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# Appeal Decision

Site visit made on 15 May 2023

**by M Ollerenshaw BSc (Hons) MTPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 MAY 2023**

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**Appeal Ref: APP/L5240/W/22/3306141**

**27 Goldwell Road, Thornton Heath, Croydon CR7 6HZ**

- 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 Mesha Da Silva of Euphoria Day Nursery against the decision of the Council of the London Borough of Croydon.
  - The application Ref 22/02209/FUL, dated 26 May 2022, was refused by notice dated 22 July 2022.
  - The development proposed is alterations, change of use from a dwelling (C3 use) to a nursery for a maximum of 24 children (class E(f)).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have used the description of development as stated on the Council's decision notice as this is more precise than that given on the application form. The appellant raises no specific objection to that description, which they have subsequently used in their appeal form and statement.
3. The Council refers to a partial review of the Croydon Local Plan (2018) and a Regulation 19 consultation on the submission draft of the Croydon Local Plan 2019-2039. However, the evidence indicates that the review is at an early stage. Copies of the draft policies are not before me. I have therefore made my decision on the basis of the adopted development plan policies.

## Main Issues

4. The main issues are:
  - whether the development proposed would result in the unacceptable loss of housing suitable for family occupation;
  - the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance; and
  - the effect of the proposal on highway safety and parking availability.

## Reasons

### *Family housing*

5. The appeal site relates to a two storey, end terraced dwelling which I understand currently includes a day care facility. The property has a single storey side extension and is set back from the road with a driveway to the front and a

private garden to the rear. The appeal site is located within a residential area of terraced properties.

6. The appeal property currently has four bedrooms following construction of the side extension which included an additional bedroom. However, the evidence indicates that the property was a three bedroom house when originally constructed. The generous internal layout and access to a private garden provides good quality accommodation suitable for family occupation.
7. Policy DM1.2 of the Croydon Local Plan (2018) (the Local Plan) permits redevelopment of residential units where there is no net loss of three bedroom homes (as originally built). Justification for the policy explains that retention of three bedroom homes is needed to assist with the provision of family housing.
8. The proposed change of use would result in the loss of a three bedroom family sized house, as originally constructed, which currently provides appropriate internal and external living space. That would be harmful to the housing mix in the borough and would be contrary to Local Plan Policy SP2.2 which seeks to resist the loss of homes. The appellant suggests the possibility of retaining a three-bedroom unit at the site but that is not what is shown on the plans. I have no details before me of an alternative proposal and the appeal process should not be used to evolve a scheme. I have therefore considered the appeal on the basis of the plans that were before the Council.
9. For the above reasons, I conclude that the proposal would result in the unacceptable loss of housing suitable for family occupation. It would be contrary to Local Plan Policies SP2 and DM1.2 and Policy H1 of the London Plan (2021). Amongst other matters, these policies seek to resist the loss of three-bedroom homes, ensure that a choice of homes is available to address the borough's need for homes of different sizes, and increase housing supply. It would also conflict with paragraph 62 of the National Planning Policy Framework (the Framework), which seeks to ensure that the size, type and tenure of housing needed for different groups in the community is assessed and reflected in planning policies.

#### *Living conditions*

10. The outdoor space to the rear of the appeal property consists of a patio adjacent to the rear elevation and a raised lawn. The garden is bound by the rear gardens of No 29 to the north and No 25 to the south, with the neighbouring rear gardens of properties on Grove Road to the east. There is high close boarded fencing on the garden boundaries.
11. The proposed nursery would accommodate up to 24 children and would be in operation from 0830 to 1730 Mondays to Fridays. The proposal would convert both floors of the dwelling from residential to nursery use. The outdoor space to the rear would continue to be used as a garden and as a playground.
12. Taking into account the confined nature of the rear garden and its position relative to the adjacent neighbouring gardens, I consider that the concentration of a large number of children within the garden would have the potential to cause unacceptable noise and disturbance to the adjoining neighbours' living conditions, even if the children were supervised when outside.
13. In addition, the comings and goings associated with staff members, and children being dropped off and collected by parents, would add to the noise and disturbance which would be particularly noticeable during peak times. The levels

of activity would be significant, and a more intensive use of the site, compared to its use as a dwelling, even if that were occupied to its maximum extent.

14. The Council suggests conditions restricting the nursery opening times together with a limit on the number of children in the garden to a maximum of ten at any one time, which the appellant would be willing to accept. However, that number of children could still result in significant noise and disturbance in this location where the neighbouring properties are in such close proximity. Moreover, I am not satisfied that a condition restricting the number of children outside at any one time could be reasonably enforced by the Council. Consequently, these measures would not make the proposal acceptable.
15. The appellant suggests that the use of the outdoor space would be restricted to limited periods of the day and would not be in constant use by all children. However, it is unclear to me how such arrangements would operate or be monitored effectively. The appellant refers to a 'no noise' space for children but there is little detail before me to show how that would operate in practice. It is also suggested that the patio space could be screened-off, but no substantive details have been provided. Therefore, I am not satisfied these measures would be effective in mitigating noise and disturbance.
16. For the above reasons, I conclude that the proposal would be harmful to the living conditions of the neighbouring occupiers, with particular regard to noise and disturbance. It would therefore be contrary to Local Plan Policy DM10.6 and London Plan Policy D3, which, amongst other things, require that development protects the amenity of occupiers of adjoining buildings.

#### *Highway safety*

17. Although only one space is indicated on the submitted plan, the appeal property currently has two off-street parking spaces on the driveway. Due to the height of the boundary treatments on either side of the driveway entrance, visibility for drivers emerging from the site onto the highway is severely restricted in both directions. This is likely to be reduced still further due to the position of the property close to a bend in the road and with vehicles parked on the highway.
18. Consequently, visibility for a driver emerging from the access is limited, which would lead to a potentially hazardous situation not only for a driver emerging from the access but also for other road users approaching the access, including pedestrians on the footway.
19. I acknowledge that the driveway is already used to access the existing property and that vehicle speeds are likely to be low on Goldwell Road due to its width and the presence of vehicles parked on the road. Nevertheless, the proposed nursery would be likely to result in increased vehicle trips from those visiting the site, which would lead to greater use of a substandard access with a consequent risk to pedestrian and highway safety.
20. Whilst some properties on Goldwell Road have driveway parking, many appear to rely on on-street parking. During my site visit at around mid-morning on a Monday, on-street parking was in very short supply. Although only a snapshot in time, this does indicate that there is a high demand for on-street parking. It is reasonable to suppose that the parking situation could be worse at peak times.
21. I accept that some people may travel to the site by means other than the car. In this regard, the appellant would advise all parents to travel to the premises on

foot or public transport, but this requirement could not be imposed on parents. Given the nature of the business and the area's low public transport accessibility level, it is likely that a large number of visitors would travel by car.

22. The appellant says that the London Plan does not set parking standards for day nurseries. Even so, the proposal would potentially generate significant parking demand associated with drop-offs and collection, and staff vehicles, which would be unlikely to be fully met by the spaces on the property's driveway.
23. Given the limited car parking capacity on site, I consider that the desire to gain convenient access to the nursery would give rise to parking on Goldwell Road, where there already appears to be significant parking pressure. Increased competition for on-street parking spaces would have the potential to cause inconvenience to local residents, who may be forced to park further away from their homes. This would result in overspill parking on the nearby roads and potentially lead to reduced visibility at junctions due to parked vehicles and obstruction of crossovers. The cumulative effects on the safety of highway users and the amenity of local residents would, as a result, be unacceptable.
24. I note that drop-offs and collection would be of relatively short duration, proposed by the appellant to be limited to 5 minutes each, but this would still require some parking provision and some stops could be for longer. I also note that the appellant would accept a condition requiring submission of a travel plan. On the basis of the evidence, I am not satisfied that this would overcome the highway safety concerns I have identified.
25. I conclude that the proposal would be harmful to highway safety and parking availability in the area. It would conflict with Local Plan Policies DM29 and DM30 and London Plan Policies T4 and T6. Amongst other things, these policies seek to ensure that developments do not have a detrimental impact on highway safety and reduce the impact of car parking on areas of existing parking stress.

### **Other Matters**

26. The appellant contends that similar existing nurseries in the local area demonstrate a need for such facilities. I accept that the proposal would be likely to have some benefits to the local community. It would enable parents to work and provide some limited employment opportunities on the site. I have given some weight to these considerations. However, the benefits of the proposal would be outweighed by the significant harm I have identified.
27. There is some support for the proposal from interested parties. However, there are also objections. I have found the proposal to be harmful and therefore the weight of support is not a determinative matter in favour of the proposal.

### **Conclusion**

28. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

*M Ollerenshaw*

INSPECTOR