

Location **Unit 3 Pembroke Studios Pembroke Road London N10 2JE**

Reference: **16/3749/S73** Received: 7th June 2016
Accepted: 7th June 2016

Ward: Coppetts Expiry 2nd August 2016

Applicant: Kidz Kabin Nursery

Proposal: Variation of Condition 8 (number of children on premises) pursuant to planning permission B/02974/10 for " Change of use from Light Industrial (B1/B8) to Nursery School (D1)" dated 25/10/2010. Variation to rewording Condition 8 to " the number of children on the premises shall not exceed 90 at any one time unless previously approved in writing by the local planning authority"

Recommendation: Approve subject to conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: BTP-1501 RevA Beacon Transport Planning parking survey September 2016; Beacon Transport Planning - transport statement April 2016; Sharps Redmore acoustic consultants technical noted 20th April 2016; planning statement 7 June 2016.

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 a) Within 2 months of the date of this permission, details of the method to permanently fix shut the windows in the building shall be submitted for approval by the Local Planning Authority.

b) The windows shall be fixed shut in accordance with such approval within 1 month of the approval of the details and maintained as such thereafter.

Reason: To safeguard the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012) and the Residential Design Guidance SPD (adopted April 2013).

- 3 The use hereby permitted shall not be operational before 7.30am or after 6.30pm from Monday to Fridays . The use hereby permitted shall not be open at all on Saturdays, Sundays, Public or Bank Holidays.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties.

- 4 The number of children on the premises shall not exceed 90 at any one time.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties.

- 5 The external areas shall not be used for any purpose other than means of escape and building maintenance as indicated on Plan 385-05A.

Reason:

To minimise noise and disturbance and safeguard residential amenity.

- 6 The premises shall be used for a nursery school and no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

Reason:

To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area.

- 7 The window(s) in the western elevation facing the rear of properties on Bedford Close shall be permanently retained with obscure glazing.

Reason:

To safeguard the privacy and amenities of occupiers of adjoining residential properties.

- 8 Refuse and recycling provision and the collection point shall be retained as approved under application B/04118/11 dated 26.07.2012.

Reason:

To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area.

- 9 The nursery shall operate in accordance with the Travel Plan as approved under application B/04118/11 dated 26.07.2012 and the updated transport statement.

Reason: To encourage the use of sustainable forms of transport to the site in accordance with policies Core Strategy (adopted) 2012 CS9 and Development Management Policies (adopted) 2012 DM17.

- 10 The air conditioning units and mitigation measures as approved under application B/02584/14 dated 14.07.2014 shall be permanently maintained in accordance with the approved details.

Reason:

To ensure that the amenities of the neighbouring premises are protected from noise from the development.

Informative(s):

- 1 In accordance with paragraphs 186 and 187 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 The information considered in this application does not relate to the provision of any outdoor play space and the provision of any outdoor play space would need to be considered through the submission of a planning application.

Officer's Assessment

1. Site Description

The application site relates to detached building known as Unit 3 which forms part of Pembroke Works which is a somewhat landlocked industrial estate located on the north western side of Pembroke Road. Pembroke Road is predominantly residential in character comprised of a variety of building types and sizes. Pembroke Works is accessed via an access road between No.139 and 141 Pembroke Road. The industrial estate is surrounded by properties on Pembroke Road and Bedford Close. Properties on Bedford Close are predominantly self-contained flats.

Levels do fall from the south east to the north-west which means that properties along this part of Pembroke Road sit at a slightly higher level than the unit.

The unit is currently used as a children's nursery for 90 children. The existing operation at Pembroke Studios is divided between an administrative building (Unit 1) and an education building (Unit 3). Kidz Kabin has operated from Unit 3 since 31 August 2011 and has been using Unit 1 as offices since 1 April 2014.

The latest ofsted report dated 24th January 2017 rated the nursery as 'good'.

2. Site History

Reference: 15/07000/S73

Address: Unit 3, Pembroke Studios, Pembroke Road, London, N10 2JE

Decision: Withdrawn

Decision Date: 21 January 2016

Description: Variation of condition 8 of planning permission B/02974/10 dated 25/10/10 for `Change of use from Light Industrial (B1/B8) to Nursery School (D1)`. Variation to include the number of children on the premises shall not exceed 90 at any one time unless previously approved in writing by the Local Planning Authority

Reference: B/02584/14

Address: Unit 3, Pembroke Studios, Pembroke Road, London, N10 2JE

Decision: Approved

Decision Date: 14 July 2014

Description: Submission of details of condition 10 (Noise Report for site plant) pursuant to planning permission reference: B/02974/10 dated 25 October 2010.

Reference: B/00221/13

Address: Unit 3, Pembroke Studios, Pembroke Road, London, N10 2JE

Decision: Refused

Decision Date: 2 April 2013

Description: Submission of details for condition 10 (Noise Report) pursuant to planning permission B/02974/10 dated 25th October 2010

Reference: B/04118/11

Address: Unit 3, Pembroke Studios, Pembroke Road, London, N10 2JE

Decision: Approved

Decision Date: 26 July 2012

Description: Submission of details of conditions 4 (Refuse) and 12 (Travel Plan) pursuant to planning permission reference B/02974/10 dated 25/10/2010.

Reference: B/02974/10

Address: Unit 3, Pembroke Studios, Pembroke Road, London, N10 2JE

Decision: Approved subject to conditions

Decision Date: 25 October 2010

Description: Change of use from Light Industrial (B1/B8) to Nursery School (D1).

3. Proposal

The application relates to the variation of Condition 8 (number of children on premises) pursuant to planning permission B/02974/10 for " Change of use from Light Industrial (B1/B8) to Nursery School (D1)" dated 25/10/2010. The variation to condition 8 is to read as: " the number of children on the premises shall not exceed 90 at any one time."

The application seeks permission to allow for 90 children to be on site at any one time. It should be noted that the number of children registered and attending the nursery has already been increased and as such has been in breach of condition 8. The purpose of this application is to seek retrospective permission to vary the condition.

It should be noted that this application relates to the increase in the number of children at the premises. It does not seek permission for the use of any outdoor play space associated with the nursery to the front of the building. Any requirement for outdoor play space on site would be subject to a separate planning consent. An informative is attached to remind the applicant/agent of this.

The agent has provided a break down of the number of children at the nursery between given times for the current year. The sessions run as follows:

7.30am-8am

8am-1pm

8am-6pm

9am-2pm

3.30pm-6pm

6pm-6.30pm

The majority of children attend the nursery between 8am-6pm 5 days a week, although there is a significant reduction in the number of children attending 8am-6pm on Fridays.

No more than 5 children arrive at the nursery between 7.30am-8am. No more than 5 children are collected from the nursery between 6pm-6.30pm.

4. Public Consultation

Consultation letters were sent to 118 neighbouring properties.

A site notice was posted on 23/06/2016

Press notice was published on 16/06/2016.

7 responses have been received, comprising 7 letters of objection.

The objections received can be summarised as follows:

Impact on neighbouring amenity - noise levels are unacceptable and increase in the number of children will make it worse; the upper floor windows of neighbouring properties

are not protected by the acoustic fence. Quality of life since nursery opened has worsened; number of children attending is well over 90

Impact on local roads, parking, freeflow of traffic will be worsened, elderly or disabled residents can't get parking outside their property; increased risk of accidents; driveway is blocked by staff and parents;

Increased air pollution leading to heart and lung disease; deteriorating air quality in the area.

Owner of the nursery has been dishonest.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5, CS10.

- Relevant Development Management Policies: DM01, DM02, DM04, DM13, DM17.

The Council's approach to development as set out in Policy DM01 is to minimise the impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The

development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted October 2016)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether harm would be caused to the character and appearance of the surrounding area and the industrial estate of which it forms a part, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents including increased noise.
- Whether harm would be caused to freeflow of traffic and parking.

5.3 Assessment of proposals

Planning permission dated 25/10/2010 was granted under application Ref: B/02974/10 for the change of use of the premises from Light Industrial (B1/B8) to Nursery School (D1). This permission imposed a number of conditions on the application including condition 8 which limited the number of children on the premises to 40 at any one time. Since this permission was granted the intake of children has been increased to 90 children on the premises at any one time. Planning permission is now sought to vary the previous condition to allow for 90 children on the site at any one time seeing an increase of an additional 50 children attending the nursery.

The nursery is open weekdays from 7.30am-6.30pm 50 weeks of the year.

The agent has confirmed that the nursery has operated with a maximum number of children on the site at any one time since 2015.

Taking into account that the nursery use has already been established on site, the main considerations are therefore not whether the principle of the use is acceptable but whether the increase in the number of children results in any demonstrable harm.

Policy DM13 indicates that new community or educational uses should ensure that there is no significant impact on the free flow of traffic and road safety. New community or educational uses will be expected to protect the amenity of residential properties. Whilst the application does not seek a new educational use, traffic and noise implications are considered to be material matters in determining whether the increase in the number of children is acceptable or not.

Need for additional nursery spaces

There is currently a big push for childcare at Government level. Statistics show children from poorer families achieve less. The criteria for funded 2 year places has become less stringent and Central Government want 240,000 places from providers. Currently only 150,000 places are being taken up and there is a need for more providers to take part in this scheme.

The preamble to policy DM13 states Barnet's projected population for the next ten years will increase and change our existing communities, attracting a much younger and more diverse population. There will be a marked increase in the number of children aged

between 5-14 years old. It is therefore important that the Policy DM13: Community and education uses can respond flexibly to these changes.

Impact on the character of the area

The principle of the nursery use has already been established on site. The location of the site within a small 'backland' industrial estate is such that the nursery use was not considered to introduce a use that would conflict or alter the character of the area or the way it functions. Therefore, the increase in the number of children to 90 is not considered to materially change the character of the area which already operates with an existing nursery. Although the increase in children will see an intensification of the site this is not considered to change the character of the area.

Impact on the amenities of neighbours

The previous use as a warehouse building had unrestricted hours of commercial use and as such comings and goings and hours of operations were not controlled by way of planning conditions. The introduction of a nursery subject to conditions was considered to be less harmful than the existing unrestricted commercial use. The increase in the number of children is not considered to result in additional noise and disturbance when compared with the commercial use or the previously consented scheme with 40 children. It is not considered that the increased number of children would be harmful to such a degree that it would warrant a reason for refusal.

Noise and disturbance

Prior to the submission of the planning application separate pre-application advice was sought with the Council's scientific services team to assess any noise and disturbance generated. Two scientific service officer's attended the site to assess the existing levels of noise generated by the children within the building, an assessment was also made from the rear garden area of 125 Pembroke Road to determine levels of noise outbreak to this nearest noise sensitive property. The garden is directly below the dormer windows to the first floor of the nursery and represents the closest noise sensitive premises. It was concluded that with the windows shut there was no appreciable noise resulting from the increased intensification of the nursery and the use of the premises for up to 90 children.

It should be noted that there is an existing air conditioning system operating at the premises which is considered adequate to provide appropriate levels of ventilation through out the building therefore, it is considered that a condition requiring windows are fixed shut at all times would not be unreasonable particularly during summer months.

The scientific services team have raised no objections to the additional number of children introduced on site subject to a condition requiring the windows to be fixed shut.

It should also be noted that a noise report was submitted as part of the discharge of conditions relating to the 2010 planning application. Condition application B/02584/14 approved the noise details of the plant for the air conditioning units. As such it is considered that noise emanating from the air conditioning units would not be harmful to the neighbouring residents.

Traffic and highways

The proposal has been assessed by the highways team who have raised no objections to the proposal on highways grounds.

During the life of the application a parking survey was undertaken by the applicants transport consultant. The survey was undertaken on Pembroke Road and adjoining roads

and was undertaken to assess parking impact and whether any mitigation was required. A parking survey was provided by the applicant's transport consultant which sets out details of surveys undertaken on Thursday 15th September plus an additional evening survey undertaken on Wednesday 14th September.

The survey was undertaken every 15 minutes between the hours of 7am-10am, at 12.45pm and again between 4pm-6.30pm (every 15 minutes). An additional survey was undertaken on 14th September at 10pm to record late evening parking conditions. The roads survey comprised of Pembroke Road (between Colney Hatch Lane and Hampden Road); Colney Hatch Lane (between George Crescent and Halliwick Road); Newton Avenue; Pembroke Mews; Alma Road; Crown Road; Roman Road and Stanley Road.

The parking survey alongside the Transport Statement indicates that there is adequate local provision and availability. The report identifies that any local parking stress during nursery drop-off and collection times remains at or below that recorded in the late evening. It is therefore, not considered that the use of the site for up to 90 children is harmful to parking availability in the surrounding area.

The traffic and development team have reviewed the information submitted and are satisfied that there is available parking to accommodate the number of cars arriving at the nursery. No objections have been raised by the highways officer in regards to the increased number of children and the associated comings and goings.

Planning officers have also attended the site during the morning drop-off and evening pick-up times to monitor any likely impact from the increased comings and going and considered that there was sufficient parking available in the surrounding roads with no undue impact on the highways and the free flow of traffic.

5.4 Response to Public Consultation

The highways team have reviewed the application and the parking survey submitted and are satisfied that the increased intake is not harmful to parking availability within the vicinity or the freeflow of traffic and pedestrian safety.

The scientific services officer considers that subject to a condition to prevent the windows from being opened that there would be no undue noise and disturbance emanating from the nursery that would warrant refusal of the application.

6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

7. Conclusion

The proposal is considered to accord with the requirements of the Development Plan and is therefore recommended for approval.

