
Appeal Decision

Site visit made on 11 July 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 August 2022

Appeal Ref: APP/G5180/W/21/3281511

33 Croydon Road, Penge, London SE20 7TJ

- 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 Birinder Singh of Apex Childcare Ltd against the decision of the London Borough of Bromley.
 - The application Ref DC/20/05176/FULL1, dated 18 December 2020, was refused by notice dated 21 July 2021.
 - The development proposed is described as the proposed extension and conversion of existing premises to childcare facility.
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Decision

1. The appeal is allowed, and planning permission is granted for the proposed extension and conversion of existing premises to childcare facility at 33 Croydon Road, Penge, London SE20 7TJ in accordance with the terms of the application, Ref DC/20/05176/FULL1, dated 18 December 2020 subject to the following schedule of conditions.

Main Issues

2. The main parties agree that the change of use from a doctors surgery to childcare facility (nursery) would not require planning permission, and with reference to the current iteration of use classes I agree. As such this appeal relates to the proposed extension which, according to the evidence before me, would increase the floorspace by 32 m². I have however taken into account, where relevant, that the proposed extensions would allow a maximum of 20 children in year 1 increasing to 48 in year 3.
3. The two main issues are, therefore, the effect of the proposed extension on a) the living conditions of the occupants of the adjoining properties (31 and 35 Croydon Road) with specific regard to outlook, sunlight and noise; and b) highway safety regarding an intensification of use.

Reasons

Living Conditions

4. The appeal property is 2-storey with a generous rear garden and off-road parking to the front. It has been extended to the rear by a single-storey and to the side by a 2-storey extension. It is semi-detached with 35 Croydon Road, a similarly proportioned residential property which has been converted into flats. On the opposite side of the appeal site is another residential property 31 Croydon Road. This is a narrower, 2-storey property, set away from the shared boundary and with 2-storey rear section extending into the garden.

5. The proposed rear extension would replace the existing, would extend further into the rear garden and add a partial second storey, all set back from the side boundaries of the appeal site. Although larger in size to the existing rear extension, both it and the proposed dormer are similar to various other rear extensions in the surrounding area.
6. There would be views of the proposed rear extension from the side facing windows in the rear extension of No 31, when looking sideways from the rear windows of No 35, and, in conjunction with the proposed dormer, from the rear gardens of both properties. However, by virtue of their scale and design they would sit comfortably relative to the existing form of No 33 rather than appearing disproportionately large or discordant in terms of appearance, so would not have an overbearing presence.
7. The additional bulk created by the proposed rear and dormer extension would be set away from the immediate lines of sight from the rear of the neighbouring properties and would not impede the more open rearward facing aspect of Nos 31 and 35. Additionally the existing level of outlook is commensurate with that of the suburban characteristics of the surrounding area (and I have also reasoned above that varied rear extensions are commonplace here). The proposal would not therefore suitably safeguard the outlook for the occupants of Nos 31 and 35.
8. The properties on this side of Croydon Road have south-east facing rear elevations. Consequently, due to the size of the rear gardens and set back nature of the proposed extensions, I am also satisfied the proposal would not have an unacceptable effect in relation to limiting sunlight.
9. The proposed extensions would facilitate an increase in the maximum capacity of children using the nursery by increasing the buildings floor space by approximately 13%. This would constitute a reasonably modest increase in capacity with a small extension to the existing ground floorspace and most of the additional space provided at first floor level. The first floor element of the scheme is, however, set away from the party wall beyond the envelop of the existing building. Noise implications there are consequently likely to be limited, noting that there are separately noise attenuation requirements within Building Regulations and separate provisions to deal with statutory nuisance (including noise disturbance).
10. A condition restricting the number of children in the garden at any one time, as suggested by the Council's Environment Protection Officer, would ensure additional disturbance from external noise would be limited, and indeed this would inherently be limited to part of the day (as opposed to a residential use where some level of noise may be expected for a longer duration). I am satisfied such measures, along with limiting the hours of operation (as proposed by the Council and not contested by the appellant), would moderate to acceptable levels the additional impact of noise and disturbance the increased intensity of use could have on neighbouring residents.
11. The impact of potential activities that could be provided by the nursery are supposition and not supported by any evidence nor form part of the scheme before me, they do not bare weight against my findings.
12. The proposed extensions would not, therefore, unduly harm the living conditions of the occupants of the adjoining properties with specific regard to

outlook, sunlight and noise. They would comply with Policy 37 of the Bromley Local Plan (Local Plan), insofar as it relates to respecting the amenity of occupiers of neighbouring properties and requiring new development to integrate appropriately with its surroundings.

Highway safety

13. The appeal site has parking available on the hardstanding in front of the building. This is like many properties nearby. Vehicles generally cannot turn on the frontages so must reverse in or out. The only exception is where the vehicle is small and there are no other vehicles within the frontage at the time of manoeuvring.
14. This part of Croydon Road is busy, but I observed vehicle speed is generally low. This is due to the bus stops opposite the appeal site, car garage, supermarket car park access and other road junctions all positioned closely together. There are sections of the road which are not restricted for on road parking and where parking is prevented it is only between the hours of 0700 and 1900. It is also wide road straight road (vehicles can pass parked cars and buses without impeding traffic flow in the opposite direction), with wide pavements along both sides. Street furniture and trees are not excessive and so intervisibility between vehicles manoeuvring in or out of frontages and other road users, including pedestrians, is clear and unobstructed.
15. The proposal would provide 3 parking spaces, cycle and refuse storage, as well as a protected pedestrian access into the nursery. I am satisfied that these uses would fit within the appeal site frontage as proposed and that cars parking on the site would have no more impact on traffic flow when reversing on or off than currently.
16. The frequency of vehicles moving on and off the site would increase. The appellant has submitted information to show the frequency of such vehicle movements in relation to their 3 year business model and using similarly located nurseries as the basis for the calculations. The property has previously been used as a doctors surgery for a significant period which had a higher than average frequency of vehicle movements in relation to the surround residential uses. The appellant stating up to 80 consultations per day were undertaken. I appreciate that not all patients would have driven. Nevertheless, it is my view that a range of vehicle movements is to be expected along this part of Croydon Road, the use of the appeal site in its current form would establish a pattern of vehicle movements for the site, and the intensification of use the proposal would enable would not constitute such an increase in frequency out of character with the area.
17. I therefore do not find that the proposal would significantly impact on the safety of road users nor of those entering or exiting the appeal site. The Council's Traffic Officer has also concluded similarly and recommended conditions relating to the retention of car parking, provision of cycle parking and a travel plan to ensure more sustainable methods of transport are actively pursued.
18. I am satisfied the intensification of the nursery use, made possible by the proposed extension, would not have a significantly adverse impact on highway safety in accordance with Local Plan Policy 32, insofar as it relates to road safety.

Other Matters

19. The Council have noted that the area around the appeal site is not a priority area for additional nursery provision, as set out in the Childcare Sufficiency Ward Data (February 2021). However, the same report also states that this is likely to change due to planned homes being developed. Regardless as I have found that the development proposed would integrate acceptably with its surroundings, the relative pressure for nursery school places here as opposed to elsewhere is academic.

Conditions

20. The Council has suggested 11 conditions which I have considered against advice in the National Planning Policy Framework (the Framework) and Planning Practice Guidance; only 9 are necessary. I have amended the wording of conditions to accord with the foregoing policy and guidance context without altering their fundamental aims.
21. Along with securing commencement within the relevant statutory timeframe, I have imposed conditions requiring adherence to the approved plans and that matching materials should be used to ensure the proposal integrates acceptably within the character and appearance of the area. Conditions relating to surface water drainage, cycle and refuse storage, a suitable travel plan and parking retention will ensure functionality of the site and highway safety. To ensure the intensification of use is acceptable in terms of the living conditions of occupants of neighbouring properties as reasoned above, a condition limiting children numbers, and garden and premises usage is necessary. The Council had proposed a clause to also limit the number of staff, however this will be governed by the number of children present.
22. The Council have proposed 2 conditions relating to acoustic insulation and fencing. However, given my reasoning above, these conditions go beyond that which is necessary to make the development acceptable.

Conclusion

23. For the reasons given above, having considered the development plan as a whole along with all other relevant material considerations, including the approach in the Framework, I conclude that the appeal should be allowed.

RJ Redford

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20/153-12; 20/153-11; 20/183-06; 20/153-07; 20/153-08; 20/153-09; and 20/153-10.

- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) The development hereby permitted shall not be used until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard the advice contained within Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall inform the foregoing details. Where a sustainable drainage scheme is to be provided, the submitted details shall: -
 - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b) include a timetable for its implementation; and,
 - c) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 5) The development hereby permitted shall not be occupied until cycle storage facilities have been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those facilities shall thereafter be retained for the storage of cycles.
- 6) The development hereby permitted shall not be occupied until refuse and recyclable materials storage facilities have been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those facilities shall thereafter be retained for the storage of refuse.
- 7) The development hereby permitted shall not be occupied until a Travel Plan has been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority. The Travel Plan shall include: -
 - a) Measures to promote and encourage the use of alternative modes of transport to the car; and,
 - b) A timetable for the implementation of the proposed measures and details of the mechanisms for implementation and for annual monitoring and updating.
- 8) The development hereby permitted shall not be occupied until space for 3 vehicles has been laid out in the area shown on drawing no 20/153-11 and those spaces shall thereafter be retained for the parking of vehicles.
- 9) Use of the premises (33 Croydon Road) as a childcare facility (nursery) shall be limited to: -

- a) hours of operations between 7.30am and 6.30pm Monday to Friday (for the avoidance of doubt, the childcare facility hereby permitted shall not operate on Saturdays or Sundays);
- b) providing nursery facilities for no more than 48 children aged between 6 months and 5 years at any one time; and
- c) no more than 12 children using the rear outside area (garden) of the site at any one time.

END OF SCHEDULE