

Delegated Report		Analysis sheet	Expiry Date:	27/10/2014
		N/A / attached	Consultation Expiry Date:	30/10/2014
Officer			Application Number(s)	
Jonathan McClue			2014/5648/P	
Application Address			Drawing Numbers	
12 South Grove Hightgate London N6 6BJ			Refer to Draft Decision Notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Change of use to ground floor and basement rooms from Class B1 (office) to registered nursery Class D1.				
Recommendation(s):	Refuse Prior Approval			
Application Type:	GPDO Prior Approval Class K change of use of B1/C1/C2/C2A/D2 to registered nursery			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	07	No. of responses	02	No. of objections	02
			No. electronic	00		
Summary of consultation responses:	<p>Site Notice displayed on 03/10/2014. Advertised in Ham & High on 09/10/2014.</p> <p>By 23/10/2014 two objections had been received. It is noted that the consultation period still has a week to run from this date; however, the expiration date for the application is on the 27/10/2014. Due to prior approval applications being granted if a decision has not been determined, Officers have carried out an assessment of the proposal before the expiration of the consultation period.</p> <p><i>Occupier at 13 South Grove objection:</i></p> <ol style="list-style-type: none"> 1) Increase traffic and parking issues in area that already has significant issues 2) Noise and general disturbance to the flats above, neighbouring family home and other nearby properties 3) Boundary treatment likely which would result in a loss of light to adjoining occupiers <p>Officer comments: 1) Refer to Transport and Highway Impacts in the report below; 2) refer to Noise Impacts below; 3) these works do not form part of the application and would require separate consent.</p> <p><i>Occupier at 12 Pond Square:</i></p> <ol style="list-style-type: none"> 1) Traffic congestion and parking issues 2) Noise and general disturbance to surrounding residents <p>Officer comments: 1) Refer to Transport and Highway Impacts in the report below; 2) refer to Noise Impacts below.</p>					
CAAC/Local groups* comments: *Please Specify	No response received from Highgate CAAC at the time of writing (23/10/2014).					

Site Description

This application relates to an office (B1a) on the ground floor and basement of an end of terrace building on the corner of South Grove and Swain's Lane. The upper floors of the building are residential flats and the property benefits from an external hardscaped area to the rear. The attached building to the west (13 South Grove) serves a family dwelling and a number of other residential properties are located nearby. To the rear (southeast) of the application site lies an existing nursery (Little Raccoons Nursery) at 108 Swain's Lane.

The application site lies within the Highgate Village Conservation Area and is subject to a contaminated sites potential constraint.

Relevant History

12 South Grove:

8402031: Planning permission was granted for a change of use from warehouse to light industry on 20/02/1985.

108 Swain's Lane:

2011/5567/P: A Certificate of Lawfulness (Existing) was granted for use as an osteopathic clinic (D1) on 09/01/2012. The use was then changed to that of a nursery which is possible under permitted development rights. No application for this was submitted.

2013/2060/P: Retrospective planning permission was granted for the installation of decking and boundary treatment and the continued use of the external yard area as a playing space for the nursery on 05/06/2013.

Relevant policies

LDF Core Strategy and Development Policies are not relevant to the determination of the application.

Assessment

Proposal

This application is to ascertain whether the proposed change of use would constitute permitted development within the General Permitted Development (GDPO) and therefore be “lawful development”. Under Class K of the GPDO (copied below) the Council must assess whether prior approval is required for transport and highways impacts; noise impacts or contamination risks. The proposed change of use to a nursery would combine with the existing nursery at 108 Swain’s Lane. Therefore, the cumulative impact of the existing and proposed nursery must be assessed.

“Class K

Permitted Development

K. Development consisting of a change of use of a building and any land within its curtilage to use as a state-funded school or a registered nursery, from a use falling within Classes B1 (business), C1 (hotels), C2 (residential institutions), C2A (secure residential institutions) and D2 (assembly and leisure) of the Schedule to the Use Classes Order.

Development not permitted

K.1 Development is not permitted by Class K where—

- (a) the site is or forms part of a military explosives storage area;*
- (b) the site is or forms part of a safety hazard area;*
- (c) the building is a listed building or a scheduled monument.*

Conditions

K.2 Development is permitted by Class K subject to the following conditions—

- (a) the site is to be used as a state-funded school or, as the case may be, as a registered nursery and for no other purpose, including any other purpose falling within Class D1 (non-residential institutions) of the Schedule to the Use Classes Order, except to the extent that the other purpose is ancillary to the primary use of the site as a state-funded school or, as the case may be, as a registered nursery;*
- (b) before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required as to—*
 - (i) transport and highways impacts of the development;*
 - (ii) noise impacts of the development; and*
 - (iii) contamination risks on the site,**and the provisions of paragraph N shall apply in relation to any such application.”*

Transport and Highway Impacts

The proposal would provide no on-site parking for staff members and there would not be a facility for drop off and collection. The submitted documents do not provide any surveys of the existing use and the covering letter relies only on a suggestion that most children would arrive via foot or public transport. 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.

Due to the lack of information submitted and the site constraints outlined above, it is considered that the proposal would be likely to lead to a significant level of harm to highway safety and traffic congestion. This would be brought about by the lack of a drop-off and collection point. A nursery use tends to result in a large amount of vehicle movements within peak times in the morning and evening. Furthermore, the Local Planning Authority would be unable to condition further details or restrictions,

or require a Green Travel Plan by way of a legal agreement.

Noise Impacts

The proposed use would take place underneath flats directly above and immediately adjacent to a single dwellinghouse at 13 South Grove. 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. Furthermore, no noise assessment reports have been provided and the Council is unable to condition noise insulation to ensure that noise does not travel through the ceiling and walls of the building.

The area immediately behind the host building would be used as an external play area. 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. The submitted documents state that the new use would provide between 10 and 20 children and it is noted that there would be no planning control over these numbers. These children would add to the existing 25 at the adjacent nursery which would nearly double the impact in this confined space. Without the added benefit of conditioning outdoor play times and numbers, it is likely that the proposal would significantly increase existing levels of noise in closer proximity to the adjoining occupiers.

Contamination

The application property lies on a site that is potentially contaminated. No surveys or justification has been submitted by the applicant to satisfy Officers that there would not be a contamination risk and due to the nature of the application the Council is unable to attach any pre-commencement conditions relating to verification or remediation. While it is noted that the application relates to a change of use, the proposed use relates to a nursery which is a more sensitive form of development than an office.

Recommendation

It is recommended that prior approval is required and refused due to concerns over transport and highways, noise and contamination. The proposal thereby fails to comply with Class K of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013.

