

Committee	PLANNING COMMITTEE (A)	
Report Title	51 Bargery Road SE6	
Ward	Catford	
Contributors	S Isaacson & Geoff Whittington	
Class	PART 1	3 March 2016

<u>Reg. Nos.</u>	DC/14/86689
<u>Application dated</u>	26 February 2014
<u>Applicant</u>	EICynthy Services on behalf of Harmony Education Ltd.
<u>Proposal</u>	The change of use of the ground floor at 51 Bargery Road SE6 to a Day Nursery (Use Class D1) for up to 24 children, together with the provision of associated residential and office floorspace at first floor and the construction of two single storey extensions to the rear.
<u>Applicant's Plan Nos.</u>	Pa123/p100; pa123/p101; pa123/p102; pa123/p103; pa123/P105; pa123/p106; pa123/p107 Rev A; pa123/p108 Rev A; Design & Access Statement & Heritage Statement
<u>Background Papers</u>	(1) Case File LE/702/51/TP (2) National Planning Policy Framework (NPPF) (3) Local Development Framework Documents (4) The London Plan (2015)
<u>Designation</u>	Within Culverley Green Conservation Area; Culverley Green Conservation Area Character Appraisal; Area of Archaeological Priority; Local Open Space Deficiency Area; Culverley Green Article 4 Direction; PTAL 3

1.0 Property/Site Description

- 1.1 The application site comprises a two-storey, semi-detached dwelling-house located on the north side of Bargery Road, close to the junction with Penerley Road. The property is located within the Culverley Green Conservation Area and most permitted development rights have been removed by Article 4 Direction from all single-family dwellinghouses in the area.
- 1.2 The application property is spacious, with medium and large sized front and rear gardens respectively. The loft space in the building has been partly converted to provide additional habitable floorspace. The front garden has been laid as hardstanding. Apart from the corner of Bargery Road at its junction with Bromley Road, there are no on-street parking restrictions in the local area.

1.3 The surrounding area is predominantly residential, characterised by semi-detached Corbett dwellings, some of which have been converted into self-contained flats. Three hostels, one care home and one day nursery are currently located within Bargery Road.

2.0 Planning History

2.1 In October 2006, the Council received an application for a Certificate of Lawful Development in respect of the construction of a single-storey extension to the rear of 51 Bargery Road. The property was visited at that time by the Planning Enforcement Officer, who confirmed that the house was already in multiple occupation, with 11 bedrooms (all of which were occupied), two kitchens (one of which was in the loft area) and included the loft conversion which had already been carried out, but without planning permission being granted.

2.2 The Enforcement Officer also recorded that a wooden-framed, perspex-covered area had been erected to the rear of the property, together with a small garden shed, which was within five metres of the rear of the building. The garden had been divided, with the owner of number 49, who lived next door, having taken over the rear half of the garden of 51 Bargery Road for his own personal use.

2.3 The Certificate of Lawful Development for the single-storey extension was therefore refused on 8 December 2006 as the property had been unlawfully converted to bedsit accommodation and was not occupied as a single family dwellinghouse (DC/06/63912).

2.4 In February 2007, a planning application was received for the alteration and conversion of 51 Bargery Road into a child contact centre within Use Class D1 of the Use Classes Order (DC/07/64763).

2.5 Planning permission was subsequently refused on 2 May 2007, for the following reasons:-

(1) *The proposal would result in the loss of residential accommodation, contrary to policy HSG 1 Prevention of Loss of Housing in the Adopted Unitary Development Plan (July 2004) and policy 3A.1 in the London Plan 2004.*

(2) *The proposed commercial use would be likely to attract a considerable number of callers to the building, with attendant noise and disturbance to nearby residents and additional parking in the street, and would not preserve or enhance the Culverley Green Conservation Area, contrary to policies HSG 4 Residential Amenity and URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas in the Adopted Unitary Development Plan (July 2004).*

2.6 On 9 June 2008, the Council granted a House in Multiple Occupation (HMO) Licence under Section 64 of the Housing Act 2004 to Mr Mohammed Shabir. The licence states:- "The Council has decided that the house is reasonably suitable for occupation by not more than 10 households consisting of no more than 10 persons." The licence was granted subject to the conditions set out in the attached schedules and came into force on 9 July 2008, for a period of five years from that date, but may be revoked or varied by the Council during that time.

2.7 The Council subsequently received a planning application in December 2008 for the continuation of use of 51 Bargery Road as a house in multiple occupation (HMO) and the retention of Velux-style windows in the front, side and rear roof slopes, and retention of the use of the loft space as additional accommodation (DC/08/70465). This application was refused on 5 February 2009 for the following reasons:-

(1) *The unauthorised change of use of the property from a dwelling-house (Use Class C3) to a House in Multiple Occupation (HMO) has resulted in the provision of substandard accommodation that is not self-contained, contrary to Policies HSG 4 Residential Amenity & HSG 9 Conversion of Residential Property in the adopted Unitary Development Plan (July 2004).*

(2) *The unauthorised conversion of the loft space, with the insertion of Velux windows that are not "conservation-style" rooflights is considered unsatisfactory and contrary to Policies URB 3 Urban Design, URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas and HSG 12 Residential Extensions in the adopted Unitary Development Plan (July 2004).*

2.8 In 2010, planning permission was refused for the conversion of 51 Bargery Road to provide 1 one bedroom and 1 three bedroom, self-contained flats and 1 two bedroom, self-contained maisonette, for the following reasons:

"The ground floor flat, by reason of its awkward layout and small room sizes, would fail to provide a reasonable standard of accommodation, to the detriment of future occupiers. As such, the development would be contrary to policies HSG 4 Residential Amenity and HSG 9 Conversion of Residential Property of the Unitary Development Plan (July 2004)."

2.9 The current position is that the unauthorised HMO occupation of the property has ceased, the rooflights in the front of the building have been removed, the partially-converted loft space is not currently in use (other than for some limited storage) and the ground and first floors are being occupied as a single family dwelling-house by the current applicant.

2.10 The occupier is a Registered Childminder and has OFSTED approval to operate as a childminder for up to 6 children at 51 Bargery Road. Planning permission is not a requirement for this nature of use.

3.0 Current Planning Application

The Proposal

3.1 The applicant proposes to use the ground floor of the property as a day nursery for up to 24 children, including the construction of two single-storey rear extensions. The existing front room would be a 'baby' room for children up to 2 years. The existing rear living room would be a toddler/ pre-school room. A bathroom and kitchen would remain on the ground floor.

3.2 There is an existing poor quality single-storey infill addition at the rear of the main living room. This is an unenclosed timber and corrugated plastic element that would be replaced by a permanent extension of similar depth – 2 metres. In addition, a conservatory is proposed at the rear of the existing 2-storey outrigger, which would measure 2.9 metres deep.

- 3.3 The application originally included the construction of a dormer window in the rear roof slope with roof lights in the front, side and rear roof slopes, but these elements have been omitted from the proposal due to officer concerns.
- 3.4 The first floor would be retained as the applicant's family home, providing two bedrooms, living room and a small office.

Operation / Staffing

- 3.5 The proposed hours of operation would be 7.30am to 6.30pm Monday to Fridays. The nursery would be closed on Bank Holidays and during Christmas week. The applicant has stated that two full-time staff and three part-time staff would be employed.
- 3.6 The applicant has stated that Ofsted approval for the day nursery would be sought following any grant of planning permission. Ofsted have issued a 'Good' rating (issued in August 2014) for the applicant's existing childminding business.

Access / Parking

- 3.7 The applicant envisages that most parents will live locally and walk to and from the premises with their children, thereby negating the need to drive. A minibus service to collect and drop-off children is proposed by the applicant.
- 3.8 For those who do drive, an off-street car parking space in the front garden would be made available, whilst there is unrestricted on-street parking within the area.

4.0 Consultation

- 4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.2 Site notices were displayed and letters were sent to residents and business in the surrounding area and the relevant ward Councillors.
- 4.3 11 letters have been received, raising objections on the following grounds:-
- Noise and disturbance from children;
 - Intensification of use;
 - Disproportionately high concentration of nurseries;
 - Additional traffic and parking congestion;
 - Cumulative impact of the number of other nurseries and non-residential uses in the vicinity;
 - Loss of a large family dwelling-house;
 - Inadequate access to public open space with play facilities;
 - Use would erode the existing residential character.

Culverley Green Residents Association

4.4 The Association have objected on the following grounds:

- The area supports a large number of other non-residential properties, including care homes and hostels;
- Existing parking pressures is an issue for residents;
- Noise concerns.

4.5 Heidi Alexandra MP has objected to the proposal on grounds of additional parking pressures; and would detract from residential amenity.

(Letters are available to Members)

4.6 Due to the number of responses, a local meeting was held on 6 August 2014. The minutes of the meeting are attached to this report as an appendices.

Amenity Societies Panel

4.7 The application originally proposed the installation of a front roof light, which the Panel raised objections toward, however this has since been removed from the plans.

5.0 Policy Context

Introduction

5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

A local finance consideration means:

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)

5.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.' The development plan for Lewisham comprises the Core Strategy, the Development Management Local Plan, the Site Allocations Local Plan and the Lewisham Town Centre Local Plan, and the London Plan. The NPPF does not change the legal status of the development plan.

National Planning Policy Framework

- 5.3 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14, a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation of the NPPF. In summary, this states in paragraph 211, that policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that '...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.
- 5.4 Officers have reviewed the Core Strategy for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, and 215 of the NPPF.

London Plan (2015)

- 5.5 The London Plan policies relevant to this application are:-

Policy 3.1	Ensuring equal life chances for all
Policy 3.3	Increasing housing supply
Policy 3.6	Children and young people's play and informal recreation facilities
Policy 3.9	Mixed and balanced communities
Policy 3.14	Existing housing stock
Policy 3.16	Protection and enhancement of social infrastructure
Policy 3.18	Education facilities
Policy 5.3	Sustainable design and construction
Policy 7.1	Building London's neighbourhoods and communities
Policy 7.2	An inclusive environment
Policy 7.4	Local character
Policy 7.6	Architecture

Core Strategy

- 5.6 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Development Management Local Plan and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Lewisham Core Strategy as they relate to this application:-

Core Strategy Policy 1	Housing provision, mix and affordability;
Core Strategy Policy 15	High quality design for Lewisham;
Core Strategy Policy 16	Conservation areas, heritage assets and the historic environment;
Core Strategy Policy 19	Provision and maintenance of community and recreational facilities;
Core Strategy Policy 20	Delivering educational achievements, healthcare provision and promoting healthy lifestyles.

Development Management

5.7 The Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The Development Management Local Plan, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Core Strategy and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Development Management Local Plan as they relate to this application:-

DM Policy 1	Presumption in favour of sustainable development
DM Policy 2	Prevention of loss of existing housing
DM Policy 22	Sustainable design and construction
DM Policy 29	Car parking
DM Policy 30	Urban design and local character
DM Policy 31	Alterations/extensions to existing buildings
DM Policy 36	New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens
DM Policy 42	Nurseries and childcare

Residential Standards Supplementary Planning Document (August 2006, amended 2012)

5.8 This document sets out guidance and standards relating to design, sustainable development, renewable energy, flood risk, sustainable drainage, dwelling mix, density, layout, neighbour amenity, the amenities of the future occupants of developments, safety and security, refuse, affordable housing, self containment, noise and room positioning, room and dwelling sizes, storage, recycling facilities and bin storage, noise insulation, parking, cycle parking and storage, gardens and amenity space, landscaping, play space, Lifetime Homes and accessibility, and materials.

6.0 Planning Considerations

6.1 The main issues to be considered in respect of this application include:

- Principle of change of use to a day nursery;
- The conversion of residential floorspace;
- Impact upon residential amenity;
- Highways and traffic Issues;
- Quality of residential accommodation;
- Scale and appearance of the proposed extensions.

Principle of Change of Use to Day Nursery

6.2 DM Policy 42 Nurseries and childcare states that 'The Council will require applicants for day nurseries and facilities for the care, recreation and education of children to consider:

- the acceptability of the loss of the existing use;
- traffic volumes and the effect on congestion;
- accessibility by walking, cycling and public transport;

- the impact on local residential amenity, including noise;
- the need for suitable space for outside play areas.'

The acceptability of the loss of the existing use

- 6.3 Core Strategy Policy 1 states that 'development should result in no net loss of housing', whilst the Council seeks to resist the loss of residential accommodation, in line with Policy 3.14 Existing housing of the London Plan (2015).
- 6.4 Part 1(C) DM Policy 2 advises that the Council will only grant planning permission for the loss of housing by change of use where a local community service or facility is proposed that meets an identified need.
- 6.5 The Development Management Local Plan (2014) states Lewisham has one of the highest proportions of children in London and there is subsequently a considerable need for childcare and nursery provision.
- 6.6 The Children and Young People Team (CYPT) have confirmed there is a duty to provide additional nursery places in the Borough for children over the next few years. This is supported by DM Policy 42 Nurseries and childcare, which states that the aim of the policy is to ensure an appropriate level of nursery and childcare provision in the Borough, referring to the 'considerable need' for such provision.
- 6.7 With regard to need for additional childcare spaces in the Borough, since September 2014, an additional 2,032 children in Lewisham aged 2 are eligible for the free 15 hours per week places. Presently, CYPT advise that less than 1200 have managed to find a childcare place.
- 6.8 Whilst there are other nurseries in the area, the Children and Young People Team advise there is sufficient demand for childcare to sustain all good quality providers. Officers have advised the information they have is that nearby nurseries are full, and this may be due to the fact that there are good transport connections from Catford, which working parents require.
- 6.9 Potential childcare providers are generally advised by the Council that they should undertake sufficient market research to ensure there is demand for the services that they wish to deliver - in this case, the Children and Young People Team are satisfied the applicant has met with this requirement, and raise no objections to the proposal.
- 6.10 DM Policy 42 states that 'applicants should seek to find the most appropriate location for new nursery provision in an area. Existing vacant D uses are considered most appropriate and only after this should existing C3 uses be considered.'
- 6.11 The policy also advises that the applicant should consider detached properties for nursery use, and where such tenure are not available, a semi-detached dwelling would be considered appropriate.
- 6.12 The applicant has confirmed their property search with Kalmars Commercial property agents included D use premises in or near Catford. An inspection of Bellingham Community Nursery was undertaken, however the applicant was unable to secure this, or find suitable D use premises elsewhere.

- 6.13 A search of detached properties was also undertaken, however none were on the market within the vicinity. Subsequently, the applicant considers the conversion of the existing semi-detached property to provide an appropriate alternative.
- 6.14 Officers are satisfied the applicant has sought to find premises elsewhere, and consider it reasonable that she proposes to undertake a nursery operation from the application property, which is currently in her ownership.
- 6.15 The proposed nursery use would not result in the entire loss of residential accommodation at the application property. The residential accommodation on the upper floors would be retained as a non self-contained unit ancillary to the nursery use, which would be occupied by the applicant. The occupiers would continue to make use of the ground floor and garden areas outside of nursery opening hours, with limited access when the nursery is in operation during the day. The layout of the property would not be altered so it may be easily reverted back to full residential use should the nursery use cease.
- 6.16 A planning condition would be included that ensures the residential element remains ancillary to the nursery use and is not unlawfully converted to a House in Multiple Occupancy or a self-contained flat. This would also serve to maintain both the safety and welfare of the nursery children, and the operation/ layout of the proposed ground floor use.
- 6.17 Officers therefore raise no objections to the change of use of the dwelling-house - subject to appropriate conditions - and are satisfied the proposal would not be detrimental to the residential character of the immediate area.

Traffic volumes and the effect on congestion

- 6.18 The applicant does not envisage that many parents would drive to the premises as most would reside locally. For those who would drive, there are on-street opportunities for short term parking nearby, whilst an off-street space to the front driveway of the application property may be used by parents if available.
- 6.19 It is considered appropriate that a Travel Plan be formally submitted. This would further ensure the nursery would not significantly increase on-street parking by encouraging the use of non-car means associated with trips generated by the proposed facilities, ie staff encouraged to cycle to work; further details of the proposed minibus service etc. The Travel Plan would also be expected to specify a monitoring and review mechanism that demonstrates compliance with the given objectives.
- 6.20 Highways officers have raised no objections to the proposed day nursery, subject to the submission of an acceptable Travel Plan.

Accessibility by walking, cycling and public transport

- 6.21 Policies 3.16 Protection and enhancement of social infrastructure and 3.18 Education facilities of the London Plan (2015), and Policy 19: Provision and maintenance of community and recreational facilities of the Core Strategy (2011) encourage the provision of such facilities and advise these should be located within easy reach by walking, cycling and public transport, close to other community facilities and services and town and local centres, providing there is no adverse impact on residential amenity, including noise and traffic generation.

- 6.22 The application site lies within a PTAL 3 area, where on a scale of 1-6, 3 is considered to provide good access to public transport, with a number of bus routes operating along Bromley Road to the west.
- 6.23 The nursery may provide a 'home pick-up and drop-off minibus service to assist parents', which would further serve to reduce any impact upon on-street parking. Whilst the service would be welcomed, it would only operate if there is demand from parents. The recommendation to grant is therefore not dependent upon the minibus service being provided, particularly as it is envisaged that parents would be likely to walk to the premises if they live locally, or are en-route to their daily commute. This is emphasised by the provision of a 'buggy park' within the property, whereby parents may leave prams until the evening pick-up. This would be secured by condition.
- 6.24 Plan P103 indicates secure cycle parking to the frontage for parents, whilst the applicant has suggested the provision of a dry and secure store within the rear garden for nursery staff and residential occupiers. Further details would be requested by condition.

The impact on local residential amenity, including noise

- 6.25 The semi-detached nature of the application property is considered appropriate for a day nursery use, serving to minimise noise and disturbance to neighbouring occupiers.
- 6.26 Furthermore, the use as a nursery would operate during the day and cease in the early evening, whilst closed at weekends and public holidays. The applicant has confirmed that the proposed hours of operation would be 07:30 to 6:30 Monday to Friday, which would be subject to a planning condition.
- 6.27 To ensure the number of children remains at an appropriate level, a condition is proposed to restrict the overall number to a maximum of 24. The applicant has advised it is unlikely all places would be filled as they must ensure there is sufficient space for children to move up to the older groups.
- 6.28 Although the ground floor would be used as a day nursery, the upper floor would remain in residential use to be occupied by the applicant, thereby maintaining the residential character of Bargery Road.
- 6.29 It is noted that there are non C3(a) residential uses within Bargery Road, including a daycare nursery 90 metres to the west of the application site at no.26 (Skylarks), which accommodates 20 children, however the immediate area remains predominantly residential in character, providing single dwellings and flat conversions. Officers therefore consider the proposal would not result in an unacceptable over-concentration of such use in Bargery Road.
- 6.30 It is considered that the proposed scheme would not significantly alter the existing residential character and therefore refusal on these grounds would be unreasonable. The property would retain a suitably sized residential element on the first floor for the owners of the property, whilst the appearance of the property would not change.
- 6.31 Should permission be granted, planning conditions would seek to safeguard the amenities of neighbouring occupiers to; limit the hours of operation; restrict the use to daycare nursery only and implementation of a Travel Plan.

- 6.32 In regard to use of the rear garden by nursery children, generally a condition is imposed restricting the hours to between 10am-12pm, and 2.30pm to 4.30pm. In this case, it is considered appropriate that due to the residential character of the area, a management plan be formally submitted to the Council to advise upon times of use, the number of children permitted to use the garden at any one time, and measures to ensure the amenity of neighbouring occupiers is safeguarded.
- 6.33 It is accepted that a day nursery use would generate noise and disturbance, but this must be balanced against the expanding need for childcare services in the Borough. Limiting the number of children and use of the rear garden for play by condition would minimise excessive noise disturbance to neighbouring properties and their gardens.

The need for suitable space for outside play areas

- 6.35 The proposed nursery would use part of the existing rear garden for outdoor play, however further details will be requested by condition regarding confirmation of the proportion of garden area that would be allocated to the nursery children.

Rear Extensions

- 6.36 Paragraph 15 of the National Planning Policy Framework (p15) states: "local planning authorities should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.
- 6.37 Core Strategy Policy 15 seeks to promote high quality design with DM Policy 31 requiring extensions to be of a high, site specific and sensitive design quality that respects the form and detailing of the original building. DM Policy 36 (B) seeks to ensure new development and alterations preserves or enhances the character and appearance of conservation areas.
- 6.38 The application proposes the construction of a single-storey conservatory that would adjoin the existing rear outrigger, measuring 2.9 metres deep.
- 6.39 A single-storey rear infill extension would also be constructed that would measure 2 metres deep, incorporating a lean-to roof. Proposed facing brickwork and roof tiling would match the appearance of the existing dwelling.
- 6.40 The appearance, size and depth of the proposed extensions are considered to be acceptable, and would not result in significant visual harm upon the amenities of the neighbouring occupiers.
- 6.41 As the extensions would be located to the rear of the property and not visible from the public realm, officers are satisfied there would be no visual harm upon the character of the host building or the Culverley Green Conservation Area.

Standard of Residential Accommodation

- 6.42 Officers have applied the principles of DM Policy 32 'Housing design, layout and space standards' to this application in order to assess whether the proposed alterations to the residential accommodation is considered to be acceptable.

- 6.43 It is proposed that the first floor 2 bedroom residential unit (non self-contained) would have an internal floor area of 89.5sqm. This is in compliance with DM Policy 32, which requires a two bedroom 4 person residential flat to have a minimum gross internal area of 70sqm.
- 6.44 An office would be provided, which the applicant has advised would be used mainly during the weekdays in relation to the nursery use, and for general home use at other times. The room would measure 8 sq.m, therefore the residential unit would still meet the minimum floorspace requirement when deducting the office space.
- 6.45 The London Housing SPG states that double bedrooms should be at least 11.5sqm, whilst single bedrooms should be at least 7.5sqm. It is also essential that dwellings provide accommodation with an acceptable shape and layout of rooms. In this case, the proposed bedrooms would have floor areas of 13.6sqm and 16.1sqm, whilst the unit would benefit from a separate living room and kitchen. In addition, occupiers would have use of existing rooms located within the loftspace.
- 6.46 Residential units should also be provided with a readily accessible, secure, private and usable external space and include space suitable for children's play. The proposed unit would enter the rear garden separately from the nursery children via the existing side passageway, accessed from either the ground floor kitchen or the front entrance, whilst nursery children would access the garden from the 'creative' and 'pre-school' rooms at the rear.
- 6.47 Considering the nature of the two uses, it is appropriate to request the following details to ensure the operation of the nursery is not compromised;
- Confirmation of the preferred route for the upper floor residential occupiers to access the rear garden.
 - Specific areas within the ground floor that residential occupiers would be unable to access during nursery operating hours.
 - Ensure the unit remains ancillary to the nursery use, preventing future use as HMO accommodation or as a self-contained unit that would serve to compromise the operation of the associated nursery use and potentially the safety of the children.
- 6.48 The rear garden measures approximately 50 metres deep, providing sufficient garden space for both the residential and nursery users. It is not envisaged that the nursery children would require full use of the entire garden. As part of the management plan and boundary treatment conditions, the applicant would be required to advise upon suitable measures to separate the garden into designated areas, ensuring a safe play environment for the children, and the provision of private amenity space for the residential occupiers.
- 6.49 In summary, officers are satisfied the standard of residential accommodation would accord with guidance, whilst benefiting from sufficient amenity space when the nursery is in operation.

7.0 Community Infrastructure Levy

- 7.1 The proposed development is not liable for Lewisham CIL.

8.0 Equalities Considerations

- 8.1 Section 149 of the Equality Act 2010 (“the Act”) imposes a duty that the Council must, in the exercise of its functions, have due regard to:-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2 The protected characteristics under the Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.3 The duty is a “have regard duty” and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.
- 8.4 It is considered that the proposed change of use of 51 Bargery Road would assist in providing equality of opportunity in terms of childcare in the Borough, and there is therefore no adverse impact on equality issues.

9.0 Conclusion

- 9.1 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 9.2 On balance, officers consider that the proposed change of use of the dwelling to provide a daycare nursery (Use Class D1) at ground floor is acceptable, in accordance with the requirements of DM Policy 42. Appropriate conditions would mitigate the impact of the use upon neighbouring occupiers.
- 9.3 The standard of residential accommodation on the upper floor would be in accordance with guidance, whilst the proposed single-storey additions to the rear of the building are appropriate in size and appearance, and would not harm the amenities of neighbouring occupiers or the character of the Culverley Green Conservation Area.
- 9.4 For these reasons, it is therefore recommended permission be granted.

10.0 RECOMMENDATION GRANT PERMISSION, subject to the following conditions:-

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

- (2) The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

Pa123/p100; pa123/p101; pa123/p102; pa123/p103; pa123/P105; pa123/p106; pa123/p107 Rev A; pa123/p108 Rev A; Design & Access Statement & Heritage Statement

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

- (3) The day nursery hereby approved shall only operate at ground floor level, first floor office and rear garden of 51 Bargery Road, and shall not operate other than between the hours of 07.30am and 6.30pm Mondays to Fridays, and not at all on Saturdays, Sundays or Public Holidays, unless the local planning authority gives written consent to any variation.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration of the Development Management Local Plan (November 2014).

- (4) Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the use hereby approved shall operate as a day nursery and for no other purpose in Class D1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any subsequent Order or statutory provision revoking or re-enacting that Order.

Reason: In granting this permission the local planning authority has had regard to the circumstances of the case and wishes to have the opportunity of exercising control over any subsequent use, in the event of the occupier vacating the premises, in the light of any material considerations existing at the time.

- (5) Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the upper floor residential accommodation ancillary to the day nursery hereby approved shall not form a separate self-contained flat or House in Multiple Occupation without the prior written approval of the local planning authority.

Reason: In granting this permission the local planning authority has had regard to the circumstances of the case and wishes to have the opportunity of exercising control over any subsequent use, in accordance with relevant Policies in the London Plan (2015), Core Strategy (2011) and the Development Management Local Plan (2014).

- (6) The maximum number of children accommodated at any one time within the day nursery hereby permitted shall not exceed 24no without the prior written approval of the local planning authority.

Reason: In order to safeguard the amenities of adjoining occupants and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 42 Nurseries and childcare of the Development Management Local Plan (November 2014).

(7) The nursery use hereby permitted shall not be implemented until a Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include (but is not limited to):

- Daily nursery activities;
- Control of access from the upper floor residential unit to the rear garden;
- Areas within the ground floor nursery that residential occupiers would be unable to access during operating hours;
- The extent of garden area to be used as play space for children (incorporating measures to safeguard neighbouring residential amenity including times of use and average number of children using the garden at any one time).

The Management Plan shall be implemented as approved at first commencement of the nursery use, and be retained thereafter in perpetuity.

Reason: To ensure that the intensity of the use does not cause an unacceptable loss of amenity to neighbouring residential properties, and to comply with DM Policy 42 Nurseries and childcare of the Development Management Local Plan (2014).

(8) (a) The day nursery use shall not commence until such time as a user's Travel Plan, in accordance with Transport for London's document 'Travel Planning for New Development in London' has been submitted to and approved in writing by the local planning authority. The development shall operate in full accordance with all measures identified within the Travel Plan from first occupation thereafter.

(b) The Travel Plan shall specify initiatives to be implemented by the development to encourage access to and from the site by a variety of non-car means, shall set targets and shall specify a monitoring and review mechanism to ensure compliance with the Travel Plan objectives.

(c) Within the timeframe specified by (a) and (b), evidence shall be submitted to demonstrate compliance with the monitoring and review mechanisms agreed under parts (a) and (b).

Reason: In order that both the local planning authority may be satisfied as to the practicality, viability and sustainability of the Travel Plan for the site and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

(9) No development shall commence on site until a detailed schedule and specification of all external materials and finishes, including windows, external doors and roof coverings to be used on the extensions hereby approved have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the high design quality demonstrated in the plans and submission is delivered so that local planning authority may be satisfied

as to the external appearance of the building and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

- (10) (a) Siting and elevation details of a secure and dry cycle store shall be submitted to and approved by the local planning authority. The cycle store shall be provided in accordance with the approved plans prior to commencement of the nursery use hereby granted, and maintained thereafter.
- (b) The secure cycle parking to the frontage and internal 'buggy storage' space shown on Plan pa123/p103 shall be provided in full prior to commencement of the nursery use, and maintained thereafter.

Reason: In order to ensure adequate provision for cycle parking and pram storage, and to comply with Policy 14: Sustainable movement and transport of the Core Strategy (2011).

- (11) (a) Details of boundary treatments, including any gates or fences within the rear garden separating the areas allocated to the day nursery and upper floor residential occupiers, shall be submitted to and approved in writing by the local planning authority prior to commencement of the use hereby granted.
- (b) The approved treatments shall be implemented prior to commencement of the use hereby granted, and maintained thereafter.

Reason: To ensure that the boundary treatment is of adequate design in the interests of visual and residential amenity, and in order that the local planning authority may be satisfied as to the amenity space provision in the scheme, in compliance with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character and DM Policy 32 Housing Design, layout and space of the Development Management Local Plan (November 2014).

INFORMATIVE

- (A) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.