

LONDON BOROUGH OF ENFIELD

PLANNING COMMITTEE

Date : 16th December 2010

Report of
Assistant Director, Planning &
Environmental Protection

Contact Officer:
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Ward: Grange

Application Number : TP/96/0971/8

Category: Other Development

LOCATION: 8, Uplands Way, London, N21

PROPOSAL: Variation of condition 2 granted under ref: TP/96/0971/5 to allow use of garden for outdoor play for a 1 hour time period only between the hours of 10.00hrs - 12.00hrs and a 1 hour time period only between the hours of 14.00hrs and 16.00hrs together with an increase from 5 to 10 children using the garden area at any one time.

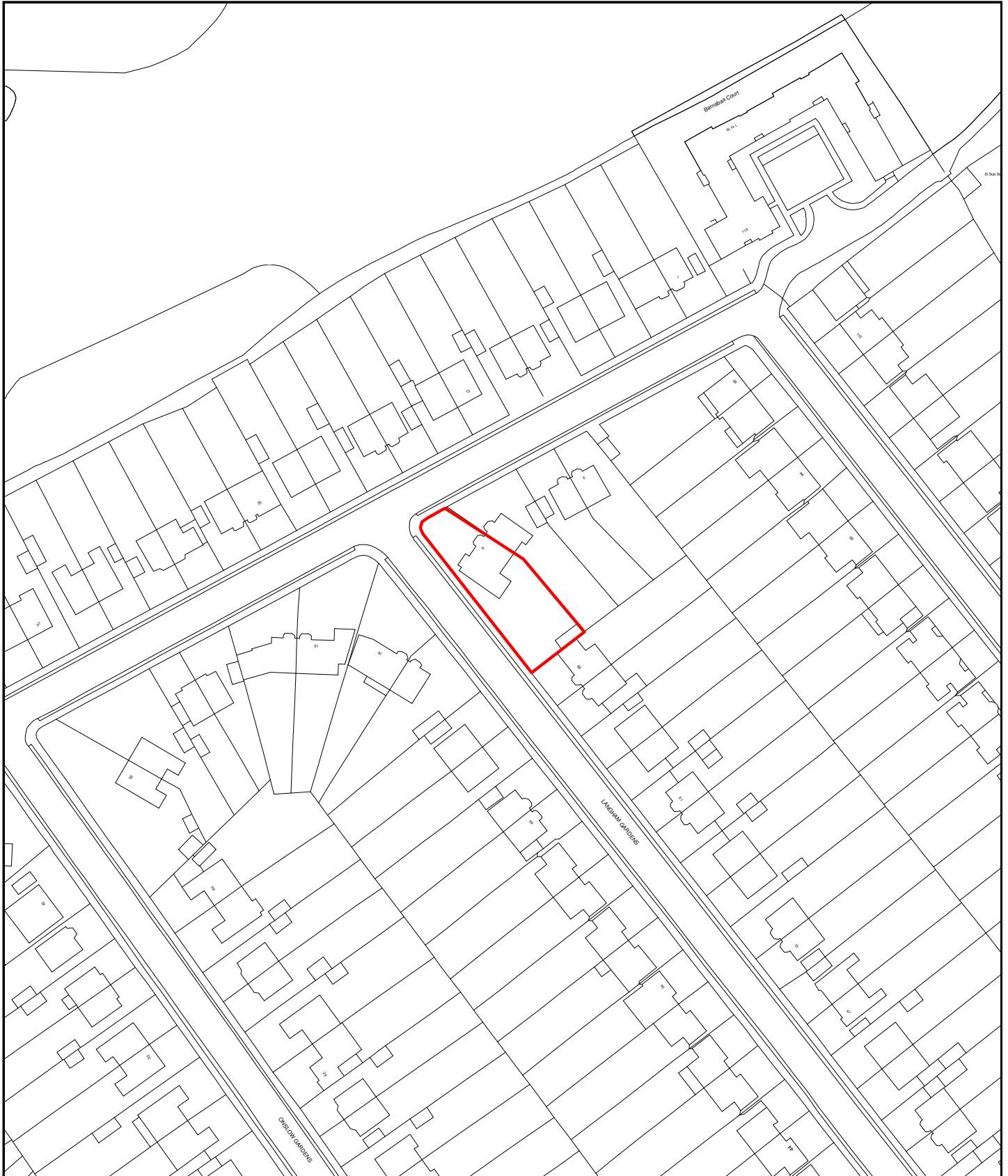
Applicant Name & Address:
Mr & Mrs John and Marie Coutinho
8, UPLANDS WAY,
LONDON,
N21 1DG

Agent Name & Address:

RECOMMENDATION: That planning permission be **GRANTED** subject to conditions.

Note for Members

Although an application of this nature would normally be determined under delegated authority, due to the local interest in the Nursery use of the property and the concerns of local residents, Councillor Neville has requested that the application be reported to Planning Committee for consideration.



Development Control



Scale - 1:1250
Time of plot: 08:23

Date of plot: 03/12/2010

1.0 Site and Surroundings

- 1.1 1.1 The property is a two storey semi-detached property on the southern side of Uplands Way on the corner of its junction with Langham Gardens. The property contains a children's day nursery operating on the ground floor of the house for up to 20 children (ref: TP/96/0971/5). The surroundings area is residential character.

2.0 Proposal

- 2.1 Permission is sought to vary Condition 2 of the relevant planning permission to allow children to play in the rear garden for a one hour time period only between 10.00 - 12.00 and a one hour time period only between 14.00 and 16.00. Currently the nursery is restricted to two half-periods between 10.30-11.00 hours and 15.00-15.30 hours.
- 2.2 The proposal also involves increasing the maximum number of children allowed in the garden at any one time from 5 to 10 children at any one time.

3.0 Planning History

- 3.1 TP/96/0971/2 – Variation of Condition 4 of approval under Ref: TP/96/0971/1 to allow increase in the number of children attending nursery from 10 – 15 – Granted February 1999.
- 3.2 TP/96/0971/4 - Variation of Condition 4 of approval under Ref: TP/96/0971/2 to allow increase in the number of children attending nursery from 15 – 20 – Refused Feb 2005.
- 3.3 TP/96/0971/5: Variation of condition 4 to allow an increase in numbers of children attending to a maximum of 20. Granted subject to conditions 30-Dec-2009.
- 3.4 TP/96/0971/6: Details of the drop off / pick up and access arrangements submitted pursuant to condition 6 of approval granted under ref: TP/96/0971/5 for the variation of condition 4 to allow an increase in numbers of children attending to a maximum of 20. Approved 24-May-2010.
- 3.5 TP/96/0971/7: Details of travel plan submitted pursuant to condition 5 of approval granted under ref: TP/96/0971/5 for the variation of condition 4 to allow an increase in numbers of children attending to a maximum of 20. Approved 11/07/2010.
- 3.6 TP/10/1336: Installation of a shed to provide storage ancillary to the nursery, sited on the side of the property adjacent to Langham Gardens. This application is undetermined and is reported elsewhere on this Agenda.

4.0 Consultations

4.1 Statutory and non-statutory consultees

- 4.1.1 The Early Years Team support the proposed application.
- 4.1.2 Environmental Health raises no objection.

4.1.3 Traffic and Transportation raises no objection.

4.2 Neighbours:

4.2.1 Consultation letters were sent to 63 neighbouring properties and a notice was displayed at the site. In response 27 letters were received with 13 of those letters either stating no objections or support for the scheme. The remaining 14 letters raised the following objections:

- Noise and disturbance and adverse effect on neighbouring occupiers' amenities and character of area
- Commercial enterprise in a residential area
- Applications should have been included with previous application to extend the numbers of children permitted
- Premises unsuitable for a nursery of this size
- negative affect on house prices
- increases proportion of premises used as a nursery

4.2.2 Petition

A petition containing 10 signatures was also received objecting to the proposal on the aforementioned grounds

5.0 Relevant Policies

5.1 Core Strategy Policies

At the meeting of the full Council on 10th November 2010, the Core Strategy of the Local Development Framework was approved. The document and the policies contained therein are now material considerations to be taken into account when considering the acceptability of development proposals. The following are of relevance:

SO1 Enabling and focusing change
SO2 Environmental sustainability
SO3 Community cohesion
SO5 Education, health and wellbeing
SO6 Maximising economic potential
SO10 Built environment

CP8 Education
CP9 Supporting community cohesion
CP13 Promoting economic prosperity
CP24 The road network
CP25 Pedestrians and cyclists
CP26 Public transport
CP30 Maintaining and improving the quality of the built and open environment

5.2 UDP Policies

After the adoption of the Core Strategy, a number of UDP policies are retained as material considerations pending the emergence of new and

updates policies and development standards within the Development Management Document. The following are of relevance

- (II) GD1 – New developments are appropriately located
- (II) GD3 – Aesthetic and functional designs
- (II) GD6 – Traffic generation
- (II) GD8 – Site access and servicing
- (II) H8 – Privacy and over-looking
- (II) H9 – Provision of amenity space
- (II) H12 – Extensions
- (II) H15 – Roof extensions
- (II) T13 – Access
- (II) CS1 – Community Services
- (II)CS4 Day nurseries

5.3 London Plan Policies

The following policies of the London Plan (GLA) – Spatial Development Strategy for Greater London (2004) may also be of relevance:

- 3A.14 Addressing the needs of London's diverse population
- 3A.18-3A.23 Protection and Enhancement of Social Infrastructure and Community Facilities and Health Impacts
- 3C.1 Integrating Transport and Development
- 3C.22 Cycle Parking Strategy
- 3C.23 Parking Strategy
- 4B.1 Design Principles
- 4B.3 Maximising the potential of Sites
- 4B.6 Sustainable Design and Construction
- 4B.7 Respect local context and communities

5.4 Other Material Considerations:

- PPS1 Delivering Sustainable Communities
- PPG13 Transport

6.0 **Analysis**

- 6.1 The principle of a children's day nursery operating from the property on the ground floor of the house has already been established and most recently, the number of children attending was allowed to increase to 20 in January 2010 (ref: TP/96/0971/5). A condition was attached to this approval requiring that:

'That the garden area shall be used for outdoor recreation in connection with the use of the ground floor of the premises as a children's nursery only between the hours of 1030 to 1100 and 1500 to 1530 and that no more than five children may use the garden area at any one time unless otherwise agreed in writing by the Local Planning Authority.'

Reason: to ensure that the proposed development does not unduly prejudice the amenities of nearby occupiers of adjoining and nearby residential properties.'

- 6.2 The key issue here is whether an increase of 5 in the number of children using the garden at any one time for a maximum of an hour within two 2 hours slots (i.e. 1 hour between 10-12 and 2-4) would be acceptable in terms of noise and disturbance to neighbouring residential occupiers.
- 6.3 In assessing any proposal involving a children's day nursery, the criteria and guidance of Policy (II)H2 is applicable. In the preamble to this Policy, paragraph 9.2.6, states that certain non-residential uses are appropriate in residential areas where they serve the needs of the local communities. In particular, day nurseries are specifically mentioned as an example of an appropriate use and should be assessed in accord with the provisions of Appendix A1.6. This Appendix states that:
- “For semi-detached houses, noise and disturbance maybe a concern and therefore the number of children involved will be an important consideration, that car facilities will need to be carefully located and that the nursery should be of modest scale, probably confined to part of the ground floor”.
- “The provision of outside play space is highly desirable and the Council will take into account when considering the overall acceptability of any proposed day nursery”.
- 6.4 As identified in the Council's Unitary Development Plan, the main consideration is the relationship of the proposed use of the garden to the surrounding residential environment with particular emphasis on the noise and disturbance associated with the scale of use.
- 6.5 As a semi detached dwelling, policy acknowledges that the property is appropriate for a children's day nursery of an appropriate scale, and under previous applications the use has been limited to the ground floor and for a maximum of 20 children.
- 6.6 A further consideration as identified by the Unitary Development Plan is the desirability of outside play space. In previous applications, local resident's have raised concerns regarding the impact of the proposed additional numbers on the quality of care provided by the Nursery in particular the provision of outdoor play, given the extant conditions which limit outdoor play.
- 6.7 There are no statutory standards for minimum outdoor space standards, the quality of the overall nursery provision being assessed by Ofsted. However Early Years Statutory guidance highlights that ‘Wherever possible, there should be access to an outdoor play area, and this is the expected norm for providers. In instances where outdoor space cannot be provided, outings should be planned and taken on a daily basis (unless circumstances make this inappropriate, for example unsafe weather conditions).
- 6.8 In this case, the extant permission allows use of the garden to the property for a maximum of 5 children for a total of one hour for the entire day. This limits the time for each child to have access to outdoor play to 15 minute. The applicant has previously indicated that trips to the open space on Cheyne Walk situated approximately 250m away are undertaken for one to one-and-half hours daily and where the open space is muddy, walks to the shops in The Grangeway are undertaken.

- 6.9 Whilst there are no planning grounds to object to these arrangements, the Applicant wishes to increase use of the garden by the children and no objection from either the Early Years team or Environmental health have been raised.
- 6.10 Nevertheless, objections have been raised by local residents regarding the proportion of the house used as a Nursery and the effect on residential amenities. It must be noted that the proposal does not increase the amount of floor space given over to the nursery use. Moreover, the proposal is not considered to materially harm the ability of the premises to function as a residential unit and objections raised regarding the impact of the proposal on house prices are not material planning considerations.
- 6.11 There would though be an increase in the use of the rear garden accentuated by its regularity which may not be typical of a normal residential property. The nearest property would be No 10 Uplands Way, whose rear garden abuts that of the Nursery. The character of the surrounding residential area is also noted. It must also be acknowledged that the use of a garden by individuals will vary with some generating more noise and activity than others. However, the rear garden is of a reasonable size that would permit play in areas away from the boundary. In addition, weight has to be given to the current level of garden use.
- 6.12 Taking these considerations into account, on balance, it is considered that the increase in noise and activity would be relatively modest and would not materially harm the existing levels of amenity in this instance. Thus it is felt that the proposal to increase hours and numbers of children using the garden at any one time would not give rise to conditions prejudicial to the residential character of the area or the residential amenities of neighbouring and nearby occupiers.

7. Conclusion

- 7.1 In the light of the above and the broad policy objective in the UDP to support the delivery of community facilities appropriate to the needs of the Borough (UDP Policy (II)CS1), the application is recommended for approval for the following reason:
1. The proposed increase in the amount of time and number of children using the rear garden at any one time would not cause undue noise and disturbance to neighbouring occupiers. The proposal is considered to be in accordance with Policies of the Core Strategy Strategic Policy 5 and Core Policies 9 and 30 as well as Policies (II)CS1, (II)CS4 and (II)EN30 of the Unitary Development Plan.

8 Recommendation

- 8.1 That planning permission be GRANTED subject to the following condition:
1. That the garden area shall be used for outdoor recreation in connection with the use of the ground floor of the premises as a children's nursery for a maximum of 1 hour only between the hours of 10.00 - 12.00 and 1 hour only between the hours of 14.00 and 16.00

and that no more than ten children may use the garden area at any one time unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure that the proposed development does not unduly prejudice the amenities of nearby occupiers of adjoining and nearby residential properties.