DELEGATED APPLICATIONS ASSESSMENT SHEET

APPLICATION NO./ADDRESS: Reflections Day Nursery, 54 Richmond Road

WB/10/0663/FULL – Proposed external themed play area and detached green house to rear garden
WB/10/0457/LBC – Application for listed building consent for an external themed play area in the rear garden
WB/10/0767/LBC – Green House to the rear garden area

DATE OF SITE VISIT: 1.7.2010 (with applicant)

NEIGHBOURS CHECKED: Y

ADDITIONAL NEIGHBOUR NOTIFICATIONS: N

PROPOSAL, SITE AND SURROUNDINGS:

54 Richmond Road is a Grade II Listed Building in the Richmond Road Conservation Area. Planning permission was granted in October 2003 (WB/03/01051/FULL) for change of use to a child care nursery together with the erection of a conservatory, the widening of the existing vehicular access and laying out of the car park. Play space laid out at the rear largely corresponds with the approved layout drawing and equipment granted under WB/06/0893/FULL.

Listed building consent was initially sought under WB/10/0457/FULL for additional themed interactive play provision within the rear garden comprising a beach area and pebble area. Each would consist of an octagonal enclosure (measuring 5m by 3.6m) created by sanded railway sleepers laid onto the ground, filled either sand or pebbles on a Geotex fabric. The beach enclosure is sited to the west side of the coach house in the northeast part of the garden and the pebble area is sited to the south and west adjacent to the existing playhouse (to be retained).

It is debatable whether the proposed equipment constitutes operational 'development' under Section 55 of the Act, but on reflection it was considered that planning permission should be obtained for the play equipment under the provisions of Condition 16 of WB/03/01051/FULL which still 'bites'.

The applicant subsequently decided to include a greenhouse as part of the planning application submitted under WB/10/0663/FULL. The greenhouse would be 6.2m wide and 3.2m deep having an east-west ridge 2.6m high (eaves height at 1.4m). It would be fully glazed with an aluminium frame. The greenhouse would be sited 3.2m from the rear (north) site boundary, replacing an exiting hexagonal seat. A separate application seeking for listed building consent for the green house has been submitted under WB/10/0767/FULL. In support of the application for the greenhouse the applicant's agent states:-

"The proposal relates to the existing use of the garden area and not to a new use nor to an intensification of use.

One would trust that there would be support for the proposal as this is to provide a learning and development resource. Given the limited degree of fixation it is also in planning terms temporary by its very nature."

RELEVANT PLANNING HISTORY

Permission granted under WB/03/01051 for a change of use to child care nursery, erection of conservatory, widening of existing vehicular entrance and laying out of car park . Condition 16 of WB/03/01051/FULL states:-

Before the use commences, play space shall be identified, laid out and demarcated in accordance with details to be agreed in writing with the Local Planning Authority. Thereafter no changes shall be made to the size and position of the play space without reference to the Local Planning Authority in an application on that behalf.

Reason: To ensure that adequate play space is provided in accordance with Local Plan policy and without detriment to the amenities of neighbours.

Permission was granted under WB/06/0893/FULL for re-paving, re-turfing rear garden area including the provision of gazebo, playhouse and bark mulch area.

RELEVANT PLANNING POLICIES

Saved Local Plan policies: BE1, H18
Submission Core Strategy: Policies 11 and 16
PPS5 Planning for the Historic Environment (2010)

RELEVANT CONSULTATION RESPONSES AND REPRESENTATIONS:

Executive Head of Housing, Health and Community Safety: The Environmental Health section received complaints from neighbours regarding vocal noise, shouting, screaming and vehicle noise. Total of 9 complaints since 2005, mostly in Summer, re. use of garden. The last investigated complaint: July 2008. On investigation considered not unreasonable noise from a nursery therefore nuisance not substantiated. I note the proposal states there would be no intensification of use of the garden therefore there is no objection. Condition construction of play area as per C.7G. N.B. Health & Safety point: genuine railway sleepers are impregnated with creosote/tar and are not advisable in children's play areas.

Conservation Area Advisory Committee: No objection.

4 Letters of objection have been received from the occupiers of 3A Abbotts Close, 10 Victoria Road and the ground and first-floor flat at 7 Abotts Close raising the following concerns:-

i) At present the considerable noise generated by the children causes an almost constant disturbance from early morning until approximately 6pm, outdoor play times seem to be unregulated and the noise is intrusive and relentless. Should the play equipment be located closer to my garden (7 Abbotts Close) I would anticipate that noise levels would become more unreasonable.

ii) As this is a Conservation Area where Tree Preservation Orders and residential planning is strictly enforced, the character of the area should not be further devalued by the expansion of Reflections and its intrusion on neighbouring properties.

iii) The existing play area creates a constant noise level which is audible within home and garden, object to the play area extending closer to boundary (with 7 Abbotts Close).

iv) An extension to the play area will only increase noise and therefore increase nuisance for nearby residents.

v) The original application for change of use mentioned only a handful of toddlers but the number of children and ages creep up slowly almost without notice, until now there is an after school café and dozens of children into their teens rushing around the garden creaming and shouting.

vi) Allowing Reflections to continue chipping away at the Conservation Area defies the definition as 'a tract of land that has been awarded protected status in order to ensure that natural features, cultural heritage or biota are safeguarded'. The originally unspoilt grass has all but been destroyed and the fauna and wildlife no longer that which was supposed to be conserved. The themed play area is another attempt to destroy the peaceful environment once enjoyed.

PLANNING ASSESSMENT:

The main issues for consideration are the effect of the proposals on the setting of the listed building and on the character and appearance of the Conservation Area, and the impact on the amenities of surrounding residential occupiers.

The proposed themed play provision and greenhouse are ancillary to and consistent with the use of the property as a children's day care nursery. The rear garden is enclosed by trees and hedging to the side and rear. There is a rear patio and a paved footway leading from the patio, linking the access on the east side of the building to the coach house in the northeast corner of the garden. A semi-circular area of mulched bark is accessed from the patio and a number of timber play structures are sited sporadically in the garden, including a playhouse, boat and gazebo. A sand pit is located on the patio. The proposed beach and pebble themed play areas would provide an interactive play experience, broadening the existing choice. The applicant has stressed that the proposed greenhouse is not a piece of 'play equipment' but has an educational purpose, and would assist in promoting healthy lifestyles.

The scale of the proposed beach and pebble play areas is very modest, no more than 0.5m high, involving limited construction and could easily be removed at a later date. The nearest area is located some 20m from the rear

of the main building, and would not detract from its setting or otherwise detract from the architectural interest or historic character of the Conservation Area.

The proposed greenhouse is not excessively large or out of keeping within a garden setting, and would be sited sufficiently distant from the main building as to not affect its setting.

[The definition of a conservation area referred to by the third party derives from the Wikipedia online encyclopedia. Section 69 of the Civic Amenities Act 1967 gives local councils the power to designate as Conservation Areas, "areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance".]

The concerns raised by third parties relate specifically to the potential for increased noise and disturbance arising children at play using the additional equipment, in particular, as a result of equipment being sited closer to the boundaries with neighbouring properties.

A condition of planning permission restricts the number of children playing in the garden at any one time to 30 and between the hours of 8.00 am and 7.00 pm only. [The temporary permission for the out-of-school club expired in September 2006.] During a site visit carried out on a sunny afternoon when children were playing in the garden (Thurs pm), it was observed that children, although supervised, were not apparently restricted to certain parts of the garden. Dense screen planting along the site boundaries deters children from these areas. As part of the consideration of the above-mentioned application in 2006, and following complaints from residents regarding noise from children playing in the garden, a noise survey was carried out by the Senior Environmental Health Officer. This identified that WHO noise guidelines were not being exceeded and the noise arising from the use of the garden in connection with the day nursery did not amount a Statutory Noise Nuisance.

The number of children playing in the garden would not be increased as a result of this application, and thus the overall intensity of noise arising from children playing in the garden would not be increased. The pieces of themed play equipment are low key and would not be inherently noisy. There may be *some* noise from children picking up and dropping beach pebbles as part of normal play, but the pebble themed area is sited centrally in the garden, away from sensitive boundaries. Common sense dictates that the use of these themed areas would need to be supervised in any event (much like the use of the existing equipment) to prevent inappropriate use.

Similarly, given the risks associated with having a glazed structure within a play area, the use of the green house by the nursery children will need to be carefully supervised. [However, this is not a planning matter and would be regulated by other organisations, such as OFSTED.] The use of the green house (visited by groups of children) is unlikely to be a noisy activity in itself. Moreover, it could be argued that the safety concerns associated with a glazed greenhouse will discourage use of this part of the garden for general play.

In conclusion, the number of children in the garden at any one time will not increase. Since the children are not currently restricted to certain parts of the garden at playtimes and the use of the proposed themed play provision and greenhouse would not be inherently noisy, it is considered it would be difficult to substantiate refusal on the grounds that the residential amenity of the occupiers of neighbouring property would significantly worsen as a result of this proposal.

RECOMMENDATION

WB/10/0663/FULL

APPROVE subject to:-

1. Standard 5 years
2. Approved drawings
3. limit hours of construction
4. No more than 30 children shall play in the garden (including visiting the greenhouse) at any one time and no children shall play in the garden or visit the greenhouse other than between the hours of 8.00 am and 7.00 pm on the days approved by condition 13 of planning permission WB/03/01051/FULL.
   Reason: To safeguard the amenities of the occupiers of neighbouring properties in accordance with saved policy H18 of the Worthing Local Plan.

Informative: re. railway sleepers

WB/10/0457/LBC and WB/10/0767/LBC

GRANT CONSENT subject to:-

1. Standard 5 years

REASON FOR RECOMMENDATION:

The proposed themed play provision and greenhouse within the grounds of this Grade II listed building would not detract from its historic interest or the character or appearance of the Richmond Road Conservation Area. Careful consideration has been given to the concerns raised by the third parties, however, subject to continuing control over the number of children at play in the rear garden (to include children visiting the greenhouse), it is considered the proposed additional themed play provision and greenhouse would not result in a significant worsening of the living conditions of the occupiers of neighbouring residential properties. The proposal does not therefore conflict with saved policies BE1 and H18 of the Worthing Local Plan, or national planning policy guidance contained in PPS5.

HUMAN RIGHTS:

Article 8 (Right to Respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application. It is accepted that the proposal, if approved, would have some impact on the neighbouring properties. However, it is considered that on balance, existing residential quality of life would not be significantly adversely affected as a result of the proposal. Accordingly it is considered that it is acceptable with regard to Article 8 and Article 1.

IS RECOMMENDATION CONTRARY TO LETTER (S) OF REPRESENTATION?

Yes

Delegated Decision

Case Officer
Sign..... [redacted] .....Date.....5·11·10.....

Authorising Officer
Sign.....Date.....