) The approved scheme shall be self-certified to accord with BS 5489 - 1:2003 or similar or replacement standard. The lighting scheme as shall be implemented in full accordance with details submitted under Part (a) before the development is first used and the lighting shall be permanently retained thereafter.
- 8) Prior to the use of the building and land as a use class D1 day nursery, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan should include as a minimum:
 - Measures to promote and encourage the use of alternative modes of transport to the car; and,
 - 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.

- 9) (a) Details of parking spaces and/or garages and sufficient turning space shall be submitted to and approved in writing by the Local Planning Authority.
- (b) Such provision as approved under part (a) shall be completed before the commencement of the use of the land or building hereby permitted and shall thereafter be kept available for such use.
- (c) No development whether permitted by the Town and Country Planning (General Permitted Development 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.
- 10) Prior to implementation of the use hereby approved details of a noise management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall be implemented in accordance with the agreed details prior to the first use of the day nursery use.
- 11) Details of pedestrian accesses and/or links through the site and how the parking area will be separated from the outdoor play space shall be submitted for approval by the Local Planning Authority before the day nursery is first used, the details approved shall be permanently retained thereafter.

*****END OF CONDITIONS*****