

<b>Item No:</b> 6.1 & 6.2	<b>Classification:</b> Open	<b>Date:</b> 5 July 2023	<b>Meeting Name:</b> Planning Committee (Smaller Applications)
<b>Report title:</b>		<b>Addendum report</b> Late observations and further information	
<b>Ward(s) or groups affected:</b>		St Giles & Dulwich Village	
<b>From:</b>		Director of Planning and Growth	

## **PURPOSE**

1. To advise members of clarifications, corrections, consultation responses and further information received in respect of the following items 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 stated recommendation.

## **RECOMMENDATION**

2. That members note and consider the additional information and consultation responses in respect of each item in reaching their decision.

## **FACTORS FOR CONSIDERATION**

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

### **ITEM 6.1: 23/AP/0330 for: Full Planning Application – 10 Love Walk, London, SE5 8AE**

#### **Additional consultation responses from local residents**

4. One further letter of support has been received, in summary it states that the proportions are within the urban texture of local Georgian homes, current traffic and noise impacts from the facility are almost non-existent, any perceived negative impact on the conservation area is very limited in scope.
5. Two further letters of objection have been received raising concern in relation to the height of the proposed building, that it would be out of character with the nature of Love Walk and conservation area, that there is no parking associated with the development, concern regarding noise pollution and loss of light on neighbouring properties.

#### **Corrections and clarifications on the main report**

#### **Paragraphs 4, 22, 225, 229:**

6. Reference is made to Mission Care's home The Elms in paragraphs 4, 22, 225 and 229. The Elms is located at 147 Barry Road in East Dulwich SE22 0JR in the London Borough of Southwark. The report incorrectly refers to The Elmwood which is located in Bickley, Bromley which is another Mission Care Home.
7. It has been confirmed by the applicant that as of June 2023 10 existing residents will move to The Elms in East Dulwich.

### **Paragraph 108:**

8. The Verified View montages prepared by Miller Hare have been submitted by the applicant on 29<sup>th</sup> June 2023 and uploaded onto the planning register. These are taken from Kerfield Place, the eastern side of Love Walk and Evesham Walk.
9. Following the members site visit, a further 3D view has been provided from outside Camberwell Green United Reformed Church looking westwards towards the entrance of the proposed new care home. This has been uploaded onto the planning register.

### **Paragraph 112**

10. It has been confirmed by the applicant that in addition to the dining room on the ground floor, the lounges on the ground, first, second and third floors can also be used for dining as well as the in atrium café area.

### **Paragraph 164:**

11. An amended Urban Green Factor calculation plan has been submitted by the applicant (221287-PEV-XX-XX-DR-L-0305 Rev P06) to confirm that the UGF has increased slightly from 0.421 to 0.427.

### **Paragraph 171:**

12. It has been confirmed by the applicant that in the event of an emergency, the ambulance would take priority in terms of the use of the lay-by space.

### **Conditions 10 and 26:**

13. The reference to the Drainage Strategy prepared by Clancy Consulting should be updated to refer to the report Drainage Strategy Report Love Walk Care Home, 10 Love Walk, Southwark, London, SE5 8AE Rev 00 dated 07/10/2022. Reference to Curtins 25<sup>th</sup> May 2023 report should be omitted.

### **Appendix 2**

14. Southwark Plan 2022 Policy P19 (Listed Buildings and Structures) as referenced in Paragraph 76 and 96 should be included within the list of relevant policies.

## **Conclusion of the Director of Planning and Growth**

15. Having taken into account the additional information, following consideration of the issues raised, the recommendation remains that planning permission should be granted, subject to conditions as amended in this Addendum report and completion of a s106 agreement.

## **FACTORS FOR CONSIDERATION**

Additional consultation responses have been received from members of the public in respect of compliance with policy and technical guidance on noise.

### **ITEM 6.2: 21/AP/3417 for: Full Planning Application – Herne Hill Stadium, 104 Burbage Road, London Southwark SE24 9HE**

#### Representations following re-consultation.

16. Following the drafting of the committee report for the meeting on 05 July 2023, correspondence has been received by nearby neighbours to seek clarification that two previously submitted recommendations have been taken into consideration in the undertaking of the assessment.
17. The following representations were received after the submission of the committee report to the council's constitutional services and before the scheduled meeting;
  - a. Email received on 29 June, containing representations dated 07 January 2022 and 10 May 2023.
  - b. Email received on 03 July, containing a representation addressed to the planning and legal teams.
  - c. Email received on 03 July
18. However, as the main committee report had to be shared with the constitutional team for publication, any representations received following the conclusion of the re-consultation were not included in the main report.
19. The email received on 29 June, contained two representations dated on 07 January 2022 and 10 May 2023.
20. *The letter of 07 January 2022 raised the following issues;*
  - The nursery would lead to a harmful noise impact
  - The use would lead to unpredictable and potentially prolonged noise disruption
  - Background noise would not fully mask the noise from the nursery
  - The nursery would harm amenity in the weekdays with potential equalities implications for protected characteristics of age and gender.
  - The nursery would produce adverse noise impacts which require mitigation.

- The submitted acoustic impact assessment makes insufficient character correction for the tonal nature of the noise and that cumulative effect of a larger number of children has not been captured.
  - The proposal should be moved further into the site.
  - The proposal would lead to adverse air quality impacts.
  - The proposal is in breach of condition 10 of 15/AP/0790.
21. Discussion of the noise impacts of the nursery are discussed and assessed in paragraphs 59 to 70.
  22. The nature and frequency of noise events is discussed and assessed in paragraphs 60 to 62. Furthermore, the impact of tonal noise is considered with an on balance planning assessment in paragraphs 68 to 70.
  23. Discussion of the nursery against background noise levels is provided in paragraph 66.
  24. The letter cites that an assessment of the impact of noise events in the weekdays presents an equalities issue for retired people or those working irregular hours, disproportionately affecting protected characteristics of age and gender. The impact of the noise events upon residents nearby has been considered to be acceptable, as outlined comprehensively in paragraphs 59 to 70 where it is considered that the frequency and impact of noise events against background noise levels will not present a detrimental harm to amenity. Therefore, it is considered that the proposal will not disproportionately affect people of protected characteristics of age and gender, for this reason the assessment of the application has had due regard to the Equalities Act (2010).
  25. The requested mitigation of the nursery's impact has been discussed and assessed in paragraphs 68 and 70.
  26. The most recent iteration of the AIA has been amended to undertake an assessment of the character of the noise in section 5.3.4 of AIA. It is outlined that a correction value of 50% has been assumed to extrapolate the predicted noise levels produced by the nursery at full capacity, this is outlined in paragraph 61 of the report, and adopts a worst case scenario, which utilises on site measurements of the noise produced by the nursery. It is noted that an assessment of noise produced in zone d where 27 students were present would present an overestimation of the noise produced when 20 students are present, the impact of which is discussed in paragraphs 62, 64, 65 and 66 of the report.
  27. The requested relocation of the nursery has been discussed in paragraphs 68 to 70.
  28. Assessment of air quality impacts is given in paragraphs 85 and 86.
  29. Discussion of the alleged breach of condition is given in paragraphs 90 to 93.
  30. *The letter dated 10 May 2023, raised the following points;*

- The proposal would lead to adverse impacts that are required to be mitigated.
  - The noise represents and significant observed adverse effect level.
  - Frequency of noise disruption is understated.
  - The drop off of children requires mitigation.
  - Non-compliance with proposed fire safety measures
  - Air quality impacts of open fires.
  - The nursery accommodates visits from the sister nursery and Easter camps.
  - A request for the monitoring of compliance has been made.
  - The use has led to ecological degradation.
  - The proposal may lead to harmful impacts to bats locally.
31. Discussion of the noise impacts of the nursery are discussed and assessed in paragraphs 59 to 70.
  32. The nature and frequency of noise events is discussed and assessed in paragraphs 60 to 62. Furthermore, the impact of tonal noise is considered with an on balance planning assessment in paragraphs 68 to 70
  33. It is asserted in the above listed representation that as the dropping of children registers the highest sound level, this must be mitigated by accessing the velodrome through a different route away from neighbours or later in the morning, past 08:30. Whilst it is acknowledged that this produces the highest registered noise level, this is not considered to form an obtrusive or anti-social amenity impact, and as users of the nursery are expected to arrive from 08:00. Furthermore, this spike in noise levels can be explained by the excitement of young children as they arrive, which then abates shortly after, when the children are engaged in guided activities, as detailed in the AIA.
  34. The representation alleges that the nursery is not adhering to the fire safety protocols that have been contained in the application documents. However, it is considered sufficient that in the event permission is granted, the applicant shall adhere to these standards from fire prevention perspective and in accordance with relevant statutory requirements from regulatory bodies such as Ofsted.
  35. Assessment of air quality impacts is given in paragraphs 85 and 86.
  36. Concern is outlined in the above listed representation that the proposal for the retention of the nursery and the temporary holiday club, does not make an assessment of visits from the sister nursery, Under the Willow Nursery, located on Croxted Road, or Easter camps that have been undertaken. However, the proposed condition to limit the numbers of children outlined in condition 10 on page 38 of the report, would ensure that numbers of children do not exceed acceptable levels, regardless of their educational affiliation. It is considered that this condition is sufficiently reasonable, precise and enforceable.
  37. A request for the ongoing monitoring of the use has been made should permission be granted. This is considered to be captured in the condition

requesting the submission of a management plan detailing noise, fire safety and air quality matters.

38. The representation asserts the nursery has led to ecological harm of the application site. It is acknowledged that the nursery has cleared scrub and heathland around the main camp area. However, it is noted that the use has retained surrounding tree canopy cover and has agreed to ecological mitigation secured by condition, for the provision of mitigations referred to in the Preliminary Ecological Appraisal, such as bat roosts, bird nests, hedgehog houses and log piles.
39. The representation has cited the potential for an adverse impact to bats locally when lighting is used in the winter months before dawn and after dusk. The Ecology Officer has been contacted for comment who has outlined that risk to bats is low, as they are most active in summer months from May to October.
40. *The letter received on 04 July raised the following matters*
  - The nursery would lead to a harmful noise impact.
  - The use should be mitigated against and reduced.
  - The officer report is incorrect in concluding that mitigation is not required.
  - The proposal does not accord with Southwark Technical Guidance with regard to mitigation.
  - The proposed management plan would not effectively manage adverse noise.
41. The noise impacts of the nursery are discussed and assessed in paragraphs 59 to 70.
42. The requested mitigation of the nursery's impact has been discussed and assessed in paragraphs 68 and 70
43. The assessment of the proposed operational management plan is discussed and assessed in paragraph 81 of the report.
44. *Email received on 04 July 2023 raised the following matters;*
  - The nursery represents a noticeable and intrusive noise that requires mitigation.
  - The addition of a noise management plan is not considered to mitigate the impact of the nursery sufficiently.
45. Discussion of the noise impacts of the nursery are discussed and assessed in paragraphs 59 to 70.
46. The assessment of the proposed operational management plan is discussed and assessed in paragraph 81 of the report.
47. *Additional commentary from EPT*

48. Following the previous consideration of the application from EPT, the following comments have been received in regard to the application and discussions on mitigation of the noise impacts of the nursery;

*At the time of my initial comments, there was insufficient information, to provide a recommendation, but the applicant has provided further information and has taken into account my comments in respect the subjective nature of noise being created by the nursery. In respect of the correction factor, the noise consultant has used their best endeavours and profession expertise to provide a suitable factor.*

*The technical guidance is not prescriptive, I have used my professional expertise to assess the acoustic reports.*

*In respect of the fencing and moving away from the residential properties, these are suggestions, it is therefore responsibility of the applicant to put the case forward to the committee members, why they will support or disagree with the suggestions, and the committee members will decide whether to grant or not grant planning permission on the information provided.*

*Following our discussions and in line with other planning decision, I support that a condition could be used on the decision notice for the production of an operational management plan to be written in conjunction with the local ward members and I would review to discharge the planning condition in the normal manner. The operational management plan should include how the Nursery procedures and policies will deal with the noise produced by the operation of the nursery would be mitigated and reduced to a minimum.*

*The operational management plan will also cover the use of the fires, including a risk assessment and health impact to the children.*

49. *Consideration of human rights implications*

50. This planning application engages certain human rights under the Human Rights Act 1998 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.

51. This application has the legitimate aim of providing early years education. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

## **Conclusion of the Director of Planning and Growth**

52. Having taken into account the additional consultation responses, and other additional information, following consideration of the issues raised, the council maintains its recommendation to grant permission subject to conditions.

53. Condition 4 has been amended to ensure the requirements of this condition are more precise. The proposed condition now reads as follows;

*Within 8 weeks of the date of this consent, a management plan shall be submitted to and approved in writing by the Local Planning Authority setting out how the use shall operate. The development shall be carried out in accordance with the approved plan, the plan shall include:*

*1. Noise*

- a. Submission of a plan to show locations of activities within the application site.*
- b. A timetable of times at which activities commence and conclude, within each area.*
- c. Nursery procedures and policies to detail how the noise produced by the operation of the nursery would be mitigated and reduced to a minimum.*

*2. Fire safety*

- a. A plan to show access routes and procedures for fire appliances.*
- b. A plan to identify evacuation routes and an assembly point near the pavilion.*
- c. A plan to show the location of firefighting equipment used.*
- d. A plan to show the provision of safe fire pits to reduce risk of fire spread*

*3. Air quality*

- a. Procedure and measures for avoiding air pollution and compliance with smokeless fuel.*

*Reason:*

*To ensure that the local planning authority has an accurate account of the management of the proposed use, which can be monitored and enforced if necessary, in accordance with P50 'Highway impacts', P56 'Protection of amenity' and P66 'Reducing noise pollution and enhancing soundscapes' of the Southwark Plan (2022).*

54. Condition 6 which sets out the maximum number of students permitted to be on site across the year, relative to whether the holiday club is in operation or not. This has been separated for clarity to read as two conditions as follows:

*Condition (for nursery and holiday club)*

*The use hereby granted consent, permits the operation of the holiday club for ten weeks across the calendar year, in which time the maximum number of students permitted on site at any time from the nursery and holiday club shall be 44. This limit includes any visits from third party organisations such as Under*



*the Willow Nursery and shall be complied with thereafter and not exceeded without the prior written consent of the Local Planning Authority.*

*Reason:*

*To ensure that the neighbouring residents do not experience noise nuisance associated with the carrying out of the use, in accordance with Policy D14 'Noise' of the London Plan (2021), P56 'Protection of amenity' and P66 'Reducing noise pollution and enhancing soundscapes' of the Southwark Plan (2022).*

*Condition (for nursery)*

*The use hereby granted consent permits a maximum of 24 students to be onsite at any time when the holiday club is not in operation, this limit includes any visits from third party organisations such as Under the Willow Nursery and shall be complied with thereafter and not exceeded without the prior written consent of the Local Planning Authority.*

*Reason:*

*To ensure that the neighbouring residents do not experience noise nuisance associated with the carrying out of the use, in accordance with Policy D14 'Noise' of the London Plan (2021), P56 'Protection of amenity' and P66 'Reducing noise pollution and enhancing soundscapes' of the Southwark Plan (2022).*

## **REASON FOR URGENCY**

55. 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 Planning 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 and would inconvenience all those who attend the meeting.

## **REASON FOR LATENESS**

56. The new information and corrections to the main reports and recommendations have been noted and/or received since the committee agenda was printed. They all relate to items on the agenda and members should be aware of the comments made.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Individual files TP/2071-10	Environment Neighbourhoods and Growth Department 160 Tooley Street London SE1 2QH	Planning enquiries Telephone: 020 7525 5403