

Dulwich Community Council Planning

Thursday 10 May 2012

7.00 pm

Kingswood House, Seeley Drive, Dulwich, London SE21 8QR

Supplemental Agenda

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Agenda Item 6

Item No: 6	Classification Open	Committee: Dulwich Community Council	Date: 10 May 2012
From: Head of Development Management		Title of Report: <u>Addendum</u> Late observations, consultation responses, information and revisions.	

PURPOSE

1. To advise Members of observations, consultation responses and information/revisions received in respect of the following planning applications on the main agenda. These were received after the preparation of the report and the matters raised may not therefore have been taken in to account in reaching the recommendation stated.

RECOMMENDATION

2. That Members note and consider the late observations, consultation responses and information/revisions received in respect this item in reaching their decision.

FACTORS FOR CONSIDERATION

3. Late observations, consultation responses, information and revisions have been received in respect of the following planning application on the main agenda:

ITEM 1 - 7 – 14 Spinney Gardens 11/AP/1923

The following further comments have been received since writing the report

Following the 14 day re-consultation that commenced on 11 April 2012, a further 19 Objections have been received from the following;

Bowley Close

No. 3

Burntwood View

Nos. 6 and 7

Spinney Gardens

Nos. 4, 5, 6, 8, 9, 11, 13, 14, 16, 20 and 21

Local Groups

Crystal palace Community Association

Norwood Society

PCKO Architects

Trust for Urban Ecology

One letter of objection could not be acknowledged as there was no sender address attached. The objections received raise issues regarding ecology, loss of trees, design, impact on wildlife, impact on the local nature reserve, impact on parking, design issues and disturbance.

ITEM 3 - 2 Woodhall Drive

The applicant has submitted additional documents in support of the application. These are appended to the addendum, and were circulated to Members via e-mail on 26 April 2012.

REASON FOR LATENESS

4. The comments reported above have all been received since the agenda was printed. They all relate to an item on the agenda and Members should be aware of the objections and comments made.

REASON FOR URGENCY

5. Applications are required by statute to be considered as speedily as possible. The application has been publicised as being on the agenda for consideration at this meeting of the Sub-Committee and applicants and objectors have been invited to attend the meeting to make their views known. Deferral would delay the processing of the applications/enforcements and would inconvenience all those who attend the meeting.

RESOURCE IMPLICATIONS

6. These are contained in the report.

EQUAL OPPORTUNITY IMPLICATIONS

7. These are contained in the report.

LOCAL AGENDA 21 (Sustainable Development) IMPLICATIONS

8. These are contained in the report.

Lead Officer: Gary Rice, Head of Development Management

Background Papers: Individual case files.

Located at: Deputy Chief Executive's Department, Council Offices,
160 Tooley Street, SE1.

Appendices for the additional planning statement & amendments addressing the Council's concerns

Appendix-1

Internal Consultees' comments provided by the case officer on 14th March 2012

1) Transport Team

Car parking Comments

The Transport Team was satisfied with the provision of 11 off-street parking. The predicted use is for classes with four babies. Assuming that all babies arrive in separate cars and accounting for overlap between classes there will be a maximum of 8 vehicles on site at any time. This can be accommodated within the parking area provided.

Highway Safety

This development is not expected to have a significant negative impact on the highway network.

Travel Plan comments

The travel plan is of good quality and proposes a number of measures to promote and support the use of sustainable modes of travel for those accessing the site. The travel plan contains ambitious targets for reducing the use of private cars to access the site, and this will be rigorously monitored by the applicant (and reported to Southwark Council) as part of the travel plan. The travel plan is welcomed by Southwark Council and is acceptable.

Should planning permission be granted, it is recommended that the travel plan is secured via a planning condition. The condition wording should specify that the applicant must re-submit the travel plan for approval following the baseline travel surveys (within the first 3 months of occupation).

2) Design and Conservation Team

Dulwich Wood is characterised by its greened character and appearance derived from the many of open spaces and large gardens. Woodhall Drive fully conforms to this with large detached buildings set back generously from the footpath with substantial gardens. The loss of front garden to accommodate 11 car parking spaces would fail to preserve or enhance the established and characteristic greened aesthetic and is thus out of character to the area. The area covered by parking is large and would be a permanent element even though the use would be a temporary one day a week for 12 months. The permanent parking area is therefore a disproportionate loss of garden relative to the proposed frequency and length of use, unless a

condition is imposed that requires reinstatement of the garden (planting) following the expiry of the 12 month period.

It is acknowledged that the parking area is screened by hedging which somewhat mitigates the visual impact of the parking and if the Officer is minded to approve on this basis we would recommend that the screening be permanently retained, or indeed additional planting implemented, to ensure acceptability.

Appendix-2 Neighbour incorrect and misleading petition

URGENT – Time Critical Action Required

24th February 2012

Dear neighbours,

This is just to let you know that 2 Woodhall Drive has made a further application to Southwark to run swimming lessons at their premises.

There were an overwhelming number of complaints registered with Southwark when the last made such application at the end of 2011, following which the application was withdrawn.

The consultation period to register your comments with the Council ends on **Thursday 1st March 2012**. Comments can be made by letter or email (see enclosed copy of new application 12-AP-0200 for details)

This planning notice is only sent to immediate neighbours, which is why we are copy circulating the notice as it is a matter that affects the whole of Woodhall.

We know that many of you have written in on the previous occasion to complain, however since No. 2 have now made a fresh application, the old letters cannot be taken as valid.

This counts as a new application, and therefore needs a fresh set of letters/emails before 1st March. Please note you can refer to any earlier correspondence you have sent Southwark on the old application (11/AP/2936) to save writing it all out again. The points are the same, although the times different.

The Dulwich Estate is also having a committee meeting at the beginning of March to discuss the matter. We gather there are already many letters, but it has been suggested that a petition from the residents of Woodhall generally would help them to see the number of objections. We have therefore drafted a short statement that we hope you would be happy to sign. This does not, of course, preclude anyone from writing to the Scheme of Management, but rather shows the number of objectors.

If we've missed you today, and you do feel strongly about this matter, we would encourage you to sign the petition enclosed and drop it in to No.4 Woodhall Drive at your convenience.

Appendix-3 Clarification regarding the existing gravel area

See attached

26 April 2012

Additional Planning Statement & Amendments Addressing the Council's Concerns**Site: 2 Woodhall Drive Dulwich SE21 7HJ****Application Reference: 12/AP/0200****Description of proposal: Temporary change of use (for 12 months) of a residential swimming pool (Class C3) to allow babies/toddlers swimming lessons between 10:30 am and 2 pm with 30 minutes gap between lessons on 1 day a week as a not-for-profit voluntary project****1. Introduction**

1.1 This statement has been prepared to provide a summary of the history associated with the above planning application and amendments proposed to address the Local Planning Authority (LPA) Southwark Council's concerns raised at this very late stage. The determination date for the planning application was 14th March 2012 and therefore it has already gone considerably over the statutory 8 weeks timescale. Moreover by the time the application will be heard by the Dulwich Community Council, which the Council has advised may be on 10th May if rewriting of the report is completed, the application will be nearly 16 weeks since the application was submitted. Despite the significant delay in determining the planning application, the Council is not following good practice to have constructive co-operation and dialogue with the applicant and endeavour to resolve issues before the planning application reaches appeal stage. It should be noted that the details of comments and justification made by Gary Rice of Southwark Council to overturn the original recommendation for approval have been requested on numerous occasions to help us understand Mr. Rice's considerations and concerns in detail, but unfortunately these have not been provided. Our meeting request to help understand Mr. Rice's concerns has also been declined. After numerous attempts to find the details of concerns raised at this last stage of the planning application, the Council has only indicated that its draft reason for refusal cites *impact on amenity from activity associated with the proposal, and the parking on the front garden area and its detrimental impact on the character and appearance of the conservation area.*

2. Council's Feedback on Previous Planning Application

- 2.1 On the previous planning application the Council did not raise any objection in principle to the proposed use, provided the level of activity is commensurate with the amenities of this residential area.

3. Current Planning Application

- 3.1 After careful and detailed consideration of the comments made by the Council on the previously withdrawn planning application, the proposals were revised in line with the advice provided by the Council to address the issues it previously raised and also those raised by the residents.
- 3.2 The revised proposals involve a reduction in the hours of operation from 3 days a week for up to 4 hours use each day to only one day a week (Wednesday) for 3.5 hours non-continuous use with 30 minutes gaps between classes. The lessons themselves will last for a period of 2 hours per week, but 3 ½ hours have been applied for, in order to allow adequate gaps in between lessons for arrivals and departures.
- 3.3 The proposals introduce a mechanism of reducing car parking demand and traffic generation. Each class will have a maximum of 4 babies and there will be just one instructor. There will be **no more than 3 cars being parked on 2 Woodhall Drive once a week for only c.2 hours** as detailed in the documents submitted in support of the planning application, which were agreed by the Council's internal specialist consultees, case officer, her manager (Dennis Sangweme) and Dulwich area manager (Sonia Watson).

4. Consultation Responses and Council Officers' Conclusion

- 4.1 It is important to note that the planning application is seeking a temporary permission for 12 months only, strictly in accordance with the times, schedule, visitor numbers, travel modes and other details provided in the supporting documents with the planning application.
- 4.2 Internal Consultees: The Council's specialist consultees including the conservation team and the transport team both have not raised any objection on the revised proposal, which as discussed above have been significantly reduced and the number of the attendees and car parking demand will be strictly managed to ensure that the use operates as proposed. To further reassure the Council that the use will operate strictly as proposed, the applicant would be willing to accept reasonable sanctions imposed on

the planning permission through the travel plan. Copy of the comments received by the Council's conservation team and the transport team are attached in appendix-1 of this report. No comments have been received by the Council's EPU team, it is therefore understood that they do not have any objection.

4.3 Neighbour/Public Consultation: The Council has carried a much wider neighbour consultation on this planning application than what it normally does on other minor applications of this scale. Out of the 30 neighbours consulted by the Council, a total of 21 people have responded. We have avoided double counting where more than one response is received from the same person/household and also excluded any response not relating to the site in subject. Eight neighbours have responded raising no concerns and supporting the proposals including 1 Woodhall Drive directly opposite the application site, which would be the most affected (if any) by the minor increase in pedestrian/traffic as a result of the proposals. Nine have not responded therefore it can be assumed that they do not have any objections. Thirteen have written objecting on the proposals. A number of those objecting on the application live a considerable distance away from the application site and therefore will not be affected by the proposals. A number of objections are based on the previous application and indeed refer to their previous objections, which were on a much higher use of the swimming pool for baby swimming lessons, which is no longer the case in the current application. A copy of petition from one particular neighbour circulated all over Woodhall urging residents to raise objections with the Council by providing incorrect and misleading information irrespective of the changes in the revised planning application was provided to the Council on 14th March 2012. A copy of this petition is also provided in appendix-2 of this statement.

4.4 Council's Case Officer and Managers: After careful and detailed consideration of all planning merits of the revised proposals including responses received from the Council's specialist consultees and replies in response to the Council's neighbour/public consultation, the case officer prepared a detailed report with a **recommendation to grant planning permission**. The case officer's report and recommendation along with the consultation responses were then **considered and agreed** by her manager and Dulwich area manager. This has been confirmed in writing by the case officer.

4.5 This report recommending approval of the planning application was then presented to the Head of Planning (Gary Rice), who raised concerns on the planning application contrary to the consideration and conclusion of the Council's specialist consultees, case officer and two managers, and instructed the case officer to prepare a second report

with a recommendation for refusal. As stated above, Mr. Rice's detailed comments and justification have been requested numerous times to help understand his views, but unfortunately have not been provided to us. Our meeting request to help understand Mr. Rice concerns in detail has also been declined. After numerous attempts to find the details of concerns now raised, the Council has only indicated that its draft reason for refusal cites *impact on amenity from activity associated with the proposal, and the parking on the front garden area and its detrimental impact on the character and appearance of the conservation area*. The detailed comments are still not known to us; however we have attempted to deal with the outlined refusal reason in sections 6 & 7 of this statement, without having the benefit of the Council detailed considerations and justification in relation to its concerns raised at this very late stage of the planning application.

5. Existing Gravel Area

- 5.1 The planning permission does not seek permission for the conversion of grassed area to gravel, as it was converted previously under the permitted development rights to reduce the maintenance burden on the applicant and to allow friends and family of the applicant to park their vehicles there (and not on Woodhall Drive) i.e. purpose incidental to the enjoyment of the dwellinghouse, and will indeed continue to be available for the same apart from only a small part of the gravel area being used once a week for 2 hours only when the baby swimming lessons are proposed to take place, which is very minor and insignificant when compared with its availability to be used for the dwellinghouse. The planning permission for the swimming pool did not remove any permitted development rights from the property. The conversion of the grassed area to permeable/porous surface is therefore not a breach of planning control. It should be noted that such permeable materials and also non-permeable materials are commonly used on other nearby premises, and Dulwich Estate is content with the gravel area on the application site.
- 5.2 A clarification note in relation to the existing gravel area was sent to the case officer and Dulwich area manager on 19th March 2012 following discussions with the case officer, concluding that the gravel area is covered under permitted development and can continue to remain and used as existing under the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, Part 1, Class F. No objection was received by the case officer and Dulwich area manager, and the arguments contained in the clarification note were accepted by them. A copy of this

clarification note and decision notice for the planning permission of the pool is attached in appendix-3 of this statement.

6. Acceptability of Intensification in Use

- 6.1 The principle of the proposed use is discussed in detail under section-5 of the design & access/planning statement submitted with the planning application. As stated in item-5.1 of the planning statement, operating a not-for-profit voluntary project from home does not necessarily mean that planning permission is required. Typical residential developments will fall within the C3 use class of the Town Planning (use classes) order 1987. It has long been an established principle that some work can be carried out within a dwelling without the requirement for planning permission. The key test is whether the overall character of the dwelling will change as a result of the use.
- 6.2 In order to compare the proposed use to allow the swimming pool to be used for teaching babies and toddlers a life-saving skill for 3.5 hours non-continuous once a week, childminding from residential premises is considered to be the most relevant, notwithstanding that childminders usually make some modifications to the residential premises to comply with the requirements of Office for Standards in Education, Children's Services and Skills, and work full time from home, whereas the proposed life-saving swimming lessons for babies and toddler will be only once a week 3.5 hours a day. The childminders charge for taking care of the children, whereas making the pool available for baby swimming lessons is being done voluntarily on a non-profit basis by the applicant; it is however acknowledged that the swimming instructor charges parents for providing swimming lessons to babies/toddlers.
- 6.3 According to the information published by Southwark Family Information Service (FIS), there are 49 registered childminders in Camberwell and Dulwich areas. A search on the childcare website revealed 20 childminders in less than 1 mile and 41 childminders in 1-1.4 miles from the application site operating from home on a full time basis. Depending on their circumstances, the maximum number of children a childminder can be registered to care for is six children under eight years, including the childminder's own children, which is greater than the proposed number of babies/toddlers in each class being no more than 4.
- 6.4 Most childminders provide childcare between the hours of 8am and 6pm. Some childminders work early mornings, evenings and weekends as well. Whereas the proposed activity, if granted planning permission, will take place between 10:30 am and

2 pm only with 30 minutes gaps between lessons on 1 day a week during a weekday (Wednesday). The proposed timings are when many if not most of the local residents would be at work.

- 6.5 There are many childminders within Southwark who operate from home on a full time basis. Parents naturally drop and collect their children at various times, and the childminders also take children out for play and back, and do school runs as well. Residential premises from where childminding use operates are not always built on substantial plots and/or located at a corner such as the application site. The intensity in the childminding use has a higher potential to have an impact on amenity and cause additional traffic/parking than the proposal under this planning application, which will be strictly managed in accordance with details as proposed and is equally important for babies/toddlers but far less in intensification compared with the childminding use. The lessons will be carried out within an existing swimming pool, which is fully covered and enclosed.

7. Acceptability of Car Parking

- 7.1 It is generally acceptable to have uses other than just residential use within conservation areas, provided that they do not adversely impact the character and appearance of the Conservation Area. This is indeed the case in Dulwich Wood conservation area as well. The site is located at the border of Dulwich Wood conservation area. Looking at the area in the immediate vicinity of the application site, it is noted that on-street parking takes place along sections of College Road. Adjacent to the application site, on-street parking on College Road is particularly congested due to commuter parking. Sydenham Hill Station is a short walk from the application site, and has an open car park fronting College Road. Car parking also takes place within the rear of the St. Stephen's Church and also on-street in front of the Church located nearby further south on College Road. Heavy on-street parking also takes place on Stonehill Crescent located west of the application site. In addition, it is seen that other properties in vicinity of the site commonly have use of more than one vehicle. It can therefore be concluded that there is a high parking demand in the area immediately surrounding the application site, including on land/premises within Dulwich Wood conservation area.
- 7.2 As discussed in section-3 above, the proposals will result no more than 3 additional cars at any time being parked within the existing gravel area, once a week for c.2 hours only. The level and durations of additional parking is very low. It should be noted that the property is well screened from public views by hedges. The hedge helps to obscures the

parking area within the gravel area. The applicant has offered to accept a condition to maintain the hedges at a height to be agreed by the Council and additional planting implemented to maintain the quality of the screening going forward, in order to ensure that the activity within the site is totally obscured from the surrounding area. As such, any activity will be self-contained within the premises itself and will not result in adverse impacts on the character and appearance of the conservation area.

- 7.3 In order to enhance the character and appearance of the conservation area in comparison with the existing gravel area, which as discussed in section 5 above was converted under permitted development rights, the applicant is willing to accept a condition to convert a considerable part of the gravel to landscaping to be agreed by the Council and maintained in accordance with the Council's satisfaction. This condition is in addition to the one offered to accept in relation to the maintenance of the height and quality of the hedge and additional planting in accordance with the Council's requirements.

8. Summary

- 8.1 This statement summarises the feedback received on the previous planning application and on the current planning application, which resulted in the original recommendation for approval by the case officer, in agreement with her managers, which has been overturned by the head of planning and a new report has been prepared upon his instructions, now recommending refusal. The matter of the existing gravel area is as discussed and concluded in the document attached in appendix-3 is covered under permitted development, to which the case officer and her managers have not objected upon and all agreed to the removal of the condition in relation to the gravel area previously applied in the original recommendation for approval of the planning application. The two issues identified in the Council's indicative reason for refusal i.e. 1) impact on amenity from activity associated with the proposal, and 2) the parking on the front garden area and its detrimental impact on the character and appearance of the conservation area are dealt with within the Design & Access/planning statement and Travel Plan submitted with the planning application, and further discussed in sections 6 and 7 above, with proposed conditions in relation to the hedges, planting, and landscaping, to ensure that the proposed activity within the site is totally obscured from the surrounding area, and to enhance the character and appearance of the conservation area. The applicant is also willing to accept reasonable sanctions imposed on the planning permission through the travel plan to further reassure the Council that the use will operate strictly as proposed.

Site: 2 Woodhall Drive, London, SE21 7HJ

19 March 2012

Planning Application Ref. 11/AP/2936

Clarification regarding the existing gravel area

The swimming pool was granted planning permission in 1985, copy of the decision notice is hereby enclosed. Condition-1 of the planning permission relates to a scheme of **tree and shrubs** as indicated in the then applicant's letter dated 16/08/85. We do not have a copy of this letter and would be grateful if you could please send us a copy if you have it in your records. Notwithstanding, it is important to note the condition only applies to **tree and shrubs, and not the gravel/grass area within the curtilage of the dwelling**. The trees and hedges on the property have always been maintained, in fact the tree pruning is carried out with the Dulwich Estate's approval, who are also satisfied with the gravel area, which is **totally obscured by high hedges** at the boundary of the property. The applicant would be willing to accept a condition to maintain the hedges at a height to be agreed by Southwark Council and additional planting implemented to maintain the quality of the screening going forward, in order to ensure that any activity within the site is totally obscured from the surrounding area.

The previously grassed area in subject was converted to gravel **under the permitted development rights** some time ago to reduce the maintenance burden on the applicant and to allow friends and family of the applicant to put their vehicles there (and not on Woodhall Drive) **i.e. purpose incidental to the enjoyment of the dwellinghouse**. The planning permission for the swimming pool did not remove any permitted development rights from the property. The conversion of the grassed area to permeable/porous surface is therefore **not** a breach of planning control. It should be noted that such permeable materials and also non-permeable materials are commonly used on other nearby properties.

Below are 5no. photos showing the land in subject before and after it was converted to permeable/porous gravel surface.



Photo-1: Aerial image showing grassed area before it was converted to gravel under PD rights



Photo-2: Land adjacent to swimming pool. Gravel area with trees retained

Photo taken on 19/01/2012



Photo-3: Looking from College Road. Trees and hedges retained and maintained after conversion to gravel.

Photo taken on 16/03/2012



Photo-4: Looking at the gravel area, trees, and boundary hedges from inside the site. Trees and hedges retained and maintained after conversion to gravel.

Photo taken on 16/03/2012



Photo-5: Looking at the hedge and trees from outside in front of the site. Trees and hedges retained and maintained after conversion to gravel.

Photo taken on 16/03/2012

The current temporary planning application proposes to use part of the existing gravel area for car parking relating to baby swimming lessons 1 day a week between 10:30 am and 2 pm, which is **very minor and insignificant** when compared with its availability to be used for the dwellinghouse. **Outside these times the use of this area will continue to be for the purpose incidental to the enjoyment of the dwellinghouse.** At the end of the proposed temporary use, the use of the gravel area will be **100%** incidental to the enjoyment of the dwellinghouse.

A **material planning consideration** is that regardless of the planning permission to allow baby swimming lessons, the gravel area can continue to remain and used as existing under the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, Part 1, Class F (extract on next page):

Class F**Permitted development****F. Development consisting of—**

- (a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or*
- (b) the replacement in whole or in part of such a surface.*

Conditions**F.1 Development is permitted by Class F subject to the condition that where—**

- (a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and*

- (b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres,*

either the hard surface shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

It should be noted that the comments made by the design and conservation officer on the previously withdrawn planning application ref. 11/AP/2936 **did not** require the reinstatement of the gravel to grass following the expiry of the 12 months period. It would appear that the design and conservation officer who commented on the current application has somewhat misunderstood the conversion and use of the gravel area being **incidental to the enjoyment of the dwellinghouse and that the conversion of grass to gravel is permitted under the permitted development rights**. The proposed use will have a demand for only three cars at any one time between 10:30 am and 2 pm on 1 day a week for a period of 12 months; it would therefore be incorrect and disproportionate to consider the use of the whole gravel area for car parking relating to baby swimming lessons.

In light of the above, it is considered that applying a condition requiring reinstatement of the gravel to grass following the expiry of the 12 months period under this planning application which is to allow temporary use of the swimming pool for baby swimming lessons would be **unreasonable and its lawfulness would also be questionable**. Moreover, it will be pointless to convert the gravel area to grass in order to satisfy the requirement of such a condition relating to this planning application for baby swimming lessons for a temporary period of 12 months and then convert it back to gravel again under the permitted development rights.

As stated in the first paragraph on page-1, the applicant would be willing to accept a condition to maintain the hedges at a height to be agreed by Southwark Council and additional planting implemented to maintain the quality of the screening going forward, in order to ensure that any activity within the site is totally obscured from the surrounding area.