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Development Control
Planning Services
London Borough of Camden
Town Hall Argyle Street
London
WC1H 8ND

Submitted via Planning Portal – Ref: 10064035

Date: 30 July 2021
My Ref: 21048
Your Ref: PP-10064035

Dear Sir / Madam

S73 Town and Country Planning Act (As Amended)
Removal of Condition 4 (Personal Permission) of planning permission PL/8905681 for the use of the basement as a day nursery (Class D1) as shown on drawing nos. 1 and 2 at 12a King Henry's Road, London, NW3 3RP

Please find enclosed an application under s73 of the Town and Country Planning Act (As Amended) for the removal of Condition 4 (Personal Permission) of planning permission PL/8905681 for the use of the basement as a day nursery (Class D1) as shown on drawing nos. 1 and 2 at 12a King Henry's Road, London, NW3 3RP

The submitted documentation which forms this this application submission includes the following:

- Application Form and Certificate B;
- CIL Form
- This Covering Letter (which forms the Planning Statement)
- Original permission and plans (for information).



Site Location and Description

The application site is located on the northern side of King Henry's Road and comprises a three-storey building plus basement.

The lower ground floor and garden area are used as a nursery school with the upper floors used as a residential dwelling by the nursery owners.





The majority of the properties along King Henry's Road are three to four storey period properties set back from the pavement with front garden area displaying a variety of treatments. A railway embankment is located to the rear of the site.

The site is not located within a Conservation Area and there are no nearby listed buildings.

The site is well served by public transport and is close to Chalk Farm Underground station and bus stops on Chalk Farm Road and Adelaide Road. This is reflected by the Public Transport Accessibility Level (PTAL) of 4.

Planning History

Planning permission was granted in February 1990 (Ref: PL/8905681) for the use of the basement as a day nursery (Class D1).

In addition, planning permission was granted in November 2009 (Ref: 2009/4261/P) for the erection of a rear single storey extension at lower ground floor level, relocation of stairs and creation of a rear roof terrace over flat roof, alteration to existing rear extension, erection of pavilion building in rear garden; excavation of lower ground floor level to front to create a single storey front basement level extension with replacement planting area and minor alterations to the front garden and lightwell granted.

These are discussed below where relevant.

Planning Application Proposals

The planning application seeks the removal of condition 4 which states that:

This permission shall be personal to Jennifer Silverton of 12 King Henry's Road NW3, during her occupation of the remainder of the premises and shall not enure for the benefit of the land. On her vacating the premises the use shall revert to the lawful use of residential purposes

Reason:

In granting this permission the Council has had regard to the special circumstances of the case and wishes to have the opportunity of exercising control over any subsequent use in the event of the occupier of the above residential accommodation vacating the premises.

The proposed amendment to the existing permission seeks to remove this condition in order to future proof the nursery business and ensure its continuation if, for any reason, Jennifer Silverton was unable to continue living at the premises given it is over 30 years since the original permission was granted.

As discussed below, there is a presumption in the retention of childcare facilities and in addition, there is a recognised need in the London Plan for 100,000 additional spaces.

In addition, as a limited company, Ready Steady Go Pre-Schools Limited has a legal responsibility to promote the success of the company and ensure its profitability.

Therefore, it is important to ensure that the business could continue to operate in the application premises with or without the residential occupancy of Jennifer Silverton.



Jennifer Silverton is a director of Ready Steady Go Pre-Schools Limited who hold a lease on the nursery property.

This is discussed in more detail below.

Summary of Relevant Planning Considerations

The Development Plan context in Primrose Hill is provided by the London Plan (2021) and the Camden Local Plan (2017).

The Proposals Map confirms that the site has no specific designation.

In terms of the London Plan the following policies have been identified as relevant:

- S3 – Education and childcare facilities

In terms of the Local Plan the following policies have been identified as relevant:

- C2 – Community Facilities
- H3 – Protecting Existing Homes

Local Plan Policy H3 seeks to protect existing homes and confirms that the Council will aim to ensure that existing housing continues to meet the needs of existing and future households by resisting development that would involve a net loss of residential floorspace, including any residential floorspace provided;

- within hostels or other housing with shared facilities; or
- as an ancillary element of another use, wherever the development involves changing the main use or separating the housing floorspace from the main use.

However, although the removal of Condition 4 would prevent the return of the basement to residential use this would not result in the loss of any residential units as the existing nursery use has been in existence since granted in February 1990, a period of over 31 years.

In this respect, it is clear that the nursery use is well established, and the basement has not been in residential use for over 31 years. Therefore, calculations of housing numbers and formulation of planning policies within the Development Plan would have been made on the assumption that the property was not in residential use. Furthermore, the property had originally been a single dwelling and the basement was not a separate self-contained flat. Therefore, there has never been a net loss of dwellings as a result of the nursery use.

In respect of childcare London Plan Policy S3 seeks to ensure there is a sufficient supply of good quality education and childcare facilities to meet demand and offer educational choice.

Part C of the policy states that development proposals should ensure that there is no net loss of education or childcare facilities, unless it can be demonstrated that there is no ongoing or future need.

In addition, Local Plan Policy C2 seeks within Part (g) that existing community facilities are retained recognising their benefit to the community, including protected groups, unless one of the following tests is met:



- i. a replacement facility of a similar nature is provided that meets the needs of the local population or its current, or intended, users; i
- ii. the existing premises are no longer required or viable in their existing use and there is no alternative community use capable of meeting the needs of the local area. Where it has been demonstrated to the Council's satisfaction there is no reasonable prospect of a community use, then our preferred alternative will be the maximum viable amount of affordable housing;

In this respect, given the nursery has been operating for 31 years and pre-dates the Local Plan it is clear that the loss of the community facility would be contrary to the above policy and therefore, the proposed amendment, which would secure its long-term future, should be supported.

The nursery is located in a sustainable location accessible by foot and sustainable methods of transport and is therefore in accordance with part (c) of the above policy.

Paragraph 5.3.2 of the London Plan confirms that access to affordable, accessible and high-quality childcare (pre-school and school age) provision can play a significant role in children's development and positively influence school-readiness, future educational attainment, economic participation and health. Universal, high-quality, early childhood education and care not only benefits the whole population but can particularly benefit children from the most disadvantaged backgrounds. As well as the positive benefit for children, it also helps to enable parents to go back to work.

Paragraph 4.35 of the Local Plan also confirms that childcare provision is an important means of tackling the Borough's inequalities as a lack of childcare can prevent our residents from taking up employment opportunities or restrict parents to part-time work close to home.

The London Plan estimates at paragraph 5.3.3 that an additional 100,000 childcare places will be needed between 2016-2041.

In this respect, the retention of the nursery facility without condition 4 would protect the use of a much-needed facility for the future. The nursery is an important local service for the community and provides vital childcare as well as employment.

Paragraph 56 of the National Planning Policy Framework confirms that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Given the time since the original planning permission was granted and the long-established use of the premises as a nursery without any detriment to the amenity of neighbours it is clear that condition 4 is no longer necessary and is arguably no longer reasonable.

In this respect, and for the reasons discussed above it is considered that the removal of condition 4 would not result in any conflict with the Development Plan or result in any loss of amenity or any harm to the character of the area as there will be no increase in the numbers of children or hours of operation.

The use of the premises when planning permission was originally granted was D1 (non-residential institution) and in this respect the reasoning behind condition 4 is understood to prevent any use of the property by other commercial occupiers for potentially other uses such as a place of worship etc.



However, this use would now fall under Class E(f). In this respect, the removal of condition 4 could allow the future change of use to other Class E (Commercial, business and service) uses.

In this respect, the Applicant would have no objections to a new condition being placed on any permission to restrict the use to Class E(f) only for use as a creche or day nursery, if considered necessary.

Therefore, any change from the current use would require an additional planning application and would prevent any unsuitable commercial use within the residential area.

Other similar applications for the removal of personal permissions have been granted in Camden in recent years including:

- 2020/4138/P - Variation of condition 1 (personal permission) of planning permission 2011/3120/P dated 13/09/2011 ["(Variation of condition 1 (personal permission) of planning permission granted 28/05/1998 (ref: PS9804251)"] namely to extend lawful use to Class E 'Commercial, Business and Service'.
- 2019/0589/P - Removal of condition 1 (personal permission) of planning permission dated 12/09/1990 (ref 9003317) for change of use of ground floor from retail to use as a pasta bar (Use Class A3) namely to continue operating as a restaurant use
- 2017/3412/P - Removal of condition 3 (personal permission) of planning permission ref: 2014/3227/P (dated 24/07/2014) for the change of use from retail (A1) to a veterinary surgery (sui generis)
- 2016/0755/P - Variation to condition 3 (personal permission) and removal of condition 4 (residential accommodation) to planning permission 2003/0018/P granted on 04/09/2003 for the retention of the existing self-contained flats at part ground, first floor and second floors of no. 46, and the change of use of the remainder of premises from offices within Class B1 to a mixed use of educational use within Class D1 and office use within class B1.
- 2014/3581/P - Variation to condition 3 (personal permission) to planning permission 2003/0018/P granted on 04/09/2003 for the retention of the existing self contained flats at part ground, first floor and second floors of no. 46, and the change of use of the remainder of premises from offices within Class B1 to a mixed use of educational use within Class D1 and office use within class B1.

In this respect, it is clear that the principle of removal of such conditions is acceptable and this is also supported by the National Planning Practice Guidance which confirms that 'planning permission usually runs with the land and it is rarely appropriate to provide otherwise'.

Summary and Conclusion

In summary, the removal of the condition would enable the continuation of the business if, for any reason, Jennifer Silverton was unable to continue living at the premises.

The nursery use has been established for over 30 years and has not resulted in the loss of any residential uses as the dwelling is still in use on the upper floors. The proposed removal of the condition will allow an important community use to continue and plan for the future.

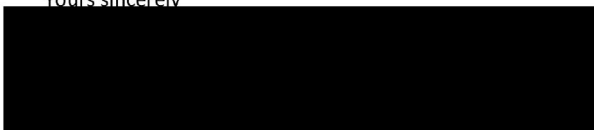
I have considered the amendments in the context of planning policy and my assessment of this context concludes that there would be no prejudice to any identifiable interest if the amendments were approved. Therefore, from the submitted it is concluded that there are no reasons why planning



permission under s73 of the Town and Country Planning Act 1990 cannot be granted for the amended scheme.

I look forward to confirmation that the application can be registered as valid and if you require any more information, please do not hesitate to contact me.

Yours sincerely



Jeremy Butterworth BSc (Hons) MA MRTPI
Director / Planning Consultant



Enc.