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| Item No. 6.1 | Classification: OPEN | Date: 13 April 2011 | Meeting Name: Dulwich Community Council |
| Report title: | Development Management planning application: Application 10-AP-3503 for: Full Planning Permission Address: 198 CROXTED ROAD, LONDON, SE21 8NW Proposal: Construction of a single storey building for use as a children's day nursery for 34 children on the land to the rear of 198, Croxted Road. | | |
| Ward(s) or groups affected: | Village | | |
| From: | Head of Development Management | | |
| Application Start Date 2 December 2010 | | Application Expiry Date 27 January 2011 | |

RECOMMENDATION

- 1 Grant planning permission.

BACKGROUND INFORMATION

- 2 This application was deferred at the meeting of 15 March 2011 due to an administrative error resulting in the correct consultation procedure not being followed. The application set out in appendix A is for determination by Dulwich Community Council, due to the numbers of objections received.

APPENDIX A

Previous report

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| Item No. 6.1 | Classification: OPEN | Date: 15 March 2011 | Meeting Name: Dulwich Community Council |
| Report title: | Development Management planning application: Application 10-AP-3503 for: Full Planning Permission Address: 198 CROXTED ROAD, LONDON, SE21 8NW Proposal: Construction of a single storey building for use as a children's day nursery for 34 children on the land to the rear of 198, Croxted Road. | | |
| Ward(s) or groups affected: | Village | | |
| From: | Head of Development Management | | |
| Application Start Date 02/12/2010 | | Application Expiry Date 27/01/2011 | |

RECOMMENDATION

- 1 Grant planning permission.

BACKGROUND INFORMATION

- 2 This application is for determination by Dulwich Community Council, due to the numbers of objections received.

Site location and description

- 3 The site adjoins an end of terrace double fronted house. There is a strip of land to the side of the house which measures around 3.5 metres wide and widens to as it forms a plot of land at the rear most point of the rear garden of the property at 198.
- 4 Croxted Road is a largely residential road, however there are a few commercial premises in the section leading to the junction with Norwood Road; including a petrol filling station and a garden centre located on the opposite side of the road. Two railway lines bound the property to the north west and the north east. The railway line to the north east denotes the boundary with the Dulwich Village Conservation Area.
- 5 The borough boundary between LB Southwark and LB Lambeth is the centre of the road.

Details of proposal

- 6 Planning permission is sought for the construction of single storey building for use as a children's day nursery on the land to the rear of no.198 for 34 children. The land which is largely separated off from the house and garden of 198 would be accessed from an existing gate on Croxted Road. The building would measure 10 metres wide, 15 metres deep and 3.3 metres high. The building would be constructed in timber with a flat roof, and solar panels would be installed on the roof. The building would be

located 8 metres off the rear garden side boundary with 196 Croxted Road and 5 metres off the new rear boundary with no. 198 Croxted Road

- 7 The main window openings would be placed within the long elevations of the building, which face north westerly towards the railway line and south easterly towards the side boundary with no. 196. The main entrance would be in the south-westerly elevation which faces the rear boundary with no.198. The plan shows an area of land to the south east of around 192 sq metres would be sectioned off to provide playspace for the nursery.
- 8 The proposal also includes a canvas structure close to the gate on the Croxted Road frontage. The structure which would provide some shelter would be set in line with the building line of the houses; therefore its visibility would not be readily apparent when walking along the road.

Planning history

- 9 10/AP/0571 Planning permission was refused on 02/06/2010 for the construction of a single storey building for use as a children's day nursery for the following reason;

The location of the proposed nursery would result in vehicles slowing and/or waiting in the road or manoeuvring into spaces which would impact significantly on the performance and safety of the surrounding highway network and compromise highway safety for other road users.

- 10 08-AP-0516 22/04/2008 Certificate of lawfulness (proposed) was granted for refurbishment of the rear dormer windows and other works to the property at 198.
- 11 Limited consent was granted on 25/4/1978 for a temporary period of two years for the use of the land adjoining 198 for the storage of mobile homes.

Planning history of adjoining sites

- 12 None relevant.

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 the residential amenity within the area and
 - c) the impact of the proposal on the parking and traffic flow.

Planning policy

Saved Southwark Plan Policies

- 14 2.2 Provision of New Community Facilities
3.2 Protection of Amenity

- 3.7 Waste Reduction
- 3.9 Water
- 3.12 Quality in design
- 3.13 Urban design
- 5.2 Transport Impacts

London Plan 2008 consolidated with alterations since 2004

- 15 LPP 3A.24 Educational facilities

Core Strategy

- 16 Southwark's Core Strategy was considered by an independent Inspector during an Examination in Public held in July 2010. The Inspector has issued his binding report and deemed the Core Strategy to be sound. His report was received on 28 January 2011 and it is likely that the Southwark will adopt the Core Strategy.
- 17 Now the Inspector's binding report has been received, the Core Strategy, together with the suggested changes by the Inspector carries considerable weight. In the period before the Core Strategy is formally adopted, whilst the Southwark Plan remains the relevant statutory development plan, where the Core Strategy suggests a different approach when determining a planning application, the Core Strategy is a significant material consideration that should be taken into account.

Strategic Policy 4 Places to learn and enjoy

Principle of development

- 18 The Council generally supports provision of new community facilities, provided there is general compliance around other policies within the Plan.
- 19 A key land use issue raised by this application is that of building on gardens, referred to as "garden grabbing". Recently changed in government policy, PPS3 Housing sets out that private gardens shall be removed from the brownfield definition. However, this is not, at the same time, conferring particular protection on this land, for example in the same way that Borough Open Land or Metropolitan Open Land are protected. It means that gardens are not classified as 'previously developed land'. The development of such areas will not contribute to the target set by the Government which is that at least 60% of development occurs on brownfield land. Given the limited number of back garden developments applied for in Southwark, development on gardens would be unlikely approach the 40% limit for non brownfield, or greenfield, development. It is not considered that the fact that back gardens are no longer 'brownfield' may in itself be used as a reason for refusal. Rather, regard still needs to be had to the site specific assessment of impacts in terms of matters such as the character of residential neighbourhoods, design, amenity, and transport.
- 20 The proposal would also introduce a commercial building into a residential area. The land is fairly substantial and there is already a separate access to the site from the road. Equally it is noted that on the other side of the railway bridge is the petrol filling station and a number of garages beyond. The use of a portion of this land as a nursery would still retain a substantial amount of garden to the original house at no 198 as well as land for the nursery use. The use is not considered to be out of keeping within a residential setting provided there is sufficient separation between the two uses.

Environmental impact assessment

- 21 Not required for a development of this size or type. No significant environmental impacts would arise.

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

- 22 Policy 3.2 Protection of Amenity aims to protect existing residents from undue loss of amenity arising from development.

The main amenity impact for neighbours is likely to arise from noise associated with the nursery use.

The proposal is for a maximum of 34 children from 07:30 until 18:30 Monday to Fridays. The properties along this section of Croxted Road benefit from having very long rear gardens, (approximately 45 metres). The nursery boundary would be at least 25 metres from the nearest residential property. The railway lines already contribute to a certain amount of noise within the area. It is considered that the level of noise from the nursery could be managed by restricting the numbers of children playing outside at any one time and restricting the hours of operation. Subject to conditions, the level of noise from the nursery should not significantly erode the amenity of the nearest residential properties. Measures to restrict the hours of operation would address some of the concerns raised by residents.

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

- 23 The surrounding area is largely residential although the railway land adjoins two sides of the site boundary. There may be some noise nuisance from the railway lines to the nursery as it would be located closer to the railway boundaries than other properties on the road. The nursery would not be compromised by the adjoining residential houses and gardens.

Traffic issues

- 24 Highway impacts

The applicant has surveyed a number of nursery premises which are within an immediate proximity of the development. They have observed travel patterns connected with the surveyed premises. They have used the collected travel pattern data to ascertain the likely trip generation associated with the proposed development. It is clear that sustainable modes of travel will be used. The provision of buggy parks to ensure a further modal shift combined with the nursery policy of removing children of parents that park immediately outside the property are sufficient mitigation to ensure the previous road safety concerns attached to application 10-AP-0571 can now be dismissed as car use will be minimal in association with the proposed development.

Cycle storage

- 25 The Southwark plan has no guidance for the above type of development, however TfL workplace travel plan guidelines state that a *minimum* of 1 space per 10 students or staff is provided. A total of nine staff are proposed in association with the development. The plans indicate a storage area for 15 bikes, although the details of the storage area are not provided. This is considered a good level of provision however a condition should be added to any permission requiring the applicant to submit to the Council, for approval, detailed and scaled drawings to demonstrate the provision of cycle storage.

Car Parking

- 26 The site is not located within a Controlled Parking Zone (CPZ). The site sits

immediately outside of the Herne Hill CPZ.

No on site parking has been provided in association with the above application.

The surrounding highway network will be heavily parked (due to commuter parking) at peak times of parking demand for the proposed development. This will deter parents from using vehicles to access the site and ensure a modal shift toward sustainable modes of travel. There are also a number of other initiatives mentioned in the application which will ensure a significant modal shift toward sustainable modes of travel.

Servicing

- 27 Servicing and refuse collection will be undertaken from Croxted Road. No vehicular access is being provided in association with the above application. Given the nature of the proposed development and the central location of the bin stores it is not thought there will be many service vehicle movements associated with the above application or refuse vehicles stationary in the highway for an extended period.

Travel Plan

- 28 A travel plan has been submitted with the application. This clearly demonstrates the applicant's commitment to embedding sustainable travel habits into the development from the outset. The applicant is committed to ensuring that car use to and from the development is minimised, and the use of sustainable travel will be encouraged. The travel plan is therefore acceptable at this stage. Should planning permission be granted, it is recommended that a condition is attached requiring an updated travel plan to be submitted to and approved by the local authority following the first user surveys (within 3 months of opening), and thereafter, surveys to be undertaken annually and results reported to London Borough of Southwark.

Design issues

- 29 The building is a very simple timber structure and within the context of the surrounding gardens, which are some 45 metres deep, does not dominate the area. Some existing outbuildings within the location would be removed as a consequence of the proposal. Although the proposed building would have an extensive flat roof, a number of water interceptors would be installed to collect water from the roof for recycling.

Impact on character and setting of a listed building and/or conservation area

- 30 The conservation area adjoins the site on the north eastern boundary, however the proposed development next to the railway line would not impact on current views into or out of the conservation area. Further there are no listed buildings affected by the proposal.

Impact on trees

- 31 The proposal would not have any impact on the near by willow tree which would remain within the boundary of the rear garden of no. 198 Croxted Road.

Planning obligations (S.106 undertaking or agreement)

- 32 Not required for a scheme of this size.

Other matters

Security

- 33 The proposed entrance to the nursery would be from Croxted Road, security gates and

video entry and intercom would allow staff to control entry onto the site.

Sustainable development implications

- 34 The proposal includes the use of solar panels on the roof and rain water harvesting from the flat roof. The proposal also included the submission of a Green Travel Plan with the aim of encouraging carers to walk or use other more sustainable forms of transport.

Conclusion on planning issues

- 35 Planning permission is sought for the construction of a building within the rear garden of no. 198 Croxted Road to provide a children's day nursery. The proposal has attracted some local objection mainly around traffic congestion and parking. This formed the previous reason for the refusal of the scheme. The applicant has now demonstrated that the use of cars for picking and dropping of children can be controlled through the use of a green travel plan, which has been reviewed and agreed with the Transport Planning team, subject to conditions around implementation and monitoring. There is a demand for nursery places within this area and the provision of a purpose built structure would contribute to serving this need, in line with the Council's policies for community uses. It is therefore recommended that planning permission is granted.

Community impact statement

- 36 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 above.

c) The likely adverse or less good implications for any particular communities/groups have been also been discussed above.

Consultations

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

Consultation replies

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

Summary of consultation responses

- 39 3 letters of objection have been received with comments around additional traffic, congestion from parking, hazard from bus stops, petrol filling station, and school entrance opposite. Noise from outdoor play.

Human rights implications

- 40 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.
- 41 This application has the legitimate aim of providing a children's day 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.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

- 42 N/A

BACKGROUND DOCUMENTS

| Background Papers | Held At | Contact |
|--|--|---|
| Site history file: TP/2544-196 Application file: 10-AP-3503 Southwark Local Development Framework and Development Plan Documents | Regeneration and Neighbourhoods Department 160 Tooley Street London SE1 2TZ | Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 5434 Council website: www.southwark.gov.uk |

APPENDICES

| No. | Title |
|------------|---------------------------------|
| Appendix 1 | Consultation undertaken |
| Appendix 2 | Consultation responses received |
| Appendix 3 | List of neighbours consulted |

AUDIT TRAIL

| | | |
|---|---|--------------------------|
| Lead Officer | Gary Rice, Head of Development Management | |
| Report Author | Sonia Watson, Senior Planning Officer | |
| Version | Final | |
| Dated | 1 March 2011 | |
| Key Decision | 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 |
| Date final report sent to Constitutional Team | 4 March 2011 | |

Consultation undertaken

- 43 **Site notice date:** 08/02/2011
- 44 **Press notice date:** n/a
- 45 **Case officer site visit date:** 28/04/2010 and 08/02/2011
- 46 **Neighbour consultation letters sent:** 07/01/2011
- 47 **Internal services consulted:**
Environmental Protection
Transport
- 48 **Statutory and non-statutory organisations consulted:**
London Borough of Lambeth
Network Rail
- 49 **Neighbours and local groups consulted:**
n/a
- 50 **Re-consultation:**
n/a

Consultation responses received

51 Internal services

Transport planning - Raise no objections subject to conditions

Environmental Protection - Raise no objections subject to conditions around site contamination.

52 Statutory and non-statutory organisations

London Borough of Lambeth - Raise no objections, subject to conditions to ensure bicycle parking and implementation of the green travel plan.

Network Rail - No response received

53 Neighbours and local groups

194 Croxted Road - Difficult to park on the road currently, proposal will lead to an increase in the parking demand, not convinced that the travel plan submitted would deter car travel by parents. Site directly opposite a bus stop which is busy at peak morning and evening times, there is also a vehicular access to Turney Road special school where buses are routinely pulling in and out. On the other side there is a garden centre opposite which is a petrol filling station, which makes this section of road particularly busy in terms of footfall and traffic.

184 Croxted Road - The area suffers from commuter parking, as well as other activity within the area, it is a dangerous traffic area which is unsuitable for young children.

287 Croxted Road - Concerned about the safety and environmental impact of additional vehicles seeking parking spaces in the area, with both difficult and hazardous parking conditions. Additional vehicles delivering and collecting children at times of considerable traffic would put further pressure on parking and could encourage dangerous and illegal parking behaviour. Also concerned about the potential for noise from the children likely to be considerable.

List of neighbours consulted

07/01/2011 196B CROXTED ROAD LONDON SE21 8NW
07/01/2011 196A CROXTED ROAD LONDON SE21 8NW
07/01/2011 DULWICH SPORTS CLUB GIANT ARCHES ROAD LONDON SE24 9HP
07/01/2011 204 CROXTED ROAD LONDON SE24 9DG
07/01/2011 192 CROXTED ROAD LONDON SE21 8NW
07/01/2011 192A CROXTED ROAD LONDON SE21 8NW
07/01/2011 198 CROXTED ROAD LONDON SE21 8NW
07/01/2011 194 CROXTED ROAD LONDON SE21 8NW
07/01/2011 190 CROXTED ROAD LONDON SE21 8NW
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