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SENT VIA PLANNING PORTAL ONLY

Dear Sir/Madam

PRIOR APPROVAL UNDER SCHEDULE 2, PART 3, CLASS MA – TOWN AND COUNTRY (GENERAL PERMITTED DEVELOPMENT) ORDER 2015 (AS AMENDED) (GPDO)

108 SWAINS LANE, LONDON, N6 6PH

CHANGE OF USE FROM EXISTING DAY NURSERY TO 2 RESIDENTIAL UNITS

Please accept this covering letter as an accompaniment to this prior approval application under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the change of use at 108 Swains Lane, London, N6 6PH, as outlined above.

The Site

The application site is located on the west side of Swains Lane, close to the northern junction with South Grove. The existing site contains a single storey, vacant day nursey with private amenity space to the rear. The existing use would fall under Class E(f) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

The site lies within the Highgate Village Conservation Area however is not listed as a positively contributing building. The site has a public transport accessibility level (PTAL) of 3 and lies within flood zone 1 therefore has a low probability of flooding.

Schedule 2, Part 3, Class MA of the GPDO (2015)

Class MA, Part 3, Schedule 2 of the GPDO grants permitted development rights for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouse) of Schedule 1 to that Order.

MA.1. — (1) Development is not permitted by Class MA—

- (a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;
- (b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

The existing building has been vacant for a continuous period of at least 3 months immediately prior to the submission of this application and the lawful use of the building for at least 2 years prior to the date of this application has been for a day nursery use (D1 non-residential institution) prior to 01 September 2020 and Class E (commercial, business and service) on or after 01 September 2020.

The proposal therefore accords with this criterion.

- (c) Development is not permitted by Class MA if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

The cumulative floorspace of the existing building changing use is approximately 150sqm. The proposal therefore accords with this criterion.

- (d) Development is not permitted by Class MA if land covered by, or within the curtilage of, the building—

- (i) is or forms part of a site of special scientific interest;
- (ii) is or forms part of a listed building or land within its curtilage;
- (iii) is or forms part of a scheduled monument or land within its curtilage;
- (iv) is or forms part of a safety hazard area; or
- (v) is or forms part of a military explosives storage area;

The site is not a site of special scientific interest, is not listed or within the curtilage of a listed building, is not, nor does it contain, a scheduled monument, is not part of a safety hazard area or military explosives storage area. The proposal therefore accords with this criterion.

- (e) Development is not permitted by Class MA if the building is within—

- (i) an area of outstanding natural beauty;
- (ii) an area specified by the SoS for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;
- (iii) the Broads;
- (iv) a National Park; or
- (v) a World Heritage Site;

The building is not within an area of outstanding natural beauty, an area specified by the Wildlife and Countryside Act, the Broads, a National Park or a World Heritage Site. The proposal therefore accords with this criterion.

(f) Development is not permitted by Class MA if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

The site is not occupied under an agricultural tenancy and the proposal therefore accords with this criterion.

(g) Development is not permitted by Class MA before 1 August 2022, if—
(i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
(ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

The proposed development is not, and would not have been, subject to the operation of a direction under article 4(1) of the Order and therefore accords with this criterion.

Prior Approval

Class MA, Part 3 development is permitted subject to the condition MA.2 (1) that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to;

- (a) transport impacts of the development, particularly to ensure safe site access;*
- (b) contamination risks in relation to the building*
- (c) flooding risks in relation to the building*
- (d) impacts of noise from commercial premises on the intended occupiers of the development;*
- (e) where*
 - (i) the building is located in a conservation area, and*
 - (ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;*
- (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;*
- (g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;*
- (h) where the development involves the loss of services provided by-*
 - (i) a registered nursery, or*
 - (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006*

the impact on the local provision of the type of services lost; and

(i) where the development meets the fire risks condition, the fire safety impacts on the intended occupants of the building.

A consideration of the development against these criteria is set out below:

Transport & Highways

The submission is supported with a Transport Statement by RGP.

The statement provides an analysis of personal accidents in the vicinity of the site and has only identified 1 serious accident. Therefore, no accident patterns exist that would render the site unduly dangerous, particularly in terms of access.

The site is considered to be conveniently located in terms of access by public transport, with buses operating from nearby Highgate High Street, Highgate West Hill and North Hill whilst Highgate Underground Station is a 12 minute walk from the site.

The delivery, servicing and waste collection arrangements associated with the existing site would be retained post-development and there is sufficient space within the curtilage of the development to accommodate cycle parking.

The change of use of the site would lead to a significant reduction in the number of trips generated by the site which would offer improvements in terms of highway safety and capacity.

Overall therefore, the submitted Transport Statement provides a sufficient evidence base to demonstrate that safe and convenient access can be provided and the development would not result in an unacceptable impact on highway safety. For full details please refer to the submitted Transport Statement, reference 2023/6862/TS01 dated April 2023.

Contamination Risk

There is no planning history at the site regarding potentially contaminative uses. The proposed change of use would not result in disturbance of any undisturbed ground and the proposal would not therefore expose future residents to known contamination risk.

This position is substantiated by a supporting assessment from Landmark Information which provides detailed information about the land and potentially contaminative uses in the immediate and wider surroundings. As above, the report concludes that no significant contaminant linkage has been identified and any liabilities from contaminated land are unlikely. For full details please refer to the assessment from Landmark Information reference 305906935, dated 17 January 2023.

Flooding Risk

The Environment Agency's (EA) flood zone map identifies the site within Flood Zone 1, which confirms that the site is not currently at risk of fluvial flooding. The site is identified as having a low risk of surface water flooding with part of South Grove to have low risk or surface water flooding. The site is not identified as being at risk of flooding from reservoirs. As the site is already developed, and the proposal results in no increase in impermeable hardstanding or extensions to the building footprint, the proposal would not increase flood risk on or off site. The application submission is supported by a summary of the site location and its associated risk of flooding, including mapping, from the Environment Agency.

This position is further substantiated by a screening report from Landmark Information which is included in the application submission, reference 305906935 dated 17 January 2023.

Noise Impact

The submission is supported by a Noise Impact Assessment provided by KP Acoustics. Internal noise surveys and environmental noise surveys have been undertaken, allowing the assessment of daytime and night-time noise levels likely to be experienced by the proposed development.

Noise levels measured internally demonstrate that the existing external building fabric would be sufficient in providing a suitable residential environment, and existing noise levels meet the design criteria of BS8233:2014.

No further mitigation measures should be required in order to protect the proposed habitable spaces from external noise intrusion and the proposal is therefore considered acceptable in this regard. Please refer to the Noise Impact Assessment for full details, reference 25487.NIA.01 dated 08/02/2023.

Conservation Area Impact

The application site lies within the Highgate Village Conservation Area, north of the borough. The proposed change of use would not discernibly affect the visual appearance of host property and the impact on the conservation area as a whole will therefore be neutral. The proposed use will align with the overriding land use and the proposed development will therefore be acceptable in this regard.

Provision of Sunlight and Daylight

The submission is supported by a Sunlight and Daylight assessment provided by Herrington Consulting Ltd and this provides a detailed analysis to examine the provision of natural daylight and sunlight to the habitable rooms of the proposed development.

The assessment demonstrates that for all habitable rooms, the provision of natural daylight will meet or exceed the minimum required threshold set out in BRE guidelines. Overall, the report concludes that the proposed scheme will provide an adequate provision of natural light and the proposed

development will therefore be acceptable in this regard. Please refer to the Daylight and Sunlight Assessment for full details, reference Rev 02 dated 14 April 2023.

Introduction of Residential Use

The application site is located in an area characterised by residential development. Commercially orientated uses are located to the northeast along Highgate High Street. The proposed residential use of the site will therefore be entirely appropriate in this context.

This position is further substantiated by recent planning history at the application site. A certificate of lawfulness was refused in October 2014 for the change of use of basement and ground floor space at 12 South Grove from office use to a day nursery. The space immediately abuts 108 Swains Lane and was intended to amalgamate with the (at the time) existing nursery use.

In determining the application negatively, the council provide various reasons why additional nursery use would be inappropriate in this location. For example, the delegated officer report states (**emphasis added**):

Swain's Lane is a very narrow road which does not provide any space for on-street parking; whether for drop off and collecting or for a longer stay. South Grove mainly contains pay and display or parking for residents with permits. The proposal would result in up to 20 more children as suggested by the applicant **to an area that already suffers from significant parking and congestion issues.**

A nursery use tends to result in a large amount of vehicle movements within peak times in the morning and evening.

*It is considered that a nursery with 10-20 children would result in a **materially higher level of noise than that of an office and that a significant amount of movements would result from the drop off and collection of children in the morning and evening.** It is considered that this would materially harm the living conditions of the immediate occupiers.*

*Due to its close proximity to the rear garden and habitable windows at **13 it is considered that noise during play periods would result in an undue level of harm to those occupiers.***

These considerations, while referencing additional nursery use, would, by proxy, highlight the negative aspects of general nursery use in a contained residential environment. The replacement of a potentially harmful use with residential use is therefore considered to be socially, environmentally and physically preferable.

Loss of Day Nursery

Camden Council is required to report annually, demonstrating how the sufficiency duty under Section 6 of the Childcare Act 2006 is met. This act places a duty on local authorities to secure sufficient childcare for working parents. The expected outcome of the sufficiency duty is that parents are able

to work because childcare places are available, accessible and affordable and are delivered flexibly in a range of high-quality providers. Sufficient childcare should be available for children aged 0-14 years old, and up to 18 years old for disabled children and children with additional needs. This aligns with the criterion of the GPDO which requires a consideration of *the impact on the local provision of the type of services lost*; in this case, a registered day nursery.

Camden’s latest Childcare Sufficiency Assessment breaks down supply and demand data on a grouped ward basis, highlighting the application site within the Kentish Town East locality which, in addition to Highgate, includes the individual wards of Kentish Town and Cantelowes.

The assessment summarises that:

- There are currently sufficient childcare places in Camden to meet demand;
- During the past year, there has been very little feedback from parents that childcare needs cannot be met;
- GLA 2021 birth forecasts are lower compared to previous years and now incorporate some COVID-19 modelling. This modelling suggests births would continue to fall from 2019 to 2031 by a further 19% in Camden.

More specifically, the Assessment identifies that in total, there are 11000 children under the age of five living in the local authority. These children may require early years childcare. On a grouped ward basis, the Kentish Town East area identifies a child population in this category of around 1681 although acknowledges that some four year old children will have started reception.

In total, there are 259 childcare providers in the local authority, offering approximately 4786 early years’ childcare places. In terms of the specific Kentish Town East locality, the assessment highlights that 603 early years childcare places are available. While this data set was correct as of September 2021, the number is slightly reduced based on a search of local facilities within the administrative boundary of Camden. However, given the location of the site, on the cusp of several other administrative authorities, a cross border search identifies significantly more provision and these are set out in the table below:

FACILITY	ADDRESS	CAPACITY	DISTANCE FROM SITE
Bright Horizons	Highgate Road	55	1.2m
Rainbow House	54 Parkhill Road	14	1.9m
The Spanish Nursery	Ingestre Road	30	1.0m
N Family Club	Leighton Road	117	1.8m
Konstam Children’s Centre	Chester Road	44	1.1m
CCN Nursery	Brecknock Road	24	1.8m
Chaston Nursery	Chaston Place	60	2.1m
Busy Bees	Pond Street	26	2.3m

Les Petites Etoiles	Crayford Road	53	2.1m
Les Petites Etoiles	Crouch Hill	40	1.7m
Little Angels	Bredgar Road	70	0.5m
Hargrave Park School	Bredgar Road	37	0.5m
Archway Day Nursery	Elthorne Road	84	0.8m
Hornsey Day Nursery	Hornsey Road	25	1.1m
Hornsey Day Nursery	New Orleans Walk	49	0.9m
Bowlers Community Nursery	Crouch Hill	36	1.2m
Margaret McMillan Nursery	Hornsey Rise	143	1.0m
Willow Childrens Centre	Holbrooke Court	70	1.8m
Little Nemo Nursery	Tufnell Park Road	26	1.2m
Leaping Lizards Day Nursery	Yerbury Road	34	1.0m
Finsbury Park Day Nursery	Hanley Road	100	1.6m
Blythwood Community Nursery	Crouch Hill	28	1.3m
N Family Club	High Street	74	0.1m
Kido Crouch End	Elder Avenue	60	1.5m
Bright Horizons	Tivoli Road	88	1.1m
Bright Horizons	Crouch Hill	79	1.2m
Bright Horizons	Fortis Green	90	1.4m
Planet Tiny	Priory Road	30	1.4m
Fortis Green Nursery	Fortis Green	62	1.5m
MTO Nursery	Coleridge Road	48	1.1m
Greygates Day Nursery	Muswell Hill Road	45	1.2m
Little Crickets Day Care	Park Road	61	1.2m
Little Raccoons Day Nursery	Tollington Way	50	1.3m
Starshine Nursery	Crescent Road	30	1.0m
Stoncroft Under 5s	Priory Road	55	1.6m
The Learning Experience	East End Road	150	1.6m
Monkey Puzzle	High Road	80	1.6m
		2167	

The majority of day nurseries are privately run and the GPDO requirement to consider the impact on 'local provision' therefore means the impact on services within a reasonable geographical, not necessarily administrative distance from the application site.

The statutory walking distances to school for children under the age of 8 is two miles and for children over 8, three miles. For children under the age of 5 (pertinent for the provision of day nurseries and therefore relevant for the purposes of this application) there is no statutory travel distance. However, these statutory distances provide useful context and assumptive principles when considering items on a case-by-case basis.

In the case of the examples of alternative nursery provision highlighted above, all but 3 are located within two miles of the application site and many are located within 1 mile. Ultimately, this demonstrates that significant capacity exists in a location appropriate to the application site. This ensures that local families would be neither displaced nor would they have difficulty in finding a range of alternative options for day nursery provision.

Finally in terms of need and the overall capacity of nursery provision, it is noted that the nearest nursery to the application site; N Family Club, around 100 metres away on Highgate High Street was opened in February 2022 and as a result, created direct competition for the smaller nursery site the subject of this application. Unfortunately, given the more appropriate location of the N Family Club Nursery on the High Street, in combination with its higher capacity, this played a significant part in the closure of the nursery at Swains Lane in September of the same year. This similarly highlights that the closure of the smaller nursery at the application site did not impact on 'local provision'.

Fire Safety

Condition MA.3 states that development will meet the fire risk condition if the development relates to a building which will; contain two or more dwellinghouses and satisfy the height condition in paragraph (3), read with paragraph (7) of article 9A (Fire Statements of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

The height condition referred to relates to building heights which are 18 metres or more in height or the building contains 7 or more storeys. On the basis that the building the subject of this application is not 18 metres or more in height or 7 or more storeys, the fire risks condition is not met, and therefore safety impacts do not need to be considered further.

Space Standards

Paragraph (9A) of Article 3 of the GPDO states that *Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse:*

- a) where the gross internal floor area is less than 37 square metres in size, or:*
- b) that does not comply with the nationally described space standards issued by the Department for Communities and Local Government on 27 March 2015.*

As is evident from the submitted plans as part of this application, the dwellings meet the standards required by Article 3.

Summary

It has been demonstrated that the proposal will have acceptable impacts having regard to highways and transport, contamination, flood risk, noise from neighbouring commercial premises, impact on

the character or sustainability of the conservation area and adequate natural light to habitable rooms. The site is not located in an area identified for general or heavy industry which would impact on the intended occupiers of the development. The application building is not 18 metres or more in height or 7 or more storeys, subsequently fire risk is not a consideration, in this instance.

The impact of the loss of the day nursery is required to be considered in strategic land use terms. As set out above in this letter, significant alternative provision exists in the immediate surrounds to the extent that the loss of this small facility will have no discernible impact on the provision of nursery spaces in the borough and beyond. Indeed, it was the alternative provision of the much larger N Family Club Nursery (nearly 3x capacity) which contributed significantly to the closure of the nursery at the application site.

The proposed change of use of from office to dwellinghouses would meet all the limitations and conditions in accordance with Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) and it is therefore respectfully requested that prior approval be granted within the statutory 56 days.

If you have any questions in relation to the submission, please do not hesitate to contact me.

Yours faithfully

Allen Sacbaker
Associate
SM Planning