

Item No. 1.1	Classification: OPEN	Date: 22 June 2010	Meeting Name: Dulwich Community Council
Report title:	Development Management planning application: Application 10-AP-0915 for: Full Planning Permission Address: 208 BARRY ROAD, LONDON, SE22 0JS Proposal: Change of use from single residential dwelling (C3) to children's Montessori nursery (D1) including roof conversion with two dormer window extensions to the rear and single storey rear extension to ground floor.		
Ward(s) or groups affected:	East Dulwich		
From:	Head of Development Management		
Application Start Date 23/04/2010		Application Expiry Date 18/06/2010	

RECOMMENDATION

- 1 To refuse planning permission.

BACKGROUND INFORMATION

- 2 The application has been brought to Community Council for consideration due to the number of submissions received following consultation, both in support and objection.
- 3 The application is a resubmission of refused application 09-AP2770.

Site location and description

- 4 The site contains a two storey, semi detached residential dwellinghouse, located on the corner of Barry Road and Goodrich Road, East Dulwich. Surrounding the site are further residential dwellinghouses. The site contains a front and rear garden, with a two storey residential unit adjoining the rear boundary of the site. The dwellinghouse is currently unoccupied.
- 5 Barry Road is classified as a TLRN 'B Road' and forms part of the bus priority network.
- 6 The site has no listings and is not located within a conservation area.

Details of proposal

- 7 The proposal involves a change of use from a residential dwellinghouse (C3) to a children's nursery (Class D1) with a ground floor extension and two dormer window extensions to the rear. A bin and cycle store and covered pram area are proposed to the front of the building. An outdoor play area is proposed to the side with the remainder of the site landscaped.

- 8 The nursery will accommodate 28 children, ranging in age from 2 through to 7 years old, cared for by 4 full time staff. Proposed hours are 09:00 to 17:00 Monday-Friday.
- 9 The ground floor features two classrooms and a kitchen area, with outside play areas in the rear garden. The first floor has three classrooms and the converted loft accommodates a staff room and office.
- 10 The proposed dormer windows are approximately 1.8m wide by 1.8m high and are constructed of lead with sash window frames.

Planning history

- 11 09-AP-2770: Planning permission refused 04 March 2010 for a change of use for residential dwelling to a 50 place children's nursery (Class D1) with 2 storey side extension and two dormer window extensions to the rear. Reasons for refusal were:

The proposed change of use will result in a loss of residential floorspace, in a dwellinghouse which is considered suitable for housing, with no overriding circumstances that would make the loss of floorspace acceptable. This is contrary to policy 4.6 'Loss of residential accommodation' of the Southwark Plan 2007 [July].

The proposed change of use would, due to the number of places and staff proposed for the new nursery, lead to a use out of character with the predominantly residential nature of the area, creating noise and nuisance impacts to the detriment of local residential amenity. This is contrary to policy 3.2 'Protection of amenity' of the Southwark Plan 2007 [July].

The proposed side extension represents an incongruous addition, out of scale and character with the original dwellinghouse and will result in detrimental impacts on the appearance of the building and streetscene. This is contrary to policies 3.12 'Quality in design' and 3.13 'Urban design' of the Southwark Plan 2007 [July].

Due to the number of places and staff proposed for the new nursery, along with the absence of a detailed transport assessment, the proposed change of use could lead to an increase in traffic congestion and pressure for parking around the intersection with Barry Road, a busy TLRN class B road. The potential increase in traffic would compromise road safety for road users and pedestrians, in contravention of policy 5.2 'Transport impacts' of the Southwark Plan 2007 [July].

Planning history of adjoining sites

- 12 None available.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

- 13 The main issues to be considered in respect of this application are:
 - a) The principle of the development in terms of land use and conformity with strategic policies.
 - b) The impact of the proposal on amenity.
 - c) The appearance of the proposal.
 - d) The impact of the proposal on traffic and parking.

Planning policy

- 14 Southwark Plan 2007 (July)
2.2 Provision of new community facilities
2.4 Educational deficiency - provision of new educational establishments
3.2 Protection of amenity
3.7 Waste reduction
3.12 Quality in design
3.13 Urban design
4.6 Loss of residential accommodation
5.2 Transport impacts
5.3 Walking and cycling

Principle of development

- 15 A number of policies relate to the principle of the proposal and whether the change of use would be acceptable, these are:
- 16 2.2 'Provision of new community facilities'
States that permission will be granted for new community facilities provided the facility can be used by all members of the community; and the facility is not detrimental to the amenity of nearby occupiers; and where more than 20 vehicle trips are generated a transport assessment will be required.
- 17 The applicant has stated that the facility will provide for existing residents within the local area and there is no reason to believe the facility would exclude any members of the community.
- 18 The facility is considered to have detrimental impacts on amenity which will be discussed later in this report.
- 19 Even with the reduced number of places proposed, there is potential for more than 20 vehicle trips to be generated. The applicant has stated in the Travel Plan that the nursery will require parents/carer's and staff to sign up to a Green Living Plan. There are no details regarding the Green Living Plan, however the applicant states that it will encourage sustainable transport choices such as walking and cycling. Notwithstanding the intentions of the applicant, it is considered that preventing private vehicle trips to the site (particularly on days of inclement weather) would be impossible to control or enforce. The proposal would therefore lead to indiscriminate private vehicle use to and from the site. As with the previously refused proposal, the numbers proposed by the applicant are considered too great for a travel plan to control, and due to the busy nature of nearby roads and lack of parking, the resultant adverse impacts on road safety and parking would be unacceptable.
- 20 Given these points the proposal, on balance, due to the detrimental impacts on residential amenity and likely impacts on traffic and parking, is not considered to meet the intention of policy 2.2.
- 21 2.4 'Educational deficiency - provision of new educational establishments'
States that permission will be granted for new educational establishments especially in areas of demonstrated deficiency, provided the facility can be used by all members of the community.
- 22 The applicant states there is urgent demand for a new nursery in the area following the recent closure of a nearby nursery. Furthermore, many of the submissions in support of the application state there is demand for nursery places in this area. This amount of support for a new nursery satisfies the policy requirement for encouraging new establishments. As such the proposal is considered to be in accordance with the

intention of policy 2.4.

4.6 'Loss of residential accommodation'

23 States development will not be permitted where there is a net loss of residential floorspace, except where the environment is unsuitable for housing and the quality of accommodation is unsatisfactory with no possibility of improvement; or the site has a designation for a non residential use; or the change would contravene criteria for the efficient use of land contained in policy 3.11 'Efficient use of land'.

24 The property is currently unoccupied however is a residential dwellinghouse. The local area is residential in character and therefore a residential use is suitable in this location. The internal layout of the building was not inspected, however the applicant has not stated that it would be unfit for habitation. There is no designation for the site. In assessing the proposed use against policy 3.11, the proposal fails to satisfy relevant criteria due to the identified loss of residential amenity. Given the above assessment, the proposal fails to satisfy the criteria for an exception from policy 4.6 and the loss of residential accommodation cannot be supported.

25 Policy 4.6 carries on to state that development will not be permitted where there is a net loss of wheelchair accessible housing. The dwellinghouse has a large ground floor, easily accessible from street level, it is considered that the site would be suitable for wheelchair housing. As such the loss of this housing would be in further contravention of the intention of this policy.

26 The applicant's Design & Access Statement identifies that in the 'Reasons' section of policy 4.6, a loss of housing might be acceptable, where a reduction in the net residential floor space would have wider benefits to the community. As identified in the assessments of the proposal against policies 2.2 'Provision of new community facilities' and 2.4 'Educational deficiency - provision of new educational establishments', it is acknowledged that there is a demonstrated demand for nursery facilities in this area and that the community would benefit from increased provision. However these considerations do not outweigh the adverse impacts that the proposal would have in terms of loss of residential floorspace, residential amenity and traffic and parking.

27 In making a determination as to the acceptability of the principle of development based on the intentions of these relevant policies, the weighting given to each policy is important, given that policy 2.2 seeks to encourage community facilities and 4.6 seeks to protect existing residential floorspace. In this case the dwellinghouse was originally constructed for residential purposes and has always retained this use. The dwellinghouse is a single residential unit with generous floorspace and outdoor area, making it suitable for family accommodation, of which there is an identified need in the borough. The area is principally residential in character and the outdoor amenity space of the adjoining properties are adjacent to the proposed play areas of the nursery, raising concerns about noise and disturbance to nearby occupier's amenity.

28 Overall, given that policy 2.2 seeks to encourage community facilities only where the facility will not be detrimental to the amenity of nearby occupiers, and that the proposal will result in the loss of residential floorspace, contrary to policy 4.6, the proposal does not accord with relevant policy and can not be supported in principle.

Impact of proposed development on amenity of adjoining occupiers and surrounding area

29 The application states that the nursery will provide places for 28 children cared for by a maximum of 4 staff. Hours of operation are from 09:00 to 17:00 Monday to Friday, the nursery is not open on weekends or Bank Holidays. It is not stated whether 28

children and 4 staff will be on site at once, so it is assumed that there is potential for the full amount of children and staff to be on site at any one time. It is considered that the proposed use, at this intensity, would lead to unacceptable impacts on the amenity of nearby residents in terms of noise and disturbance.

- 30 The site is currently a large four bedroom residential dwellinghouse that could potentially accommodate a family of six to eight people and the area is predominantly residential in character. Given the residential use of the site and the residential context of the area, it is considered that the introduction of a nursery of this size would lead to an intensity of use out of character with the residential environment. This would lead to general noise and disturbance throughout the day, to the detriment of nearby resident's amenity. It is acknowledged that the nursery could implement measures such as half day sessions and/or restrict outside play to certain times of the day and this may be acceptable if the overall numbers at the nursery were lower. However at the level proposed, the potential for disturbance to local residents is considered unacceptable.
- 31 The extensions to the dwellinghouse including the dormer windows and two storey side addition will have no direct impact on nearby occupiers in terms of shading and dominance, as the extensions are sufficiently distanced from the habitable rooms of nearby dwellings. A minor increase in overlooking may result from the proposed dormer windows and first floor windows of the side extension. However this increase is not considered to be detrimental in relation to similar views already obtained from the rear windows of the first floor of the dwellinghouse.

Impact of adjoining and nearby uses on occupiers and users of proposed development

- 32 The surrounding properties are residential and although the dwellinghouse adjoining the rear boundary directly overlook the subject site, this is not considered to create unacceptable impacts on the operation of the proposal.

Traffic issues

- 33 The number of places proposed by the applicant are of concern in terms of traffic generation and parking pressure. While a travel plan has been submitted which states that walking to the nursery will be encouraged, there is a lack of measures available to control how parents/caregivers, children and staff will travel to and from the site. A travel plan may have the intention of discouraging private car use, however in practice it will be difficult to prevent parents from dropping off and picking up their children from the nursery by private vehicle.
- 34 Given the busy intersection and B road classification of Barry Road and that it forms part of the bus priority network, Council Transport Planners conclude the proposal will impact negatively on the performance and safety of the surrounding highway network. It is considered that the adverse impacts on traffic and parking could be reduced and controlled from a nursery with fewer places, however due to the large number of places proposed, the likelihood of adverse impacts on traffic and parking are of concern and the proposal can not be supported.

Design issues

- 35 The dormer extensions, rear extension, bin store, pram store and hard and soft landscaping are considered to be appropriately scaled and placed to have only minor impacts on the appearance of the dwellinghouse.

Other matters

36 None identified.

Conclusion on planning issues

37 The proposed change of use will result in a loss of residential floorspace, in a dwellinghouse which is considered suitable for housing, with no overriding circumstances that would make the loss of floorspace acceptable. This is contrary to policy 4.6 'Loss of residential accommodation' of the Southwark Plan 2007 [July].

38 The proposed change of use would, due to the number of places and staff proposed for the new nursery, lead to a use out of character with the predominantly residential nature of the area, creating noise and nuisance impacts to the detriment of local residential amenity. This is contrary to policy 3.2 'Protection of amenity' of the Southwark Plan 2007 [July].

39 Due to the number of places and staff proposed for the new nursery, the proposed change of use could lead to an increase in traffic congestion and pressure for parking around the intersection with Barry Road, a busy TLRN class B road. The potential increase in traffic would compromise road safety for road users and pedestrians, in contravention of policy 5.2 'Transport impacts' of the Southwark Plan 2007 [July].

Community impact statement

40 In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

a) The impact on local people is set out above.

b) The following issues relevant to particular communities/groups likely to be affected by the proposal have been identified as

c) The likely adverse or less good implications for any particular communities/groups have been also been discussed above. Specific actions to ameliorate these implications are

Consultations

41 Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

Consultation replies

42 Details of consultation responses received are set out in Appendix 2.

Summary of consultation responses

Refer Appendix 2.

Human rights implications

43 This planning application engages certain human rights under the Human Rights Act 2008 (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.

- 44 This application has the legitimate aim of providing a D1 nursery. 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.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/2596-208 Application file: 10-AP-0915 Southwark Local Development Framework and Development Plan Documents	Regeneration and Neighbourhoods Department 160 Tooley Street London SE1 2TZ	Planning enquires telephone: 020 7525 5403 Planning enquires email: planning.enquiries@southwark.gov.uk Case officer telephone:: 020 7525 5330 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received

AUDIT TRAIL

Lead Officer	Gary Rice Head of Development Management	
Report Author	Jeremy Talbot	
Version		
Dated		
Key Decision		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance		
Strategic Director of Regeneration and Neighbourhoods		
Strategic Director of Environment and Housing		
Date final report sent to Constitutional / Community Council / Scrutiny Team		

Consultation undertaken

Site notice date: 06 May 2010

Press notice date: N/A

Case officer site visit date: 06 May 2010

Neighbour consultation letters sent: 05 May 2010

Internal services consulted:

Environmental Protection
Early Years - Children's Services
Transport Planning

Statutory and non-statutory organisations consulted:

None.

Neighbours and local groups consulted:

As listed in Acolaid.

Re-consultation:

None.

Consultation responses received

Internal services

Environmental Protection:

No comments.

Early Years - Children's Services:

No comments.

Transport Planning:

the submitted travel plan has no monitoring or hard or soft measures to ensure modal shift towards sustainable travel modes. It also does not include any baseline figures (taken of TRICS or TRAVL trip generation data bases from comparable sites). Also there are no incentives for parents to choose sustainable/public transport modes, targets for modal shift, or monitoring to insure that the travel plan achieves its goal in modal shift.

A travel plan should include some if not all of the following.

Travel Plan

The travel plan must demonstrate to us that the applicant is aware of the issues and have done all that is reasonable to address them.

Typical information includes:

- i) Base line modal split figures (taken from existing relevant uses/developments and TRICS and TRAVL trip generation data bases)
- ii) The provision of dedicated cycle parking in secure and sheltered locations;
- iii) Provision of up to date information on walking and cycle routes between the site and the key journey origins / destinations in the vicinity;
- iv) Up to date information on public transport facilities including bus travel, underground travel, Network Rail services and connecting services between these modes. This would include the availability of cycle parking at stations and other public transport facilities;
- v) Journey planning assistance;
- vi) Potential financial incentives to promote non car travel such as interest free season ticket loans or subsidised cycling equipment purchases;
- vii) Promotion of general awareness campaigns for sustainable transport initiatives to promote health and wellbeing.
- viii) Targets for modal shift toward public/sustainable travel modes.
- ix) Regular monitoring to ensure the travel plan is working.

Given the current on street situation at school/nursery starting and finishing times, we are not satisfied that the proposed travel plan will eliminate a significant level of private car use in association with the above application there for the proposed development

will impact negatively on the performance and safety of the surrounding highway network.

Neighbours and local groups

A petition with 159 signatures, a petition with 57 signatures and 61 letters were received in support of the proposal. Reasons for support included:

- There is a need for more childcare provision in the area;
- There are other nurseries in the borough with limitations;
- There is a waiting list of people wanting to get their children in this nursery;
- A number of local nurseries have closed down increasing demand for places;
- The provider would offer a very good standard of childcare to local families;
- This is a local business and will bring much needed employment and training opportunities;
- There are 2 year waiting lists for most nurseries;

A petition with 39 signatures and 7 letters were received in opposition to the proposal. Reasons for opposition included:

- Loss of residential accommodation;
- There is no evidence to justify why this property is the most suitable to meet the demand for nursery places in the area;
- Demand for nurseries is not, in itself, sufficient to warrant departure from policy 4.6;
- Proposal will create noise and nuisance to the detriment of local residential amenity;
- Traffic and parking issues;
- Not a safe location for a nursery due to proximity to Barry Road;
- The site is overlooked;
- None of the reasons for refusal from the previous application have been overcome;
- The intention to encourage walking, public transport and cycling is unenforceable;
- The property could easily be brought back into use as a private dwelling;
- What measures are being taken to mitigate impacts from noise on neighbouring properties?

Southwark Cyclists have submitted requesting that cycle parking for 8 visitors is placed within 20m of the site.