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## Appeal Decision

Site visit made on 1 May 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 June 2025

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**Appeal Ref: APP/E5330/W/24/3354602**

**19 Glenlyon Road, Eltham, Greenwich SE9 1AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Ms Jeannine McMahon, Willow Park Children's Nursery against the decision of Royal Borough of Greenwich.
  - The application Ref is 24/0488/MA.
  - The application sought planning permission to increase the number of children who can attend the nursery without complying with a condition attached to planning permission Ref: APP/E5330/A/04/1159655 dated 9 March 2005.
  - The condition in dispute is No 2 which states that: *No more than 28 children shall attend the premises at any one time.*
  - The reason given for the condition is: *In the interests of the amenities of the area and to ensure that the accommodation is not overoccupied.*
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### Decision

1. The appeal is dismissed.

### Background and Main Issues

2. Planning permission was granted in 1992 (Council Ref: 91/0961P) for the use of the ground floor of 19 Glenlyon Road for the development of a pre-school nursery. A planning condition restricted the number of children within the nursery to 19. A subsequent allowed planning appeal (Ref: APP/E5330/A/04/1159655) varied the planning condition to allow a maximum of 28 children to be accommodated within the nursery.
3. The nursery is family run and since 2000 has operated in conjunction with a baby unit, for upto 10 children under 2 years, located on Glenesk Road close to the appeal site. When the Glenesk Road site closed in 2021, its children were consolidated into the nursery at the appeal site.
4. The appellant is seeking to vary the planning condition in order to increase the number of children accommodated within the nursery by 10, from 28 to 38 children in total. This would effectively balance out the 10 children's places which were lost from the closure of the Glenesk Road baby unit.
5. The main issues are the effect that the variation of the condition would have on:
  - the living conditions of the occupiers of neighbouring properties with particular reference to noise, activity and disturbance; and
  - highway safety on the surrounding highways and parking network.

## Reasons

### *Noise and disturbance*

6. The appeal site comprises a two storey semi-detached property, which is in use as a children's nursery. It is located on a street which is defined by semi-detached houses of broadly similar design. The adjoining properties have relatively large rear gardens and the appeal site's rear external area contains a variety of children's play facilities as well as areas of mature planting on the boundaries with adjoining properties.
7. Glenlyon Road has a residential character. During my site visit, which took place whilst the nursery was operating, I experienced the rear gardens of properties on this side of Glenlyon Road to be quiet, peaceful spaces. The front of properties on Glenlyon Road, experience the normal comings and goings of residents and visitors associated with a residential area.
8. The nursery operates between 8.00 - 18.00 Monday to Friday. It closes during weekends and bank holidays, and for a further 22 days per year between Christmas and New Year, Easter, and for two weeks in August.
9. With regard to internal noise, a change to the building's internal layout would result in the conversion of room 5 from an overflow/sleep room to a classroom. The classroom would be occupied by 7 children aged between 2-3 years. The room shares a party wall with the adjoining dwelling 21 Glenlyon Road (No. 21) which is the nearest noise sensitive receptor.
10. The submitted drawings indicate that the wall would be soundproofed with acoustic insulation. I acknowledge that a Design Data Sheet<sup>1</sup> details the proposed acoustic insulation which the appellant states provides airborne sound insulation of 60 Rw dB. Whilst this may be the case, no substantive evidence, such as a noise impact assessment, has been provided to demonstrate the predicted noise levels emerging from the room as a result of the increase in children. For this reason, it is unclear whether the acoustic insulation alone would achieve a sufficient noise level reduction to ensure an acceptable noise environment for the neighbouring occupiers of No. 21.
11. During my site visit, I observed children playing within the rear external area. Neighbouring residents are likely to currently experience noise from excitable play during the periods that the rear area is in use. A range of measures can mitigate noise from children using the rear external area. This includes limiting and staggering the number of children, and groups of children in the garden at a time, through a noise mitigation plan, supervision, and taking children to walks in the nearby park.
12. The appellant confirms that with the additional 10 children the staggering of the children's outdoor play times would result in the use of the external area over a longer period. Whilst it is suggested that there would be less noise, albeit over a longer period, this has not been quantified. It seems to me that the increased number of children is likely to result in an increase in the use of the external area across the week. Whilst peaks in noise from these activities may be limited and

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<sup>1</sup> Appendix 2 of Appellant's Statement of Case

short-lived, across the week the increase of 10 children is likely to result in a notable increase in both noise and activity over that which is currently undertaken. Whilst I note that there are lengthy periods of time throughout the year when the nursery is closed, this must be balanced with contemporary working habits, which may involve neighbouring occupiers working from home several days per week.

13. I observed that efforts have been made to locate play areas as far away from the windows of neighbouring properties as possible. I also note that there is mature planted vegetation screening between the appeal site and neighbouring properties. The main parties disagree about the effectiveness of this screening to mitigate noise from the external area. The appellant indicates that, in the event that there were five additional children within the garden at any one time, this would result in a 2dB(A) increase in sound levels, which would be further reduced at the windows of neighbouring properties which are located further away.
14. However, a noise assessment has not been submitted by the appellant to justify the effects of the proposed increase of children in the external area. In the absence of a noise assessment undertaken by a competent acoustic consultant, the overall level of additional noise is difficult to quantify, and I therefore take a precautionary approach, and consider that the impact is likely to be unacceptable. I therefore find that the proposal, due to its intensification of the site and proximity to neighbouring residential properties, particularly at 17 and 21 Glenlyon Road, would cause a harmful level of noise and disturbance to neighbouring occupiers.
15. It has been put to me that a planning condition could be used to control the future noise levels from the nursery. However, without an accurately measured assessment of the current and proposed noise as a result of the increased numbers of children, I cannot be certain how effective any suggested mitigation measures could be. Accordingly, in the absence of a noise assessment, I am not convinced that a condition requiring attenuation measures to be agreed would meet the tests for conditions as set out in the National Planning Policy Guidance and the National Planning Policy Framework (2024) (Framework) specifically in terms of it being reasonable.
16. It is suggested that as the 10 additional children would be babies, they would not create significant noise within the rear external area. However, the variation of the condition would enable an increase in the number of children of any age within the nursery, and there is no guarantee that the increased numbers would be babies only.
17. The proposal would result in an intensification in the number of vehicle movements to the property. However, this area of Glenlyon Road already experiences frequent comings and goings associated with the residential properties on the street. For this reason, the front of neighbouring properties are likely to be less sensitive to noise and disturbance than the rear elevations and gardens which likely experience lower levels of ambient noise. Consequently, the additional vehicle movements would not have a harmful impact on neighbouring occupiers' living conditions.
18. The variation of the condition would conflict with policy E(a) of the Greenwich Local Plan: Core Strategy with Detailed Policies (2014) (CS) and policy D14 of the London Plan (2021) (LP) insofar as they state that planning permission will not

normally be granted where the proposed development would have a significant adverse effect on the amenities of adjacent occupiers.

### *Highways safety*

19. The Travel Plan demonstrates that, at present, 30% of parents use cars, with others travelling by sustainable modes of transport. The main parties agree that, on this basis, an increase of 10 children attending the nursery would be likely to generate travel by 3-4 additional cars, or 6-8 extra daily journeys.
20. I acknowledge the third-party representations received as part of the application and appeal, in relation to the proposal's impact on existing car parking pressure, anti-social driving and unacceptable increases in traffic within Glenlyon Road. I have no reason to doubt the strength of feeling expressed in terms of the impact on those residents living within the surrounding streets connected with traffic movements and parking associated with nursery drop off and pick up.
21. In terms of car parking, I have not been directed to any specific parking standards for children's nurseries, albeit I note that Policy IM 4 of the CS states that in order to reduce the use of the car, developments, must not go above the maximum parking standards set out in the LP and, where appropriate, should go below these.
22. The appellant indicates that the nursery has two off-street car parking spaces which are reserved for parent drop-off and pick ups. The 3-4 additional cars associated with the 10 additional children would be spread across roughly 1.5 hour drop off and pick up times, which are broadly between 08.00 to 09.30 and 16.25 to 17.45. As pick-ups and drop-offs are staggered, the 3-4 additional cars are likely to be comfortably spread out across the drop-off and pick-up periods.
23. Although there are parking restrictions present along Glenlyon Road, these appear to prevent all-day parking and would not therefore unduly restrict the pick-up or drop-off of children to the appeal property. Consequently, I am satisfied that the parking provision is adequate to serve the nursery use, and that in the event that there was further demand arising beyond that provided on the site, this would not cause unacceptable congestion or other harm to highway safety.
24. The Travel Plan seeks to reduce car use and promote sustainable transport measures. For instance, by encouraging use of cycles through cycle storage and a cycle to work scheme for staff. The nursery operators encourage parents or carers to walk to drop off and pick up their children. Whilst this may not always be possible prospective parents would be required to complete a registration form which requires them to indicate how they intend to travel to the nursery. Given that there is a waiting list for the nursery, the operators are able to select local parents, who are less likely to drive.
25. Were the proposal to be acceptable in other regards, the Travel Plan could be secured by planning condition, with the potential for periodic reviews in place. Therefore, there is nothing to suggest this would not provide controls to assist a modal shift from travel by car to other means over the travel plan period.
26. I am satisfied that the Travel Plan would provide controls to limit travel by car and that the appellant has options available to them to ensure that it would be embraced by the nursery community. As such sufficient evidence has been

provided to demonstrate that adequate mitigation measures would be put in place to ensure that traffic conditions, including congestion and anti-social driving, would not worsen when assessed against the existing permitted cap of 28 children. As such the proposal would not give rise to conditions prejudicial to highway and pedestrian safety.

27. Therefore, the variation of the condition would accord with Policies IM4, IM(a), IM(b) and IM(c) of the CS insofar as they encourage sustainable travel in particular walking and cycling, set maximum parking standards in accordance with those in the LP, whilst requiring that development does not contribute to congestion or compromise highway safety, having regard to local traffic conditions.
28. The variation of the condition would also comply with policy T4 and T6 of the LP, which require the provision of travel plans to mitigate transport impacts and outline that car parking should be restricted, and that an absence of local on-street parking controls should not be a barrier to new development.

### **Other Matters**

29. The nursery is long-standing, having operated from the appeal site since 1991, and is rated 'good' by Ofsted. The nursery has a lengthy waiting list. The main parties agree that there is significant demand for nursery places locally. The appellant indicates that the Government are committed to supporting access to early education and childcare, and that this will further increase demand for nursery spaces. The additional nursery spaces would contribute positively to meeting some local demand. Paragraph 88 of the Framework outlines that planning decisions should enable the development of accessible community facilities. There is no doubt that the value placed on the provision of local childcare is important, and this is a consideration to which I have attributed moderate weight.
30. I note that Policy H5 of the CS requires, as far as practicable, that family housing is located close to nurseries, whilst Policy S3 of the LP requires that boroughs ensure there is a sufficient supply of good quality education and childcare facilities to meet demand and offer educational choice. The appeal site is located within a broadly accessible location which serves the local community. These are matters which are afforded moderate weight.
31. The proposal would enable childcare for an additional 10 children. The nursery has socio-economic benefits as it enables parents to work whilst their children are cared for. Consequently, the nursery plays a social role in the lives of local residents and the children (and families) who benefit from the care provided by the nursery.
32. The appellant indicates that there is adequate internal and external space to accommodate the proposed number of children, meeting Ofsted requirements. The nursery would employ additional staff, albeit this is not quantified. I note that the Travel Plan promotes accessible modes of transport, and as there is not an existing Travel Plan in place this could represent an improvement from the current situation. Given the scale of the development these factors are afforded limited weight.
33. The proposal would rationalise the nursery provision between the appeal site and the now closed site on Glenesk Road. The appellant indicates that this makes it much easier and more economic to run, whilst providing greater stability for the

children, who do not have to move from one nursery to another. I afford this factor limited weight.

### **Planning Balance and Conclusion**

34. The proposed variation of the condition to enable an increase of 10 children would result in a development which would have an unacceptable effect on the living conditions of the neighbouring occupiers. This would lead to a conflict with the relevant policies in the development plan. As a result, the proposal conflicts with the development plan, and I attach significant weight to the harms associated with this.
35. Despite the local need for nursery spaces, the benefits would be relatively limited in this instance given the scale of the development. Consequently, the benefits of the proposal outlined above do not outweigh the harm that I have identified. As such, material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with the development plan. For the reasons given above, and taking account all other matters raised, the appeal is dismissed.

*B Pattison*

INSPECTOR