Report of the Executive Head of Planning and Transportation.

Ref: D2009/61567/FUL  WARD: D17 / BEDDINGTON NTH  Time Taken: 7 weeks, 2 days

Site: Land at rear of 136 Croydon Road  Beddington  CR0 4PG

Proposal: Continued use of land as garden area for adjacent Link Primary School at 138 Croydon Road.

Applicant: Ms C Armstrong

Agent:

Recommendation:

GRANT PLANNING PERMISSION

Reason for Report to Committee: The earlier temporary permission (1 year) was determined by the Development Control Committee, and as such it is considered appropriate to refer this application to the Committee for decision.

Summary of why application proposals are acceptable:
- The proposal to permanently retain the sensory garden as part of the Link Primary School would not adversely affect the amenities of adjoining residents.

1.0 BACKGROUND

1.1 Site and Surroundings:

1.2 The application site comprises an area of garden land of 9m width and 12m length, that formerly formed part of the back garden of No. 136 Croydon Road. In October 2007 temporary planning permission (for one year) was granted to use it as a sensory garden by the pupils of the adjacent Link Primary School. The planning permission was implemented and it has been in that use since then. The permission was later extended in 2008 for a further year.

1.3 The sensory garden area contains a detached garden shed / outbuilding, wooden decking with outdoor furniture, gardening beds, fruit trees, lawn and paths, and is enclosed within 1.8m-2m high close board timber fencing. Access to the garden is provided from the school premises to the west. The Link Primary School caters for special needs children with speech, language and communication difficulties and has some 40 pupils.

1.4 No 136 Croydon Road comprises a semi-detached house in residential use and has a back garden of 70sqm in area (excluding the garden beyond that is used as the sensory garden). The garden plot is bordered to the north by the rear gardens of No. 1 Cedar Close and to the east by the rear garden of No. 134 Croydon Road. Both of these properties are in residential use.
1.5 **Site Specific UDP Designation:**

1.6 The application site is located within the Archaeological Priority Area, as identified in the Sutton UDP Proposals Map.

1.7 **Relevant Planning History:**

1.8 Permission was granted in October 2007 (ref: 07/58270/FUL) for the “Use of the land as garden area for adjacent Link Primary School at 138 Croydon Road”. This permission was subject to a temporary 1 year condition, restrictions on the hours of use (0900 and 1600 on Mondays to Fridays and at no time on Saturdays, Sundays, Public and Bank Holidays) and for gardening purposes only.

1.9 Planning permission was granted by the Development Control Committee in October 2008 (ref: 08/60132/FUL) for the “Continued use of land as garden area for adjacent Link Primary School at 138 Croydon Road”.

1.10 This permission was granted subject to the following conditions;
1. That the permission was granted for a limited one year period that expires on 10th October 2009 (when the use shall cease).
2. That the site only be used for gardening purposes in connection with the Link Primary School and not for play purposes.
3. That within one month of the date of permission a scheme of additional screening to prevent overlooking of 136 from users of the sensory garden (increasing the height of the existing fence) along the southern boundary (adjoining the rear of No 136) shall be approved by the Council and provided within two months (and retained thereafter). The height of the fence along that boundary was subsequently increased by 0.25m in height in accordance with a scheme approved by the Council.

1.0 **APPLICATION PROPOSALS**

1.1 **Details of Proposal:**

1.2 Full planning permission is sought for the continued permanent use of the land at No. 136 Croydon Road as garden land for the adjacent Link Primary School at 138 Croydon Road.

1.3 The applicant has submitted the following statement in support of the application:

“The Link Primary School caters for special needs children with speech language and communication difficulties. The space within the school buildings and outside areas available to the pupils is very limited. The school sought to address this through the acquisition of the adjoining building at 136 Croydon Road.

Planning permission was granted for temporary use for 1 year from October 2007 from Monday to Friday from 9am to 4pm. Further temporary planning permission for the garden purposes in connection with the Link
Primary School was granted for a further year expiring on 10th October 2009.

The school would like this permission to become permanent.

A lot of hard work has been done by the parents to maintain a beautiful sensory garden for the pupils. Beds have been created in different shapes, triangular and semi circular, rectangular, diamond, and quarter circle. Different surfaces and colours have been used in the beds and hard-landscaping, for example wooden decking, grass and woodchips.

Different plants are being grown, both decorative and edible, such as yellow sunflowers, holly bush, tomatoes in pots, grasses and edible herbs, fruit trees, vegetable beds sown with a variety of plants. These are supplemented by a number of plants in pots.

The garden also provides a quiet area for children to sit either on a bench or on a seat under the tree.

The garden would normally only be used between 9 and 4 during the week, but on very rare occasions parents might want to see the garden before or after school and also work on the garden outside of these hours. The impact on the neighbours at evenings and weekends would be absolutely minimal and likely to arise only rarely.

The garden is only accessed from the school playground and would therefore be closed when the school is closed. During the past year the primary school was inspected by Ofsted, who adjudged it to be ‘outstanding’. The inspector also commented that “All staff, including the school’s strong team of support staff, use practical and ‘sensory’ approaches to learning very imaginatively to motivate pupils and ensure that their lessons are fun. The school’s newly developed sensory garden provides ideal opportunities to support this way of working”.

2.0 PUBLICITY

2.1 Adjoining Occupiers Notified – Yes.

2.2 Method of Notification: 46 consultation letters were delivered to surrounding residents and a site notice was erected.

2.3 Number of Letters Received: 21 letters of support and 1 letter of objection, accompanied by a petition with 52 signatories, have been received.

2.4 Addresses of letters: 134 Croydon Road, 330 Cannon Hill Lane, 2 Beechwood Villas, 90 Corbet Close, 19 West Way, 9 Osmond Gardens, 42 Pulross Road, 22 Palmersfield Road, 10 Sprucedale Gardens, 10 Brockham Crescent, 61 Cambridge Road, 14 Lawrie Park Crescent, 42 Tewkesbury Road, 49 Eynswood Drive, 6 Rookwood Avenue, 392 Northborough Road, 28 Bennetts Way, 345 Croydon Road, 23 Bates Crescent, 12 Poplar Road, 47 Sunnymede Avenue, 33 Chartfield Road.
2.5 **Summary of material responses:**

**Opposition**
- The proposal to allow the permanent use of the garden as a sensory garden for the school is an unacceptable use in a residential area.
- Concern over current parking problems around the school premises.
- Increase in noise; school activities are now much closer to the residential gardens.
- Loss of privacy and security; the access to the garden is not secure and tools and ladders have been left out for long periods and at weekends, evening and nights.
- The proposal is contrary to Policy G/HSG1 and G/HSG3 of the Sutton UDP.

**Support**
- The peaceful space is a wonderful setting for the children to relax and to appreciate the beauty of the plants and vegetables, many of which they have grown themselves.
- The garden not only serves as a tranquil setting, but is also of huge educational benefit to the pupils.
- The joy the children derive from being involved in the whole gardening process, from planting the seeds to picking the produce, is immense. The activities undertaken in the garden teach the children important life skills and promote healthy living issues, whilst encouraging a real sense of self-achievement.

2.6 **Summary of non-material responses:**
- Future expansion of the school is being planned, with the school having purchased 132, 136 and 138 Croydon Road.

2.7 **Official Consultation**

2.8 **Internal:** None.

2.9 **External:** None.

2.10 **Councillor Representation:** None.

3.0 **MATERIAL PLANNING POLICIES**

3.1 Section 38(6) of the Planning and compulsory Purchase Act 2004 states that when determining a planning application, regard is to be had to the development plan, and the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the London Borough of Sutton comprises the following documents:


3.3 Sutton Unitary Development Plan
- BE4 Building Relationships
3.4 The Local Development Framework (LDF) Core Planning Strategy- Proposed Submission Document, approved by Full Council 2nd March 2009 following public consultation. The Core Planning Strategy is the first of the new LDF development plan documents which will in due course replace the Unitary Development Plan. Since 2.3.09 the Core Planning Strategy has formally become part of the development plan and its’ policies are now to be taken into account (as required by Section 38(6) of the 2004 Act) when determining planning applications, along with the London Plan and the UDP. If there is a conflict between a UDP and LDF policy in general greater weight should be given to the LDF policy as this is based on more recent evidence and Central Government guidance. The Core Planning Strategy sets out the Council’s long term vision, spatial strategy and core policies for shaping the future development of the Borough and managing change over the next 15 years in line with the principles of sustainable development. An independent examination by Central Government Inspectors into the Core Planning Strategy was held in June 2009, and following any necessary amendments will be formally adopted December 2009. The UDP will not be superseded until other LDF documents, including the Site Development Policies Document, which sets out detailed development control and site development policies, have been adopted. This latter document is the subject of public consultation 11 Feb 2009 – 25 March 2009 and in due course will be the subject of an independent examination (it is not yet a material consideration in considering planning applications).

3.5 Also a material consideration in determining planning applications are:
(b) Adopted London Borough of Sutton Supplementary Planning Guidance documents.

4.0 PLANNING CONSIDERATIONS

4.1 The principal considerations in relation to this application are:
- Use
- Impact on Neighbours
- Safety and Security
- Highways

4.2 Use:

4.3 The principle of the use of the rear part of the back garden of No. 136 as a sensory garden in connection with Link Primary School was established by the previous planning permissions granted in the past two years, subject to the use not adversely affecting the amenities of adjoining residents (which was why it was granted on a temporary basis). The temporary one-year permission enabled the Council to review the situation at the end of that period. Therefore
providing the use is not causing amenity or other problems a permanent permission would be appropriate.

4.4 **Impact on Neighbours:**

4.5 **G/PNR1** states that the Council will seek to ensure that pollution, noise and light arising from new development is limited to level which ensure the protection of air, land and water environment of the borough.

4.6 **BE4** states that proposals for new development should ensure that the relationships between new and existing buildings protect the privacy and amenity of the occupants of the buildings which adjoin, or are likely to be affected by, the proposed new development. **BE18 (Privacy)** notes that proposals should provide adequate levels of privacy and should not have a detrimental effect on adjoining dwellings and gardens.

4.7 In relation to privacy it is considered that the existing boundary fences prevent any unreasonable overlooking of adjoining properties from users of the garden. A condition is recommended requiring the retention of the existing fence in order to help protect the privacy of adjoining occupiers.

4.8 In relation to noise and disturbance from use of the garden this is alleged by those who have objected to the continued use, although no more specific information is given as to what actual activities are causing noise and disturbance. It is considered that providing a condition is imposed as on the last permission (as recommended) relating to the site being used only for gardening purposes it is not considered there would be any unreasonable noise and disturbance to local residents. Planning permission can only be refused if it can be demonstrated that demonstrable harm is caused by a use and it is considered that it has not been demonstrated in this case.

4.9 **Safety and Security:**

4.10 **Policy BE8** states that the Council will seek to ensure that the design and layout of proposals incorporate design principles, which deter crime and reduce the fear of crime.

4.11 The earlier applications raised a number of concerns from residents with respect to the schools activities and there supposed carelessness and irresponsible actions, (i.e. leaving ladders and garden equipment unsecured). It is not considered that the imposition of a condition requiring they be kept secured would meet the Central Government advice contained in Circular 11/95 ‘The Use of Conditions in Planning Permission’, which states that conditions must satisfy the following tests; they must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other aspects.

4.12 However, in order to address the security concerns of adjoining residents it is considered it would be reasonable to impose a condition requiring the provision of 0.5m height wooden open-top trellis panels on top of the existing boundary fencing where it adjoins the back gardens of neighbouring houses (i.e. the northern, eastern and southern boundaries). Where the existing shed is located
next to the northern boundary, the trellis panel(s) should be provided at 0.5m higher than the top of the shed. Trellis panels are usually more difficult to climb over and would provide a degree of additional screening to adjoining residents. It is recommended that a condition is imposed requiring a scheme of open trellis panels to be approved and provided.

4.13 **Highways:**

4.14 There is no evidence that the use of the garden has increased traffic or parking in the vicinity of the site.

5.0 **CONCLUSION AND RECOMMENDATION**

5.1 In conclusion, the proposal to retain the sensory garden to the rear of No.136 Croydon Road on a permanent basis is considered acceptable, as it would not adversely affect the amenities of adjoining residents in terms of privacy or likely noise generation.

5.2 The application is considered to be in-keeping with the relevant policies of the Sutton Unitary Development Plan and it is therefore recommended that planning permission be granted, subject to the conditions set out on the agenda.

Background Papers: D2009/61567/FUL

Drawings and other documents can be viewed on line –

1) Go to page: http://82.43.4.135/FASTWEB/welcome.asp
2) Enter Planning Application Number: **D2009/61567**
3) Click on Search and View Current Applications
4) Click on View Plans & Documents
WARNING: It is in your interests to ensure you obtain the approval of the Local Planning Authority, where the conditions require that to occur. Failure to comply with the following conditions may lead to enforcement action to secure compliance.

FIRST SCHEDULE

Land at rear of 136 Croydon Road Beddington CR0 4PG

Continued use of land as garden area for adjacent Link Primary School at 138 Croydon Road.

SECOND SCHEDULE

(1) The land should only be used for gardening purposes only in connection with the Link Primary School and not for play purposes.

Reason: To ensure that the amenities of adjoining occupiers are not adversely affected.

(2) The existing boundary fencing, as specified in the application, shall be retained for as long as the development is in existence.

Reason: To protect the amenities of adjoining residents.

(3) Within one month of the date of the permission a scheme of additional open top trellis panels (increasing the height of the existing fencing) along the northern, eastern and southern boundaries shall be submitted to the Local Planning Authority for its written approval. The approved scheme shall be provided within two months of the date of the approval and shall be retained thereafter.

Reason: To help protect the security of adjoining occupiers.
INFORMATIVES.

(1) This approval only grants permission under section 57 of the Town and Country Planning Act 1990. Further approval or consent may be required by other legislation, in particular the Building Regulations and you should contact Building Control on 020 8770 6268 before proceeding with the work.

(2) Should you require details of the consideration of the application that has led to this decision, the file may be inspected under the provisions of the Local Government (Access to Information) Act 1985. An appointment can be made for this purpose by telephoning 020 8770-5070.

(3) This application has been assessed against the relevant policies of the Sutton Unitary Development Plan. The proposal is generally in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and for this reason planning permission is granted.

(4) The drawing no(s). relating to this decision is/are LBS1, Photos 2.1, 2.2, 2.3, 2.4, 2.5.