

PLANNING APPLICATIONS COMMITTEE
21st May 2015

Item No:

UPRN

APPLICATION NO.

DATE VALID

14/P4398

24/11/2015

Address/Site 48 Leopold Road, Wimbledon, SW19 7JD

(Ward) Wimbledon Park

Proposal: Application for the variation of condition 03 restricting the use of the premises as a day care nursery from up to 15 children to up to 20 children and variation of condition 8 of the hours of use of the garden as a play area from 0830 to 1700 hours on Mondays to Fridays only to 0945 to 1145 and 1430 to 1630 Monday to Friday attached to planning permission (ref:12/P3253) dated 18/07/2013 for the change of use from residential to child care on domestic premises (Class D1) for a maximum of 15 children.

Drawing Nos None

Contact Officer: Mark Brodie (0208 545 4028)

RECOMMENDATION

GRANT Planning Permission subject to conditions

CHECKLIST INFORMATION

- Heads of agreement: No
- Is a screening opinion required: No
- Is an Environmental impact statement required: No
- Has an Environmental Impact Assessment been submitted: No
- Press notice- No
- Site notice-Yes
- Design Review Panel consulted-No
- Number neighbours consulted – 43
- External consultants: None
- Density: n/a
- Number of jobs created: n/a
- Archaeology Priority Zone: n/a

1. **INTRODUCTION**

- 1.1 This application has been brought to the Planning Applications Committee due to the number of objections.

2. **SITE AND SURROUNDINGS**

- 2.1 The application site is positioned on the north side of Leopold Road almost opposite the junction with Bernard Gardens. It is a two-storey gable end semi-detached house with rooms in the roof space and a basement. The property dates from the late Victorian/Edwardian period, with a projecting gabled frontage. The house has a paved forecourt and a small front garden and at the rear of the house is a flat roofed two-storey rear addition and a spacious rear garden. Land levels descend quite sharply to the north of the site and there is a steep descent into the rear garden via a set of concrete steps.
- 2.2 The application site is not in a conservation area and it is not a listed building. The area is predominantly residential, comprising two and three-storey properties on large plots of land that were developed from the 1980's onwards. The Leopold Road Conservation Area is positioned further east of the site and is only 70m in length, comprising a total of eighteen shops and commercial properties on either side of the road.
- 2.3 The site is not subject to any Tree Preservation Orders.

3. **CURRENT PROPOSAL**

- 3.1 Application for the variation of condition 03 restricting the use of the premises as a day care nursery from 15 children to up to 20 children and variation of condition 8 of the hours of use of the garden as a play area from 0830 to 1700 hours on Mondays to Fridays only to 0945 to 1145 and 1430 to 1630 Monday to Friday attached to planning permission (ref:12/P3253) dated 18/07/2013 for the change of use from residential to child care on domestic premises (Class D1) for a maximum of 15 children.
- 3.2 The following documents have been submitted in support of the current scheme:- an Operator's statement; an acoustic assessment; , a waste and recycling strategy and Planning Statement. These reports are summarised below:-
- 3.3 Operator Statement: Wimbledon Hill Nursery (WHN) provides a high quality childcare service to families living close to the Leopold Road site. It has operated successfully for over a year without having a detrimental impact on living conditions of neighbours or giving rise to additional traffic, parking demand or highway safety issues. We have been awarded a very good rating from Ofsted and built up an excellent reputation in the locality. There is a strong demand from working parents for a wrap around service, providing

additional child care for nursery children aged 3-5 that only attend school half day. The headmaster of the local primary school, Bishop Gilpin, has asked to work collaboratively with WHN to provide improved services to working parents of the school by establishing a wrap around facility. WHN is within walking distance of the school allowing group transfer of children and is also within walking distance of children's homes. There is sufficient capacity at WHN to accommodate an additional 5 nursery children and that there would be no adverse impact in terms of noise and traffic conditions as a result

- 3.4 Acoustic Report: RBA Acoustics has undertaken a series of representative noise level measurements around Wimbledon Hill Nursery whilst in use in accordance with its current planning consent. Our analysis indicates noise levels within each classroom area to be no greater than the current situation and that noise transfer to the adjoining property through the party wall will be no worse than is permitted under the existing consent. Our analysis also indicates that noise levels due to noise break-out through an open classroom window are below those considered to have any adverse impact on the adjacent residents.
- 3.5 Refuse & Waste Strategy: The property hosts two standard 240ltr green wheeled bins for refuse and a 240ltr brown wheeled bin for garden waste. A dedicated single-storey refuse store has been constructed within the front forecourt of the building. The school operates an in house refuse and waste strategy that encourages recycling and reduces waste being sent to landfill .
- 3.6 Planning Statement: An application to increase the number of children attending the nursery to 35 was submitted in August 2014 (14/P2924). There were a number of objection from local residents and from the Environmental Health Officer in respect of noise. A noise assessment was submitted by the applicant to demonstrate that there would be no adverse noise impact both externally and externally as a result of the proposals. However, officers remain concerned that the increased number of children will mean that the garden used more regularly to the detriment of local amenity. In response to the above concerns the application now proposes a more modest increase to the number of children attending the day nursery and the use of the outdoor space will be reduced to address the principal concerns of objectors and officers. The increased capacity at WHN would be an exclusive collaboration with Bishop Gilpin School. The application is supported by a letter from the headmaster of Bishop Gilpin School which sets out the need for a wrap around service. A revised operator statement and noise assessments have been submitted. The application proposal will support working parents and education providers in the local community and would not give rise to unacceptable impacts. There would be clear social and economic gains as a result of the proposed expansion of the WHN.

4. **PLANNING HISTORY**

- 4.1 WIM 6235 – Use of premises as an old people's home to accommodate eleven elderly people and 3 resident staff – 01/05/1962

- 4.2 97/P1462 – Erection of two-storey rear extension involving demolition of existing single-storey rear addition – Granted with conditions 15/02/1998
- 4.3 12/P3253 – Change of use from residential to child care on domestic premises (Class D1) for a maximum of 15 children – Granted with conditions 23/07/13
- 4.4 14/P2924 Application for variation of condition 03 attached to planning permission 12/P3253 (dated 23/07/2013) involving increase in child numbers from a limit of 15 to 35 - Withdrawn

5. **CONSULTATION**

- 5.1 The application was advertised by means of site notice, and neighbour notification letters were sent to occupiers of 43 neighbouring properties. A total of 10 objections have been received and are summarised below:-

“ Noise pollution from inside and outside premises; since opening it has been necessary to complain directly to the Nursery and Environmental Health regarding noise disturbance due to the high volume of children’s voices and that of their carers/teachers; existing operation already creates significant noise levels and proposed increase in numbers would exacerbate this to unacceptable levels.

“ While the reduction in the proposed hours the garden is used by children of the nursery is welcomed it is unlikely that this will serve to address the concerns regarding noise disturbance experienced from the current operation

“ Leopold Road is an extremely busy road and the premises is on the inside of a blind bend. There have been numerous accidents over the years and it has only been good fortune that a child has not been seriously injured; increase in numbers will result in more dangerous and more congested road conditions; there is a temptation for parents delivering their children to park on the pavement outside the property endangering the children walking on the pavement up to Richard’s Lodge and Bishop Gilpin; will result in increased pedestrian and vehicular movement and greater demand for on-street parking.

” Council policy CS9 does not support change of residential properties to commercial; inappropriate use within a predominantly residential area.

“ Nursery already breaches its limitation on the number of children approved (15) as witnessed by an unannounced visit by the Council in which 20 children were discovered at the premises; applicant is not running an operation which could be described as “childcare on domestic premises” but a full on nursery business. There is a long term goal behind the application that seeks to increase the capacity of the nursery dramatically. A previous application to increase numbers of children from 15 to 35 was withdrawn when it was understood it was to be refused, having done so they are now trying to increase capacity in small increments.

“ Applicant had failed to comply with conditions of original planning permission which required the use of certain rooms (condition 02),

whereas the applicants have been using the front reception room and at least one room upstairs; number of children limited to 15 (Condition 03) whereas an unannounced visit from Merton Early Years and Childcare Services found 20 children on the premises; details regarding the storage and recycling of refuse were required by (Condition 04) and no such submission has been received; submission of a Travel Plan and a soundproof document required by conditions 10 and 07 have not been submitted for approval.

5.2 Transport Planning

- 5.3 This application seeks to vary condition 3 attached to planning permission 12/P3253 which restricted the number of children allowed on the premises to fifteen (15). This application seeks to increase this amount to 20. It is noted that the nursery seeks to work in partnership with Bishop Gilpin School which is located some 250m away from the application site. The application site has a PTAL rating of 1b, which indicates a poor level of public transport accessibility. In addition, it is noted that there is a single yellow line restriction in operation along this part of Leopold Road, preventing parking between the hours of 08.30 and 18.30 Monday to Saturday. It is noted, however, that there are pay and display parking bays on nearby Bernard Gardens which allows parking between 08.30 and 18.30 Monday to Saturday. Your attention is drawn to an appeal which was allowed by the Inspector for a 40 child nursery at 7-9 Florence Road. When dealing with the transport element of the Council's refusal, the Inspector pointed out that the restricted parking would deter staff from driving to the site. In this instance, it is noted that the nursery is already in operation and the care of 5 extra children would be unlikely to generate a significant number of additional staff above and beyond that which already exists. With regard to the activities surrounding dropping off and picking up of children, the Inspector states that even if 40% of the 40 children (a total of 16) were taken to the nursery by car it is likely that "16 vehicle movements spread over an hour would have a negligible impact on Florence Road, even if that spread was uneven". The Inspector goes on to discuss the possibility of illegal parking in order to drop children off, and states that it is unlikely that this would happen as "they would need to park for some time in order to take their children into the premises and people would be likely to avoid causing such a blatant disruption to traffic. More likely, a limitation in parking spaces would result in even fewer parents driving to the nursery". Although Leopold road has differing characteristics to Florence Road, they both have side streets nearby which can accommodate cars. In the application proposed, an additional 5 children are proposed resulting in a total of 20 children. The Inspector's view was that 16 movements spread over an hour would be negligible, and this equates to 80% of the total children proposed in Wimbledon Hill Nursery - this amount of children being dropped off by car is highly unlikely, let alone greater than this. Indeed, working on a figure of 40% of the nursery, this equates to just 8 vehicle movements. Indeed, a travel plan submitted to, and approved by, the Council demonstrates that only 1 child out of 13 who responded come to the nursery

by car. It is considered prudent to attach a condition, if permission is granted, to provide an updated travel plan within 6 months of the increased intake. It is noted that the appellant in the above mentioned case sought costs against the Council, and these were awarded by the Inspector. In summary, the application is not considered to have a significant detrimental impact on Transport and Highway safety. There are no transport objections subject to the following condition: -

An updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority by June 2016. The Plan shall follow the current 'Travel Plan Development Control Guidance' issued by TfL and shall include:

- (i) Targets for sustainable travel arrangements;
- (ii) Effective measures for the on-going monitoring of the Plan;
- (iii) A commitment to delivering the Plan objectives for a period of at least 5 years from the first occupation of the development;
- (iv) Effective mechanisms to achieve the objectives of the Plan by both present and future occupiers of the development.

The development shall be implemented only in accordance with the approved Travel Plan.

Reason: To promote sustainable travel measures and comply with the following Development Plan policies for Merton: policy 6.3 of the London Plan 2011, policies CS18, CS19 and CS20 of Merton's Core Planning Strategy 2011 and policy DM T2 of Merton's Sites and Policies Plan 2014.

5.4 Environmental Health:

- 5.5 I have previously visited a neighbouring property and able to assess some of the noise that was clearly audible in the neighbouring garden. I was unable to ascertain how many children were outside at the time. Children crying, shouting and group singing was audible both in the garden and inside the neighbouring property. Given that there are several properties in the area surrounding the nursery it is likely that they also would be currently affected by noise. That said, an increase of 5 children, together with a reduction of permitted hours the external area can be used and still limited to 8 children per session. I am of the opinion that this is unlikely to create any significant increase in noise. Although this application is to increase the numbers of children by a small number, I would have reservations if additional applications were to be submitted for further increases given the original number was 15.

6. POLICY CONTEXT

6.1 Adopted Merton Core Strategy (July 2011)

CS18 (Active Transport); CS19 (Public Transport) CS 20 (Parking, Servicing and delivery)

6.2 Sites and Policies Plan (July 2014)

DM C2 (Education for children and young people); DM T2 (Transport impacts of development).

6.3 The London Plan (February 2011)

The relevant policies within the London Plan are

6.3 Assessing effects of development on transport capacity

6.13 Parking

7.15 Reducing noise and enhancing soundscape

7. **PLANNING CONSIDERATIONS**

7.1 The principle of the use of the premises as a day nursery has been accepted by the granting of the extant consent. The main issues to be assessed include the impact the proposal would have on the living conditions of neighbouring residents, in particular the impact of noise and disturbance generated by the children's play area; the effect of the proposal on highway conditions and road safety

7.2 Neighbouring Amenity

7.3 The application site is in a residential area and objections have been received from local residents on the grounds that the noise generated by the children's play activity, as being intrusive to neighbours and the quiet enjoyment of their amenities. The current proposal seeks to further limit the hours for the use of the rear garden as an outside play area, which should serve to further mitigate against potential disturbance to surrounding residents. The approved scheme allowed use of the outside play area for a maximum of 8 children, from between the hours of 08.30 to 1700 Monday – Friday. The current scheme proposes the use of the outside play area for a maximum of 8 children, but to reduce the permitted hours that the garden can be used to between 0945 to 1145 and between 1430 to 1630 Monday to Friday. This would effectively reduce the hours the garden could be used from the approved 8.5 hours per day to the proposed 4 hours per day.

7.4 The noise that is generated by children's play activity is transient and is also limited by the weather and the time of year. Moreover, the under 5's age group do not normally generate the levels of noise that are associated with playground activities of older children and youths. This site has a large garden that is bounded on three sides by high boundary walls and fences topped with trellis. The revised condition that seeks to reduce the time the rear garden is used by children of the nursery is considered a positive step that would serve to reduce the potential for noise disturbance. The condition requiring a maximum of only 8 children to use the outdoor space at any one time, will continue to apply and is considered reasonable in terms of limiting any impact on adjoining occupiers. A condition preventing use of amplified music audible

at the site boundaries will continue to apply. It is concluded that with these conditions in place, no material harm would result for neighbouring residents

7.5 Parking & Traffic

7.6 The site can provide 1-2 off street parking spaces and is in an area with an average PTAL rating of 1b which indicates a poor level of public transport accessibility. It is also in a CPZ (P2s) and there are single yellow lines on both sides of the road and the connecting roads that allow on street parking only between the hours of 1100 and 1500 on Mondays to Fridays. There are double yellow lines at the corner of Bernard Gardens and Leopold Road, close to the application site. There is a plate for no waiting and loading between 0830 and 1830 on the double yellow lines that end just before the property boundary and there are two parking meters on Leopold Road, one that allows parking for one hour from Monday to Saturdays between the hours of 0830 and 1830. The additional parking meter allows on street parking Mondays to Fridays between 1100 and 1500.

7.7 The applicants have applied to increase the nursery capacity from the approved scheme of 15 children to a maximum of 20 children. During the life of the application a travel plan was submitted and approved by the Council's School Travel Plan Advisor (Future Merton). With the commitment to the Nursery Travel Plan in place, central to which is the aim to encourage non car borne forms of travel over short distances and taking into consideration the current restrictions on local on-street parking that are in place, it is concluded that this increase in numbers would not have a significant impact on highway conditions in the locality. Transport Planning have raised no transport objections to the proposal and have confirmed that they consider that there would be no detrimental impact on Transport and Highway safety.

7.8 **OTHER MATTERS**

7.9 A detailed site inspection revealed that the approved use appeared to be operating in accordance with the limitations/conditions attached to the original planning permission. There was no evidence to suggest that other parts of the building were being used unlawfully in connection with the existing nursery. An inspection of the upper floors indicated them being used as the applicant's own private residence and not as overspill accommodation for the approved nursery. The number of children present at the nursery at the time of the inspection did not exceed the maximum number of 15 and as such there was no evidence to suggest that the applicant was exceeding the limitations/condition attached to the extant consent in this respect. An inspection of the outside play/garden area revealed it to be in use by no more than 8 children and suitably supervised by an adult in accordance with the requirements of the extant consent.

7.10 Condition 07 of the original planning permission required details of soundproofing of the building. No details were submitted pursuant to this condition. However, this latest submission includes an acoustic report and the Council's Environmental Health Officer has confirmed he is satisfied with the

detail and therefore it would not be necessary to reiterate this condition. In addition, condition 10 of the original planning permission required details of a secure gate to the alley way at the side of the property. Further to the grant of planning permission a secure gate was subsequently installed on site and it has not therefore been necessary to repeat this condition again. Condition 04 of the original planning permission required details of refuse and recycling. Details of the waste and recycling strategy submitted as part of this application are considered satisfactory and there is no need to repeat this condition again.

8. SUSTAINABILITY AND ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS

8.1 The proposal does not constitute Schedule 1 or Schedule 2 development. Accordingly there is no requirement for an EIA submission.

9. CONCLUSION

9.1 It is concluded that the proposed reduction in the hours the external play area can be used, should serve to reduce the potential for noise disturbance and the increase in the number of children from 15 to 20 is considered, as a matter of fact and degree, not to have an unacceptable impact on residential amenity of surrounding occupiers or on Traffic and Highway safety.

RECOMMENDATION

GRANT A VARIATION OF CONDITIONS 03, 08 & 10 OF PLANNING PERMISSION (12/3253)

03: This permission is for the purposes of using the premises for a day nursery for up to 20 children (Class D1) and 3 staff (Monday – Friday), as an education facility (Class D1) and for no other use within Class D1.

Reason: In order to ensure that residential amenity, parking and highway safety surrounding the site are not prejudiced and to ensure compliance with policies CS18, CS19 and CS20 of the Adopted Merton Core Strategy (2011).

08: No use of the rear garden as an outside play area associated with the day nursery use shall take place other than between the hours of 0945 to 1145 and between 1430 to 1630 Monday to Friday only.

Reason: To protect the amenities of neighbouring occupiers and to ensure compliance with policy DM EP2

10: An updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority by June 2016. The Plan shall follow the current 'Travel Plan Development Control Guidance' issued by TFL and shall include:

(i) Targets for sustainable travel arrangements;

- (ii) Effective measures for the on-going monitoring of the Plan;
- (iii) A commitment to delivering the Plan objectives for a period of at least 5 years from the first occupation of the development;
- (iv) Effective mechanisms to achieve the objectives of the Plan by both present and future occupiers of the development.

The development shall be implemented only in accordance with the approved Travel Plan.

Reason: To promote sustainable travel measures and comply with the following Development Plan policies for Merton: policy 6.3 of the London Plan 2015, policies CS18, CS19 and CS20 of Merton's Core Planning Strategy 2011 and policy DM T2 of Merton's Sites and Policies Plan 2014.

CONDITIONS ATTACHED TO THE ORIGINAL PLANNING PERMISSION THAT STILL APPLY

02 The development hereby permitted shall be carried out in accordance with the following approved plans: (Existing floor plan, Proposed floor plan and site location plan (1:1250))

05 The use hereby permitted shall operate only between the hours of 0800 to 1800 on weekdays.

06 No music or amplified sound generated on the premises shall be audible at the boundary of any adjacent residential building.

09 No more than 8 children shall use the rear garden as an outside play area associated with the day nursery use at any one time and these children shall at all times be appropriately supervised.