

<b>Item No.</b>	<b>Classification:</b>	<b>Date:</b>	<b>Meeting Name:</b>
6.3	OPEN	15 December 2010	Dulwich Community Council
<b>Report title:</b>	<b>Development Management planning application:</b> Application 10-AP-2852 for: Full Planning Permission  <b>Address:</b> 208 BARRY ROAD, LONDON, SE22 0JS  <b>Proposal:</b> Change of use from a residential dwellinghouse to a nursery (Class D1) with single storey ground floor rear extension, and two rear dormer window extensions forming one residential staff flat. Associated bin and pram storage areas and cycle parking.		
<b>Ward(s) or groups affected:</b>	East Dulwich		
<b>From:</b>	Head of Development Management		
<b>Application Start Date</b> 13/10/2010		<b>Application Expiry Date</b> 08/12/2010	

### RECOMMENDATION

- 1 To refuse planning permission.

### BACKGROUND INFORMATION

- 2 The application has been called in to Dulwich Community Council for a decision.
- 3 The application is a resubmission of application 10-AP-0915, which was refused by Dulwich Community Council on 09 August 2010.

### 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.
- 7 The site has no listings and is not located within a conservation area.

### Details of proposal

- 8 The proposal involves a change of use from a residential dwellinghouse (C3) to a children's nursery (Class D1) and new staff flat, 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.

- 9 The nursery will accommodate 20 children, ranging in age from 2 through to 7 years old, cared for by 3 part time staff. Proposed hours are 08:00 to 18:00 Monday-Friday.
- 10 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.
- 11 The proposed dormer windows are approximately 1.8m wide by 1.8m high and are constructed of lead with sash window frames.

### **Planning history**

- 12 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].

- 13 10-AP-0915: Planning permission refused 09 August 2010 for a 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. 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].

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**

- 14 None available.

## **KEY ISSUES FOR CONSIDERATION**

### **Summary of main issues**

- 15 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**

#### Southwark Plan 2007 (July)

- 16 2.2 'Provision of new community facilities'  
2.4 'Education 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'

#### Core Strategy

- 17 The Council submitted the draft Core Strategy to the Secretary of State on 26 March 2010 and the Examination in Public hearings took place in July 2010. The Core Strategy policies should be considered as currently having no weight when determining planning applications as they are awaiting the Inspector's report and his finding of soundness. Applications should continue to be determined pending receipt of the Inspector's report primarily in accordance the saved policies in the Southwark Plan 2007 and the London Plan 2008.
- 18 The Inspector's report on the Core Strategy is expected in December 2010. With a recommendation of soundness from the inspector there will be a very high degree of certainty that the Core Strategy will be adopted and that a number of existing Southwark Plan policies will be replaced. In view of this, on publication of the inspector's report, all core strategy policies should be given significant weight in determining planning applications. Less weight should be given to existing policies which are soon to be replaced. Formal adoption of the core strategy is expected in January 2011.

### **Principle of development**

- 19 A number of policies relate to the principle of the proposal and whether the change of use would be acceptable, these are:

- 20 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.
- 21 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.
- 22 The facility is considered to have detrimental impacts on amenity which will be discussed later in this report.
- 23 It is considered that with the further reduced number of places proposed, there is still potential for more than 20 vehicle trips to be generated. The applicant has submitted a Parking Survey and Analysis Report and Green Travel Plan. The Parking Survey concludes that the surrounding road network can accommodate the increase in parking pressure from the nursery, with adequate capacity available to ensure cars are not parked in unsuitable areas such as on yellow lines. The Green Travel Plan has the intention of encouraging sustainable transport choices such as walking and cycling for users of the nursery.
- 24 Council Transport Planners have reviewed the information provided and concur with the findings that the parking demand generated by the nursery at peak times can be sufficiently accommodated by the surrounding road network.
- 25 Overall due to the detrimental impacts on residential amenity which will be discussed further, the proposal is not considered to meet the intention of policy 2.2.
- 26 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.
- 27 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.
- 28 4.6 'Loss of residential accommodation'  
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'.
- 29 The property is currently unoccupied however is a residential dwellinghouse with no planning history indicating any uses other than residential. The local area is residential in character so 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. Due to this loss of residential floorspace, the proposal fails to satisfy the criteria for an exception from policy 4.6 and the loss of

residential accommodation cannot be supported.

30 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.

31 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 and residential amenity.

32 In attempting to address the loss of residential accommodation as a reason for refusal from the previous application, the applicant is providing a staff flat within the building, to retain some residential use as part of the proposal. While providing some residential floorspace within the development avoids a total loss of residential accommodation at this site, it is not considered that the provision of a one bedroom flat contained within the nursery provides valuable residential floorspace in comparison to the large family dwellinghouse that would be lost. Policy 4.6 specifically states that a net loss of residential floorspace will not be permitted, the proposal would result in a net loss as well as the loss of a large family dwellinghouse, for which there is an identified need in the borough.

33 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 dwellinghouse 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 predominantly 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.

34 Overall, given that policy 2.2 seeks to encourage community facilities only where the facility would 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 is not supported in principle.

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

35 The application states that the nursery will provide places for 20 children cared for by a maximum of 3 staff. Hours of operation are from 08:00 to 18:00 Monday to Friday, the nursery is not open on weekends or Bank Holidays. It is not stated whether 20 children and 3 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.

- 36 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.
- 37 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, however such measures can be impractical and difficult to enforce. The resulting potential for disturbance to local residents is considered unacceptable. Environmental Protection officers have reviewed the proposal and state there could be a loss of amenity due to noise and nuisance as a result of the proposal and that there is no party wall sound insulation treatment proposed.
- 38 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**

- 39 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**

- 40 The previous proposal for a nursery with 28 places was refused due to the likely number of parents and staff travelling to the nursery by private car and causing congestion and a reduction in road safety at pick up and drop off times. A Transport Assessment was not provided to demonstrate that the impacts on traffic and parking would be acceptable.
- 41 The current application proposes 20 places and the applicant has provided a Parking Survey and Green Travel Plan demonstrating the parking pressure of the immediate area and outlining measures to encourage travel to the nursery by means other than private car. The applicant concludes that there will be no adverse impacts on the surrounding road network as a result of the proposal and that based on the parking survey, there would be sufficient capacity to accommodate additional vehicles, preventing the need for cars to park in unsuitable locations that would reduce road safety.
- 42 Council Transport Planners have reviewed the information and concur that the proposal would not lead to any adverse impact on the surrounding road network. It is therefore considered that the proposal is in accordance with Transport Policy.

#### **Design issues**

- 43 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**

- 44 None identified.

### **Conclusion on planning issues**

- 45 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].
- 46 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].

### **Community impact statement**

- 47 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.

### **Consultations**

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

### **Consultation replies**

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

### Summary of consultation responses

Refer Appendix 2.

### **Human rights implications**

- 50 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.
- 51 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: <a href="mailto:planning.enquiries@southwark.gov.uk">planning.enquiries@southwark.gov.uk</a> Case officer telephone: 020 7525 5330 Council website: <a href="http://www.southwark.gov.uk">www.southwark.gov.uk</a>

## APPENDICES

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

## AUDIT TRAIL

<b>Lead Officer</b>	Gary Rice, Head of Development Management
<b>Report Author</b>	Jeremy Talbot, Planning Officer
<b>Version</b>	Final
<b>Dated</b>	6 December 2010
<b>Key Decision</b>	No

### CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER

Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	No.	No.
Strategic Director of Regeneration and Neighbourhoods	No.	No.
Strategic Director of Environment and Housing	No.	No.
<b>Date final report sent to Constitutional /Scrutiny Team</b>		

**Consultation undertaken**

**Site notice date: 22/10/2010**

**Case officer site visit date: 22/10/2010**

**Neighbour consultation letters sent: 20/10/2010**

**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

There may be loss of amenity from the noise and nuisance point of view of from the use, I note from the documentation submitted that the architect states that the noise from 5 children outside the property would be similar to a large family with friends around.

There is no mention that there will noise insulation treatment to the party wall of the development.

##### Early Years - Children's Services

Confirm there is a need for suitable, affordable childcare in the area, particularly for children under 3 and that the plans would be compliant for Ofsted registration. Support the development of the proposed new nursery.

##### Transport Planning

The above application will not generate a significant negative impact on the performance and safety of the surrounding highway network. For the following reasons:

- The nursery has reduced the number of children from 28 to 20.
- The submitted parking survey has shown that there are at least seventy two car parking spaces on the surrounding highway network at peak times of operation.

The travel plan has a number of binding measures which will ensure parents chose sustainable modes of transport when dropping off and collecting their children.

#### Neighbours and local groups

27 responses were received in support of the proposal. Reasons for support include:

- 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;

6 responses were received in objection to the proposal. Reasons for objection include:

- 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?