Report of the Executive Head of Planning, Transportation and Highways.

Ref: D2008/60132/FUL  WARD: D17 / BEDDINGTON NTH  Time Taken: 7 weeks, 6 days.

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

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

Applicant: Link Day School Ltd

Agent: 

Recommendation: GRANT PLANNING PERMISSION

Reason for Report to Committee: The application has been delegated by Councillor Jenny Slark on the grounds that the proposal is out of keeping with the surrounding residential area.

Summary of why application proposals are acceptable:
The proposal to 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 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.

1.3 No 136 is 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).

1.4 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:**

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

1.6 **Relevant Planning History:**

Planning permission was refused in December 2006 (ref: 06/56607/FUL) for the use of No. 136 Croydon Road as ancillary office, meeting room and storage accommodation in connection with adjoining Link Day School, provision of a new covered way between 136 and 138 Croydon Road and installation of new refuse enclosure. The application was refused on the following ground(s):

(1) The proposed development has not been demonstrated to represent exceptional circumstances sufficient to justify the loss of a dwellinghouse. The application is therefore contrary to Policy G/HSG4 of the Unitary Development Plan.

Planning 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”, subject to the following three conditions;

(1) On expiry of the period of one year from the date of this decision, the use hereby permitted shall cease.
(2) No activities shall be carried out on the land outside the hours of 0900 and 1600 on Mondays to Fridays and at no time on Saturdays, Sundays, Public and Bank Holidays.
(3) The land should only be used for gardening purposes in connection with the Link Primary School and not for play purposes.

2.0 **APPLICATION PROPOSALS**

2.1 **Details of Proposal:**

2.2 Full planning permission is sought for the continued use of the land at No. 136 Croydon Road as garden land for the adjacent Link Primary School at 138 Croydon Road, without complying with conditions (1) and (2) above. This means that the applicant is seeking a permanent planning permission for the school use of the land as a garden and to have no restriction on the hours of use. Condition no. (3) preventing the garden being used for play purposes would remain.

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

“Planning permission was granted for temporary use for 1 year from 1 October 2007 from Monday to Friday from 9am to 4pm. The school would like this permission to become permanent and not be limited to 9am –4pm Monday to Friday.”
A lot of hard work has been done by the parents during the Summer Term to make a very lovely sensory garden for the pupils. The garden was not used at all by the pupils prior to the Summer Terms, although I believe at least one unfounded compliant might have been made regarding this.

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 and grass, woodchips, different colour stone, brownish, pinkish, white, lavender and grey.

Different plants are being grown, both decorative and edible, yellow sunflowers, existing holly bush picture with green foliage and red berries in autumn, tomatoes in pots, grasses and edible herbs, existing fruit trees, vegetable beds currently sown with beans, carrot and lettuces. 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 we would like permission to extend the hours so that 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."

3.0 PUBLICITY

3.1 Adjoining Occupiers Notified – Yes.

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

3.3 Number of Letters Received: Eight letters of objections from three occupiers.

3.4 Addresses of letters: 111, 130 and 134 Croydon Road.

3.5 Summary of material responses:
- The proposal to use the garden land as part of the Link Day School facilities would bring noise ever closer to the adjacent residential property at No. 134 Croydon Road.
- “The school has only recently worked on initiating the sensory garden and has therefore not considered this a priority. They did however manage to carry out considerable changes to the school playground next to the proposed sensory garden. This opened up the playground area considerably for them. It has also had a direct effect on fellow neighbours as it has brought the school activities closer to the residential gardens. In turn this has increased the noise element for us. It would have made more sense surely to use reorganised
open space within the school vicinity at 138 Croydon Road to facilitate their sensory garden, and therefore not lose any of the garden facility for 136 Croydon Road”.

- The proposal will reduce the security and safety of surrounding residents, as the school is unoccupied in the evenings and weekends and without sufficient security measures the adjoining neighbours / properties are vulnerable to criminal activity; ladders and garden equipment has been left unattended and unsecured overnight, the CCTV system does not work.
- Should the school be granted the permission they will be allowed to expand and cause further traffic delays.

3.6 **Non-material responses:**
- The deeds do not allow for a commercial use in these gardens.

3.7 **Official Consultation**

3.8 **Internal:** None.

3.9 **External:** None.

3.10 **Councillor Representation:** Councillor Jenny Slark has de-delegated the application on the grounds that it is out of keeping with the immediate surrounding area, which is residential.

4.0 **MATERIAL PLANNING POLICIES**

4.1 National Planning Guidance:
- PPS1 Sustainable Development
- PPG24 Noise

4.2 Sutton Unitary Development Plan
- BE4 Building Relationships
- BE18 Privacy
- G/CL1 Community Facilities and Services
- CL3 New Community Facilities
- G/PNR1 Environmental Protection

5.0 **PLANNING CONSIDERATIONS**

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

5.2 **Use:**

5.3 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 planning permission granted last year subject to the use to adversely affecting the amenities of adjoining residents (which was why it was granted on a temporary basis and subject to restrictions on its use and hours of use). 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.

5.4 Impact on Neighbours:

5.5 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.

5.6 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. BE8 (Privacy) notes that proposals should provide adequate levels of privacy and should not have a detrimental effect on adjoining dwellings and gardens.

5.7 It is considered that the use of the land as a garden for the school has not adversely affected the privacy or amenity (in terms of noise and disturbance) of adjoining residents. The one objection received relating to noise, received from the occupiers of No. 134, would appear to relate to noise from changes to the playground in the main school site, and not from the use of the garden.

5.8 The Council, in allowing the initial use of the garden for sensory purposes for the benefit of pupils, required (by way of condition) that no activity occur on the garden site outside the hours of 9am and 4pm Monday to Fridays, and at no time on Weekends or Public Holidays. The school, in making this application, has requested that the hours be unrestricted in order to allow pupils, parents and staff to visit and work on the garden prior to the school opening, after closing and during weekends. Having considered the circumstances of the applicant, the likelihood for harm occurring to adjoining occupiers and the number of objections relating to noise, the unconditional use of the sensory garden is considered reasonable in that it would not adversely affect surrounding residents.

5.9 In other to ensure the amenities are preserved and the garden land is not used for other undesirable purposes, it is considered reasonable to secure Condition 3 of the earlier permission, requiring that the land be only used for gardening purposes in connection with the Link Primary School.

5.10 Safety and Security:

5.11 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.

5.12 Although a number of concerns have been raised 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.

5.13 **Highways:**

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

6.0 **CONCLUSION AND RECOMMENDATION**

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

6.2 It is therefore appropriate to grant planning permission on a permanent basis, without the condition restricting the hours of use, but keeping the condition preventing it being used for play purposes (to protect the amenities of local residents).

Background Papers: D2008/60132/FUL

Drawings and other documents can be viewed online –

1) Go to page: http://82.43.4.135/FASTWEB/welcome.asp
2) Enter Planning Application Number: D2008/60132
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 136 Croydon Road Beddington Surrey 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 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.

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) 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 Town and Country Planning Act 2004 (as amended) and for this reason planning permission is granted.
(3) 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 8770-6200.

(4) The drawing no(s). relating to this decision is/are photos 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, Map 3.