

Committee	PLANNING COMMITTEE B	
Report Title	46 Bromley Road, SE6 2TP	
Ward	Rushey Green	
Contributors	Amanda Ghani	
Class	PART 1	9 th November 2017

<u>Reg. Nos.</u>	DC/17/102817
<u>Application dated</u>	01/08/17
<u>Applicant</u>	Mrs Hogman
<u>Proposal</u>	Change of use from residential (Use Class C3) to Day Nursery (Use Class D1) at 46 Bromley Road, SE6.
<u>Applicant's Plan Nos.</u>	PL01; PL02; PL03; PL04; PL051; PL06; PL07; PL08; PL09; PL10; PL11; Location Plan; Design & Access & Heritage Statement - Plan B Architecture Ltd; Planning Statement
<u>Background Papers</u>	(1) Case File LE/472/46/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	Area of Archaeological Priority PTAL 6a Floor Risk Zone 2 Culverley Green Conservation Area Culverley Green Article 4 Direction Not a Listed Building nor a locally listed building Classified an A Road.
<u>Screening</u>	N/A

1.0 Property/Site Description

- 1.0** The application site includes a large two-storey detached Edwardian property with roof accommodation, located on the west side of Bromley Road (The A21 and a red route). The current use of the building is as a single dwelling. The property has a large front garden, an in-out driveway, with two dropped kerbs. There is a garage to the side of the property and an unused double garage at the bottom of the large rear garden (providing secondary access to a vehicular path between 48 and 50 Bromley Road). The surrounding area provides a mix of residential with a number of care homes and other community uses.

2.0 Planning History

- 2.0** PRE/16/002318 – Pre application submitted regarding the change of use from residential (Use Class C3) to nursery (Use Class D1) to provide day care for up to

60 children. Pre-application response stated that no identified demand had been demonstrated nor had alternative accommodation been considered. On this basis, the principle of the use had not been shown to be acceptable. Furthermore, highway concerns had been identified given the number of children proposed, the limited space within the site and the likely impact on traffic conditions along Bromley Road and the Bus Network. The applicant was advised that the current proposal could not be supported.

2.1 DC/16/098134 – Change of use from residential (Use Class C3) to Day Nursery (Use Class D1) to accommodate up to 58 children and 17 staff members together with use of the frontage for children’s drop off/pick up. Officers recommended refusal, and Planning Committee A on 11 May 2017 upheld the officer’s recommendation.

2.2 The application was refused on transport / highways grounds only, namely the:-

1. Impact on the public highway due to a failure to demonstrate satisfactory drop off and pick up arrangements within the site to ensure appropriate parking and queuing arrangements, having regard also to pedestrian safety within and immediately outside the site.
2. The proposal failed to provide a satisfactory Travel Plan to demonstrate mitigation measures against likely car use for drop off and pick up, nor did it propose robust and committed measures to promote sustainable transport mode shifts away from private vehicle use by staff and parents, which was considered against TFL guidelines.

2.3 Duty planner advice has since been sought, regarding the reasons for refusal of the preceding application (duty planning reference PRE/17/102171)

2.4 It should be noted that the applicant has an existing childcare operation at no.32 Bromley Road.

3.0 Current Planning Application

3.1 The application seeks the ‘Change of use from residential (Use Class C3) to Day Nursery (Use Class D1)’. The scheme would provide nursery spaces for up to 60 children and would be operated by 14 full time employees and 1 part time employee. The proposed opening times of the nursery are Monday to Friday 7:00am to 6:30pm.

3.2 The sole external alterations proposed relate to the installation of swing gates which would be installed at the (2) front access points of the site, to prevent vehicle access whilst allowing pedestrians access. In addition, the original internal features of the building will be retained as much as possible to allow the existing residential use to be reinstated where necessary in the future.

3.3 The existing rear garden would be retained to provide an outdoor play area ancillary to the nursery.

3.4 The development would be car free with no parking to be provided for staff, parents or visitors. Six secure cycle parking spaces would be provided within the existing

front/side garage. The front/side garage would also accommodate prams and scooters.

4.0 Consultation

4.0 This section outlines the consultation carried out by the applicant prior to submission and 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.

4.1 Site notices were displayed, a press notice was advertised on 23 August 2017 and letters were sent to 43 neighbouring properties in the surrounding area and the relevant ward Councillors. The Council's highways and conservation teams were also consulted together with Transport for London, Culverley Green Residents Association, the Council's Children's and Young People and Early Years Improvement teams.

Written Responses received from Local Residents and Organisations

4.2 Four letters in favour of the application were received. The comments are summarised as follows:-

- It is difficult to find a good place for childcare. A good quality nursery is needed in the area. The nursery group has a good record of providing quality nurseries. There are a number of children on waiting lists. The rear garden will provide a good environment for play when many children do not have access to a garden.

4.3 One neighbouring resident at 47 Canadian Avenue raised concerns over access to the garage, namely that:

- The garages at the bottom of the rear garden are accessed via an access way between 48 and 52 Bromley Road, which is in a poor state due to fly tipping and being overgrown. The resident states that this would cause problems in using the garages.

4.4 Officers note that the applicant is not proposing using the rear garages, but rather the garage to the front/side of the property.

4.5 The Culverley Green Residents Association has raised an objection, along the lines of that raised in regard to the previous application, namely:

- Concerns regarding noise from the outdoor play area arising from number of proposed pupils and staff levels
- Loss of large residential unit.
- Introduction of another nursery in the conservation area will see an over concentration resulting in cumulative negative impact on area

- No analytical documentation from Early Years Team showing the pent up demand for places in the area.
- Council meeting in February 2017 to discuss early year's provision showed there was no need for such provision in South Catford or Rushey Green wards as area is already well served.
- Parents will seek to park locally thereby adding to weekday pressure on surrounding roads. No travel plan can prevent this or ensure staff do not come by car and park locally.
- The statement about Rushey Green School is a distraction as the school is expanded with extra parking in place and has been operational for some time.
- Traffic Plan does not address problems.
- If objections are not supported by the Council, the Association would like to see the permanent closing up of the vehicle access from their rear garden onto Occupation Road (access way) and contribute to its overdue improvement.

4.6 In this regard, officers note that the Council's Early Years Quality and Sufficiency Team note that additional places in the Rushey Green area are required. In addition, the applicant is a known provider and judged to be 'Good' by Ofsted.

Written Responses received from Statutory Agencies

4.7 Transport for London were consulted and their comments are summarized below:-

- Footway/carriageway on Bromley Road must not be blocked during conversion works
- No skips or construction materials to be kept on the footway or carriageway
- Car free proposal welcomed and applicant does not need to supply a blue badge parking space
- Level of secure cycle storage exceed London Plan minimum standard
- Travel Plan ambitious and welcomed. Non-car travel should be secured by condition
- Design and Access Statement contradicted the Transport Statement. The applicant has subsequently confirmed the servicing arrangements will take place at no.32 Bromley Road rather than the subject property and is considered acceptable and should be secured by condition.

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. 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)'.

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.

Other National Guidance

- 5.4** On 6 March 2014, DCLG launched the national Planning Practice Guidance (PPG) resource. This replaced a number of planning practice guidance documents.

London Plan (March 2016)

On 10 March 2016 the London Plan (consolidated with alterations since 2011) was adopted. The policies relevant to this application are:

Policy 3.16 Protection and enhancement of social infrastructure
Policy 3.18 Education facilities
Policy 3.9 Mixed and balanced communities
Policy 6.9 Cycling
Policy 6.10 Walking
Policy 6.13 Parking
Policy 7.2 An inclusive environment
Policy 7.4 Local character
Policy 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes

Core Strategy

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:

Spatial Policy 1 Lewisham Spatial Strategy
Spatial Policy 5 Areas of Stability and Managed Change
Core Strategy Policy 8 Sustainable design and construction and energy efficiency
Core Strategy Policy 14 Sustainable movement and transport
Core Strategy Policy 15 High quality design for Lewisham
Core Strategy Policy 19 Provision and maintenance of community and recreational facilities

Development Management Local Plan

5.5 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:

The following policies are considered relevant 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 26	Noise and vibration
DM Policy 29	Car parking
DM Policy 30	Urban design and local character
DM Policy 31	Alterations/extensions to existing buildings

DM Policy36 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

London Plan Supplementary Planning Guidance (SPG)

5.6 The London Plan SPG's relevant to this application are:

Shaping neighbourhoods: Play and Informal Recreation (2012)

6.0 Planning Considerations

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

- a) Principle of Development
- b) Highways and Traffic Issues
- c) Noise and disturbance

Principle of Development

6.2 This application involves the loss of the existing single-family dwellinghouse and the change of use to a nursery. The principle of development is established in DM Policy 2 'Prevention of loss of existing housing' and DM Policy 42 'Nurseries and childcare' of the Development Management Local Plan (November 2014)

DM Policy 2 states that:

The Council will only grant planning permission for the loss of housing by demolition, redevelopment or change of use in the following circumstances:

- a) The proposed redevelopment would result in housing gain which regenerate and replace older housing estates in line with an agreed plan or strategy
- b) The land or premises are allocated for another use in an adopted Local Plan.
- c) A change of use to a local community service or facility is proposed that meets an identified need.
- d) An economic viability study confirms that the dwelling(s) cannot be rehabilitated to a satisfactory standard at reasonable cost.
- e) Evidence shows the environmental problems are such that demolition and redevelopment is the only effective option.

DM Policy 42 states that:

The Council will require applicants for day nurseries and facilities for the car, recreation and education of children to consider:

- a) The acceptability of the loss of the existing use
- b) Traffic volumes and the effect on congestion

- c) Accessibility by walking, cycling and public transport
- d) Access, egress, cross-site movement and parking/drop off areas, including for disabled users.
- e) The impact on local residential amenity, including noise
- f) The need for suitable space for outside play areas.

6.3 In order to assess the acceptability of the principle of development, the principle of the loss of the existing house must be addressed and a need for the proposed nursery within the Rushey Green Ward identified, in line with DM Policy 2 paragraph c and DM Policy 42 paragraph a.

6.4 Lewisham Councils 'Childcare Sufficiency Assessment and Plans for Extended Entitlement (2016) states that "with plans for an extended early education entitlement for eligible children aged 3 and 4 years from September 2017, Rushey Green, Lewisham Central, Forest Hill, Evelyn, New Cross and Perry Vale wards will have greater numbers of children eligible for these places." As a result, there will be greater requirements in these wards for 'more flexible early education to meet the needs of working families.'

6.5 Consequently, the principle of the proposed change of use is considered to meet the requirements of DM Policy 2 paragraph C which provides that planning permission will only be granted where 'a change of use to a local community service or facility is proposed that meets an identified need' and DM Policy 42 paragraph a. Furthermore, in support of the principle (though not in itself creating a precedent which dictates a particular approach), a recent appeal decision at 59 Daneby Road where an appeal against the Councils refusal of planning permission for a change of use of a dwellinghouse to a nursery in SE6 was upheld, confirmed that up to date Childcare gap analysis were a material consideration in assessing and understanding demand for additional day nursery provision in the area.

6.6 As the application site is situated in the Culverley Green Conservation Area, s72 of the Town and Country Planning Act 1990 has to be considered by the Council, which requires the Council to pay with respect to any buildings or other land in a conservation area, special attention to the desirability of preserving or enhancing the character or appearance of that Area.

6.7 Paragraph 132 of the National Planning Policy Framework (NPPF) states: "When considering the impact on a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be."

6.8 Paragraph 134 of the NPPF states: "Where a development proposal will lead to less than substantial harm to the significance of a designated asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."

6.9 The proposed development, whilst altering the nature of the use of the site, would result in a minimal external physical changes. The applicant proposes to install gates between existing brick wall piers, matching the appearance of those currently installed at number 34 Bromley Road. Officers do not support the use of

gates of this simple, functional and uninteresting design. Therefore a condition shall be added to require the submission of further details relating to a more appropriate form of gates. As such, the proposed change of use would not cause a material change in the contribution of the site property to the character and appearance of the Conservation Area.

- 6.10** The principle of the proposed change of use is therefore considered acceptable in this instance, as is the impact of the scheme upon the Conservation Area.

6.8 Highways and Traffic Issues

Bromley Road (A21) is a designated red route and the applicants own parking assessment indicated that there is no parking availability in surrounding streets. The previous application proposed vehicle dropping off arrangements, which could have resulted in car stacking and queuing within the site which in turn could have impacted the free flow of traffic on Bromley Road. The submitted Travel Plan submitted with the previous (refused) application was not considered robust enough to mitigate these concerns. However, with the current application, a car free development is proposed with no car parking or dropping off site provided for staff, parents or visitors.

The application site is considered highly accessible through public transport routes and due to its location, there is considered sufficiently legible pedestrian routes to the premises. The site is within a PTAL rating of 6a, which is considered excellent. As such, the site benefits from extensive public transport access. The property is 750m from Catford Bridge railway station and 850m from Catford Railway Station. There are nine regular bus routes that pass the property. TFL welcomes the car free element of the proposal.

Car Parking

- 6.9 TFL's comments asked for provision of at least one blue badge parking space, however, subsequent emails between TFL and the applicant between 14th-21st September 2017, show TFL acknowledging the applicants argument, reasoning and justification for not proposing a parking space. Consequently, TFL, Highways and Council officers have no objection to the lack of a disabled parking space. Given the high level of accessibility of the site and the nature of the use, a general needs car free development is supported.

Cycle Parking

- 6.10** The proposed number of six secure cycle storage spaces exceed the London Plan minimum standards of three spaces. TFL furthermore welcomes the ability for parents to leave prams in the garage.

Servicing

- 6.11** The submitted Design and Access Statement (Access for services) states that proposed deliveries for the nursery would be undertaken at the frontage of the existing Bay Tree House Nursery at 32 Bromley Road. Whilst this differs from what is written in the submitted Transport Statement (Delivery and Service Vehicles) which states that proposed deliveries would take place at the frontage of 46 Bromley Road, limited to weekdays between 11am and 2pm, a maximum of 3 times per week. Officers confirmed with the applicant that servicing would take

place at 32 Bromley Road rather than at the subject site. TFL do not object to this part of the proposal and officers find the arrangement to be acceptable. As a consequence, an updated delivery and servicing plan will be secured by condition.

Noise and disturbance

The main concern would be through the transmission of noise internally through the building, noise from parents dropping off and picking up children and noise generated from use of the rear garden for play.

- 6.12** The building is detached and of a substantial size and there would be no significant issues regarding internal noise or vibration transmission. The site is located on a main road with significantly high ambient noise levels. There is heavy pedestrian and traffic movement in this area, being close to the town centre. It is not considered that the movement and activity associated with picking up and dropping off children at the property would have a significant impact given the backdrop to the sites location and as the scheme would not incorporate car parking, and the site road is a no stopping red route between 7am and 7pm.
- 6.13** Regarding the use of the rear garden, the Environmental Health Officer is satisfied that the level of supervision during play times would be sufficient to mitigate noise from children's play that could be detrimental to adjacent residential amenity. Moreover, the nursery operating at 32 Bromley Road has not resulted in any complaints from noise nuisance to the Council from adjacent residential properties. The hours of use of the property, as well as playtime and levels of supervision, could be conditioned if the application is considered acceptable. In this respect, the use of the premises in terms of noise and activity is considered acceptable.

Local Finance Considerations

- 6.14** The Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), 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).
- 6.15** The weight to be attached to a local finance consideration remains a matter for the decision maker. In this instance the development would not result in any CIL liability or exert any other local finance implication that would have any significance in the assessment of this scheme.

Equalities Considerations

- 6.16** 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:-
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

- advance equality of opportunity between persons who share a relevant protected characteristic and those who do not;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.17 The protected characteristics under the Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6.18 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. Having assessed the proposals, officers have concluded that there is no impact upon equalities.

Conclusion

6.19 This application has been considered in the light of policies set out in the development plan and other material considerations. Officers consider the proposal to be acceptable.

7.0 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.
- (2) The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

PL01; PL02; PL03;PL04; PL05;PL06; PL07; PL08; PL09; PL10; PL11;
Location Plan; Design & Access & Heritage Statement - Plan B
Architecture Ltd; Planning Statement

- (3) Notwithstanding the details hereby approved, prior to the first use of the development hereby approved, detailed drawings showing the proposed front gates shall have been submitted to and approved in writing by the local planning authority, and thereafter retained for the lifetime of the development.
- (4) The maximum number of children attending the day nursery at any one time shall be 60.
- (5) The external play area shall not be used by nursery children other than on Mondays to Fridays between the hours of 10am -12pm and 2.30pm – 4.30pm, with no more than 20 children using the area at any one time.
- (6) The premises shall not be open for customer business between the hours of 6.30 pm and 7.00 am on Mondays to Fridays, and not at all on Saturdays, Sundays and Public Holidays.
- (7) The development hereby approved shall not be occupied until the existing driveway access has been closed and new gates installed to prohibit motor vehicles from parking,

dropping off /picking up on the driveway for as long as the building remains in D1 use. Following the first commencement of the use hereby approved, no car parking upon – or motor vehicle access onto – the site shall occur.

(8) All deliveries and servicing for the property shall be undertaken at the frontage of existing Bay Tree House Nursery at No.32 Bromley Road as stated in the submitted Design and Access Statement with the aim of reducing the impact of servicing activity.

(9) The approved Delivery and Servicing Plan shall be implemented in full accordance with the approved details from the first occupation of the development and shall be adhered to as long as the building remains in D1 use.

Reasons

- (1) **Reason:** As required by Section 91 of the Town and Country Planning Act 1990.
- (2) **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) **Reason:** In order that the local planning authority may be satisfied as to the detailed treatment of the proposal 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.
- (4) **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 Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration DM Policy 42 Nurseries and childcare of the Development Management Local Plan (November 2014)
- (5) **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 and DM Policy 42 Nurseries and childcare of the Development Management Local Plan (November 2014)
- (6) **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 DM Policy 42 Nurseries and childcare of the Development Management Local Plan (November 2014)
- (7) **Reason:** To prevent vehicle access to the front of the property in order to ensure that the development does not prejudice the free flow of traffic or conditions of general safety along the neighbouring highway and to comply with the Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).
- (8) **Reason:** In order to ensure satisfactory vehicle management and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).
- (9) **Reason:** In order to ensure satisfactory vehicle management and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

INFORMATIVES

(1) **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 and proactive discussions took place with the applicant prior to the application being submitted through a pre-application discussion. As the proposal was in accordance with these discussions and was in accordance with the Development Plan, no contact was made with the applicant prior to determination.