

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 17 July 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	5 Duke's Mews, London, W1U 3ES,		
<b>Proposal</b>	Use of the building as a day nursery (Class D1)		
<b>Agent</b>	Marylebone Village Nursery Ltd		
<b>On behalf of</b>	Marylebone Village Nursery Ltd		
<b>Registered Number</b>	18/02749/FULL	<b>Date amended/ completed</b>	23 April 2018
<b>Date Application Received</b>	6 April 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Portman Estate		

## 1. RECOMMENDATION

Committee's views sought:

1. Does the Committee consider that the benefits of providing a replacement day nursery outweigh the policy presumption to protect the existing residential use?

If so,

2. Grant conditional permission

## 2. SUMMARY

The premises is a vacant dwellinghouse providing accommodation on basement, ground and three upper floors. The application is for the change of use of the building to a day nursery. This would replace an existing nursery in the basement of St. James's Church, Spanish Place, as the Church is terminating the applicant's lease on that space.

The key issues in this case are:

- The acceptability of the loss of the existing residential use
- The impact of the proposed use upon neighbours' amenity
- The acceptability of the proposals in highways terms.

Subject to appropriate conditions, the proposals are considered acceptable in amenity and highways terms. However, given the policy presumption to protect existing residential floorspace, the

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Committee's views are sought as to whether the benefits of providing a day nursery in this location outweigh policy objections to the loss of the existing dwelling house.
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### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### COUNCILLOR BOTT

Supports the application given the need to relocate the existing nursery. The loss of a local nursery would be keenly felt by local families.

### COUNCILLOR SCARBOROUGH

Supports nursery relocation given the demand for nursery facilities in the area against a background of nursery closures. Recognise the excellent reputation of existing nursery which provides funded places and facilities for children with Special Educational Needs.

### WESTMINSTER EARLY YEARS SERVICE

Need to maintain and expand nursery facilities. Closures would result in the loss of all funded childcare places affecting those families in greatest need.

### MARYLEBONE ASSOCIATION

Strongly supports the proposals. Marylebone desperately needs more nursery facilities as many have closed. Floorspace faces pressure from other D1 uses which command higher rents, particularly medical uses. No highway impact as all children would walk to the premises. Recent precedent of change of use to D1 medical use in Devonshire Mews West, contrary to policy. Council should consider granting a temporary change of use (20 years)

### BUILDING CONTROL

Insufficient information provided to confirm that means of escape provisions are acceptable. Exit door should open outwards.

### CLEANSING

Details of arrangements for storage of refuse and recyclable materials required.

### HIGHWAYS

Objection: increased traffic generation to the detriment of highway safety and the operation of the highway network.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 49

Total No. of replies: 2

No. of objections: 1 No. in support: 1

- Need to provide alternative premises. Nursery is a valued local amenity.

### Highways

- Danger to children in mews who might not be visible to vehicles exiting garages
- No parking availability in the mews and limited space to manoeuvre vehicles; pick ups/drop offs would need to be on foot and anyone coming into the area by car would have to park on a meter, which have limited availability

**Other**

- Inadequate means of escape in the case of emergency/fire.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

**6. BACKGROUND INFORMATION****6.1 The Application Site**

This application premises is an unlisted building located on the south side of Duke's Mews, close to the junction of Wigmore Street and Mandeville Place and to the south of Manchester Square. The site is within the core Central Activities Zone and the Portman Estate conservation area.

The property is a modern dwelling house (Class C3), currently vacant, providing accommodation on basement, ground and three upper floors. There is a full width terrace at the front of the building, access from the third floor.

Duke's Mews is characterised by a mixture of commercial and residential uses. Records indicate that there are residential uses at nos. 3, 8-12 (a development of 7 houses around as courtyard, with rear windows fronting the mews) and at nos.18 and 20. To the rear of the site, on Wigmore Street, there are flats on the upper floors of nos. 90-92 and 104. There are also residential premises on the upper floor of the public house at 7 Duke Street.

**6.2 Recent Relevant History**

6 March 2008: Permission granted for the redevelopment of 98-102 Wigmore Street and 3-5 Duke's Mews behind the retained Wigmore Street facade to provide (Class B1) office and (Class A1) retail uses and two mews houses (Class C3) in Duke's Mews (now 3 and 5 Duke's Mews)(07/10815/FULL). Implemented.

**7. THE PROPOSAL**

Permission is sought for the use of the building as a day nursery (Class D1).

No external alterations are proposed.

**8. DETAILED CONSIDERATIONS****8.1 Land Use****8.1.1.Loss of residential floorspace**

The application would result in the loss of a vacant, five storey (4 bedroomed) dwelling house.

In order to achieve borough housing targets set out in the London Plan, City Plan policy S14 seeks to protect all residential uses, floorspace and land in Westminster. Proposals that would result in a reduction in the number of residential units will only be acceptable in specific circumstances, none of which apply in this case.

Policy SOC 1 deals with the provision of new social and community uses. The policy states that:

'Community facilities which involve the loss of residential accommodation will only be allowed in exceptional circumstances, where:

- 1 the community facility meets an essential local need and
- 2 there is no other suitable site in the local area.

The supporting text to policy SOC 1 recognises (paragraph 6.13) that:

'Occasionally, proposals for community facilities may involve a loss of residential accommodation \*..... This will only be allowed in exceptional circumstances, as the UDP aims to protect and increase the housing stock. This circumstance might arise where the community use is essential for local residents and there is no alternative suitable site for the community facility nearby. Essential uses include facilities such as doctors' and dentists' surgeries, and are unlikely to include private nurseries (author's underlining) and language schools. Once such an exception has been made, the community facility will only be allowed to change back to residential use'.

\*This text refers to policy H1 (A) of the Unitary Plan (not a saved policy which) which sought to protect housing, or land in housing use, other than in exceptional circumstances and has been replaced by policy S14.

It is acknowledged that policy SOC 1, which dates from 2007, and particularly its exclusion of nurseries from the definition of 'essential uses' pre-dates the expansion of private medical uses with the Marylebone area (see section 8.1.2 below).

To date, letters of supports have been received from Ward Councillors, the Marylebone Association, the Council's Early Years Service and from previous nursery clients. Many have referred to the background of nursery closures in the area. The Marylebone Association considers that the market for Class D1 floorspace is distorted by the rents that can be demanded for alternative (medical uses, which makes it difficult to find premises for nursery uses, which have a different business model. They have also noted that the relocation of the Marylebone Library to Seymour Leisure Centre would result in the loss of a local nursery. (The Council's Property Group has confirmed that this is the case and state that they are working with the nursery to provide alternative accommodation).

The Marylebone Association has requested that the Council consider granting a 20-year temporary change of use. However, the applicant has not applied for a temporary use. Should the change of use be considered acceptable in principle, it would be more appropriate to impose conditions limiting the use of the premises to a day nursery and

requiring, upon the cessation of any nurse use, that the building revert to use as a single family dwelling house.

The Association has referred to a 'precedent' for the granting of permission for a new Class D1 use contrary to adopted policies. Permission was in December 2016 for a scheme at 141/143 Harley Street and 28 and 29 Devonshire Mews West to provide Class D1 medical facilities, including a Proton Beam Therapy unit. The permission was subject to a s106 legal agreement to secure the replacement of existing residential floorspace on donor sites.

The provision of medical facilities of national/international importance, was considered to outweigh policy objections to the degree of excavation under the adjacent highway which was contrary to policies on basement development. This case is not considered to constitute a 'precedent' for the current application. Each application, and potential exceptional circumstance, must be considered on its merits. Additionally, in the case cited, the existing residential floorspace was to be relocated to a donor site while in this case, the existing residential floorspace would not be replaced.

The Sub-Committee is asked to consider whether the benefits of providing a replacement day nursery outweigh the policy presumption to safeguard the existing residential use.

### **8.1.2. Proposed nursery use**

The application proposes the introduction of a day nursery on the application site, to replace the existing nursery which currently occupies the basement of St. James's Church in Spanish Place. Neither the existing nursery use within the Church, nor its replacement with an alternative Class D1 use (church), required/would require planning permission.

UDP policy SOC1 aims to protect and improve the range of community facilities within the borough. Day nurseries, whether publically or privately operated, fall within this definition. Such facilities will be required to be located as near as possible to the residential areas they serve, must not harm the amenity of the surrounding area, including the effect of any traffic generated by the proposals and be safe and easy to reach on foot, by cycle and by public transport

City Plan policy S34 also encourages the provision of new social and community facilities throughout Westminster. The supporting text to the policy recognises that such uses are integral to supporting sustainable communities and acknowledges that, because of Westminster's high land values, and because these uses typically generate high levels of footfall from visiting members of the public, it can often be difficult to establish new facilities in appropriate locations. Consequently, where subject to planning controls, the policy seeks to protect existing social and community floorspace.

### **Operational details**

The application is supported by a draft Operational Management Plan which includes the following details:

### Hours, capacity and site access

The nursery would run two sessions per day: mornings – 0800 to 1300 hours and afternoons: 1300 to 1800 hours (term times only), with the majority of children attending over a full day. It is estimated that approximately 20 children would leave or arrive after the morning session. There is no after school care provision – i.e. arriving post 1500 hours.

The nursery would be subject to certain restrictions imposed by Ofsted, these include restrictions on the maximum number of children, which is determined by site area and requirements per child (which vary according to the child's age). Staffing requirements are determined by OFSTED's staff:child ratios.

The estimated capacity of the proposed nursery is as follows:

MAXIMUM NUMBER OF CHILDREN: 54  
 MAXIMUM FTE STAFF: 14  
 TOTAL PERSONS ON SITE AT ONE TIME: 68

CHILD AGE	NUMBER OF CHILDREN	STAFF
UNDER 1 YEAR	9	3
1-2 YEARS	12	4
2-3 YEARS	16	4
3 YEARS AND OVER	17	2 + 1 manager

The applicant has advised that, in practice it is unusual for a nursery to be completely full at any one time. The average industry standard is a capacity of 80-85% (approximately 44 children using the above estimate). Whilst staff numbers are more mixed, the variation in child attendance levels means that the total maximum staff numbers are unlikely ever to exceed the totals set out above. However, it is anticipated that these numbers could be subject to change depending on parent demands/child ages etc.

There is no vehicular access to the site. The applicant states that all children will visit the site on foot. A proforma registration form has been supplied which includes a stipulation that parents do not drive to the nursery site. Should parents use a car, recommended drop off sites are adjacent streets (Wigmore Street or Manchester Square) and would be subject to the usual parking restrictions.

The applicant has made the following points in support of the application:

- The nursery has operated from the basement hall at St James's Church since 1976. The nursery was taken over by the applicant in 2011, when it was announced that it was to close. In Westminster, the applicant also operates Hyde Park Village Nursery in Craven Terrace, W2.
- The Westminster Roman Catholic Diocese initially signed a 35 year lease on the existing nursery but now wishes to reclaim the space for church-related functions. They have recently agreed to extend the nursery's lease until July 2019, following an initial request for immediate vacation.

- Given the need to vacate the St James's Church, a search for alternative premises has taken place over several months. The applicants has advised that discussions with the main property estates have confirmed that there is no allocation of Class D1 floorspace for nursery use in Marylebone and no suitable commercial space - hence the application to change of the of the dwelling house at 5 Duke's Mews.
- Four nursery schools have closed in Marylebone over the last 18 months, making a total of five closures in the past two and a half years primarily because private landlords (mostly Churches and Synagogues) can command greater rents from alternative tenants.
- Of the remaining Marylebone facilities, only the St James's Church nursery has spaces available, due to its size.
- Following successful council initiatives encouraging residential use, there has been an increase in the number of families moving into Marylebone. The majority of these families require full-day nursery care as parents return to work.
- This is the only nursery which takes funded children (whereby Central Government schemes assist parents in paying for early years education) offering places for the 30-hour provision/2 year old funded places (at a funded rated of £4 per hour rather than the standard unfunded rates, which are considerably higher) and support for children with Special Educational Needs. Should the nursery be forced to close, this would result in the loss of the nursery care for the less privileged families in the area and for children with special needs.

Supporters of the scheme have referred to the background of nursery closures in the area, to the quality of care provided, and the fact that the nursery provides funded places and care for children with Special Educational Needs, The proposed use complies with the requirements of adopted land use policies in that it is located close to the residential areas of Marylebone and is safe and easy to reach on foot or by public transport and subject to the acceptability of the loss of the existing residential use, is considered acceptable in principle in land use terms. The impact of the scheme in amenity and highways terms in discussed in paragraphs 8.3 and 8.4 below.

## **8.2 Townscape and Design**

No external alterations are proposed

## **8.3 Amenity**

City Plan policy S29 states that the Council will resist proposals that result in an unacceptable material loss of residential amenity. Under policy ENV6 of the UDP, new developments are required to include design features and operational measures to minimise and contain noise in order to protect noise sensitive properties. Where developments adjoin other buildings or structures, as far as is reasonably practicable, they should be designed and operated to prevent the transmission of audible noise or

perceptible vibration through the fabric of the building or structure to adjoining properties. A noise and vibration assessment report is required where development or change of use could affect noise sensitive properties. When granting planning permission, conditions will be applied to restrict noise emissions, the transmission of noise or perceptible vibration and hours of operation, to require incorporation of acoustic measures to meet these conditions and to require, where appropriate, such conditions to be complied with before the development commences.

UDP policy ENV 7 seeks to control noise from plant and internal activity and requires applicants to demonstrate that any noise emitted by plant and machinery and from internal activities, including noise from amplified or unamplified music and human voices, will achieve established standards at the nearest noise sensitive properties, when there is internal activity at the development. Similarly, policy S32 of the City Plan requires development to minimise and contain noise and vibration.

The application does not include a noise and vibration assessment. The applicant considers that the relocation of the existing nursery to Duke's Mews would not have a material impact upon local amenities, particularly as ambient noise levels are high given the site's proximity to Wigmore Street. However, the setting of the two buildings is very different. Duke's Mews is a narrow cul-de-sac, which although largely commercial in nature, includes some residential properties including the house immediately adjacent. By comparison, the existing nursery is in the basement of a church, which occupies a large site on Spanish Place, which is a more open roadway. Given its location, it is considered that the proposed nursery has the potential to affect the amenity of neighbouring occupiers and local environmental quality primarily as a result of increased activity on the site, including potential noise disturbance from within the building and from carers dropping of and picking up their children. While ambient noise levels are high in the area, this would not prevent intrusion from individual noise peaks.

The applicant is keen to emphasise that the proposed use is as a nursery school, with a full curriculum, not a day care centre and that the nursery is a 'calm, focused environment'. The children will have access to the third floor roof terrace for educational purposes e.g. to grow plants, but this area would not function as a play space. This could be controlled by condition. Play-based activities will take place in the Portman Square Garden.

As the children will be required to move between floors (currently uncovered stone stairs), the applicant has undertaken to carpet the stair treads to minimise potential noise transference through the fabric of the building. This would need to be undertaken prior to the commencement of the use and stair carpet would need to be maintained at all times that the nursery is in use.

The existing house already benefits from air conditioning/temperature control systems and no additional plant is required. Officers consider that, in order to minimise potential noise outbreak, a condition should be imposed to require windows and doors to be kept shut at all times (other than for the purposes of access and egress through the doors).

The applicant has advised that the proposals have been discussed with the occupants of Duke's Mews and that no one expressed concern about the proposed use. They have also emphasised that no complaints have been received about the operation of their

existing nurseries in Spanish Place and Craven Terrace, where there are residential properties in the vicinity. The applicant believes that the fact that the nursery operating times would significantly ameliorate any potential impact. Consequently, they do not wish to accept such a condition on prevent windows/doors from being kept open, the basis that the use would not result in any noise disturbance. They have requested a position where window could be opened sometimes, with appropriate training to make staff aware of potential noise issues. However, it is not considered that this would provide adequate protection for neighbouring residents.

It is acknowledged that the nursery has an excellent reputation and provides a vital service to the local community. It is also acknowledged that no objections have been received to the proposals on noise grounds. Given the obligations set down in the draft Operational Management Plan, including an undertaking to carpet the stairs (which should updated within a revised OMP) and subject to conditions relating to the hours of use, use of the terrace, delivery hours, requiring doors and windows to be kept closed and to prevent the transmission of noise and vibration through the fabric of the building, it is not considered that the increased activity around the site, whilst more intensive than that arising from the existing residential use, would have a material impact upon the amenities of neighbouring occupiers or local environmental quality.

The impact of the use in highways terms is discussed in paragraph 8.4 below.

## **8.4 Transportation/Parking**

### **Trip generation**

The Highways Planning Manger considers, given the site location and the nature of the highway in the vicinity, any proposal generating significant levels of car borne trips per day - associated with drop off and collection of children - would have an adverse impact on free flow of traffic and the safety of highway users. Consequently, he has requested the submission of a Transport Statement to determine the likely trip rate generation (all modes) based upon the number children, in particular the level of motor vehicles visiting the site and the impact that this will have on the surrounding road network.

An neighbour objection has also been received on the basis that there is no parking availability within the mews, which has double yellow lines on both site, with ground floor garages in constant use and limited width for vehicle manoeuvres. The objector is concerned that any child drop offs/pick upon would, necessarily, be by adults arriving at/departing from the premises on foot, meaning that they would need to park vehicles on a parking meter in the vicinity, which are in short supply.

The applicant is fully aware of the site constraints and the fact that it would not be feasible for vehicular drop off/pick ups to take place within the mews. The nursery registration form and draft OMP include an obligation that carers should not 'drive down to the nursery'. However, it is unclear whether this restriction relates to driving on any part of the journey or only within the mews and this should be clarified within the finalised OMP. The applicant contends that the majority of children are local and would be walked to the premises. Any vehicles brining children close to the vicinity of the site would be

required to park in neighbouring streets. It is acknowledged that meter parking is in short supply and considered that this is likely to discourage carers from driving to the nursery.

To ensure that that proposed operational controls to prevent carers driving to the site are effective, the Highways Planning Manager has suggested that permission could be granted for a temporary period of 1 or 2 years to enable to Council to review the situation at a future date. Given the costs associated with the setting up of the nursery, this is not considered reasonable. However, a condition could be imposed to prevent children from being dropped off at or picked up from the premises in vehicles accessing Duke's Mews which, in addition to the obligations within the finalised OMP, could ensure that the operation of the highway is no adversely affected.

In these circumstances, it is not considered that the impact on the local highway network would be so significant as to justify a recommendation for refusal or that it would be necessary to require the submission of a detailed Transport Plan.

### **Highway safety**

Children walk to their off-site activities or are taken direct by parents e.g. Zoo trips. Trips to the park are highly supervised, and subject to Risk Assessments.

One objection has been received from a resident of 12 Duke's Mews on the grounds that the mews is a dangerous environment for children exiting the property who, due to their size, might not be immediately visible from vehicles exiting neighbouring garages, if the children are not fully controlled by a responsible adult. Whilst these concerns are noted, it would be the responsibility of the children's parents/nursery staff to manage this risk, which could apply equally to any children living in the house and to any other nursery use, and it is not considered that permission could reasonably be withheld on highway safety grounds.

### **Servicing**

The applicant contends that the nursely would not generate any greater amount of general waste than the existing house but confirms that there is 'exceptional waste' (nappies) which would be collected as part of general waste collections (Tuesdays and Fridays) in the Mews.

There is no laundry service/deliveries. Any laundry is done by staff, on site, and would not be significant.

Food requirements comprise a mixture of food purchased locally and brought in by staff and a daily delivery by an external provider (a hand-held box containing two trays).

Any other nursery resources are delivered direct to the applicant's house and taken to the site, when visiting. For any exceptional deliveries, companies will be advised that there is no vehicular access to the Mews. Deliveries would take place during nursery opening times only.

The site is located within a Controlled Parking Zone but there are sufficient single yellow lines in the vicinity allow any additional loading and unloading to occur. The largest

regular service vehicle expected to be associated with the proposed development is the local authority refuse collection vehicle.

Although no off-street servicing is proposed, it is not considered that the servicing demands of the proposed use would be significantly greater than those arising from the lawful residential use.

### **Cycle parking**

The London Plan requires 1 on-site cycle parking space to be provided for every 8 staff members (minimum 2 spaces). The applicant has confirmed that nursery staff generally live outside of central London and do not cycle to work. However, when staff are on site, there is a space to store bicycles in the basement. A plan showing cycle storage facilities could be reserved by condition.

## **8.5 Economic Considerations**

Any economic benefits generated by the proposals are welcomed.

## **8.6 Access**

Access to the site remains unchanged. The Council's Building Control Officer has confirmed that the requirements of people with disabilities (access to the building and WC facilities) should also be considered. The applicant has advised that 'moving seats' and any necessary equipment will be provided, as this is an inclusive school. These issues would be considered as part of a future application under the Building Regulations and any material alterations to the building exterior would require further planning approval.

## **8.7 Other UDP/Westminster Policy Considerations**

### **Refuse /Recycling**

The applicants have advised that the general waste generated by the proposed development is the same as that for the existing dwelling house. General and 'exceptional waste' (nappies) would be collected as part of general waste collections in Duke's Mews (Tuesdays and Fridays 11am to 1pm and presented by 10:30am on these days)

The Cleansing Officer has requested a condition requiring the submission of plans including, full details of the proposed refuse and recycling storage facilities, confirming bin capacities, and marked for waste and recycling in accordance with Council protocols. This would ensure that there is sufficient space to accommodate the waste and recycling requirements of the development within the existing basement waste store.

## 8.8 London Plan

The application does not raise any strategic issues.

## 8.9 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

## 8.10 Planning Obligations

The application does not trigger any planning obligations

## 8.11 Environmental Impact Assessment

The scale and nature of the development does not require an assessment of environmental matters.

## 8.12 Other Issues

### Means of escape

One objection has been received on the grounds that, there is only one exit from the property which, whilst sufficient in the case of the existing dwelling house, which would provide an inadequate means of escape for the proposed nursery use.

The applicant has commissioned a Fire Risk Assessment which makes various recommendations and conforms that a further risk assessment should be undertaken prior to the commencement of the use. The report notes that that the building entrance door, which also serves as a means of escape, opens inwards.

The Council's Building Control Officer has advised that as a 'fire risk assessment' rather than a 'fire strategy', the submitted document does not demonstrate the adequacy of the means of escape provision. Additional information would be required as part of a future application under the Building Regulations which would be required for the change of use. However, the enforcement of fire safety regulations ultimately lies with the fire authority.

Given the potential building capacity, the Council's Building Control Officer has confirmed that the final exit door would be required to open outwards. A door opening directly over the public highway, particularly one also serving as the main entrance, would be unacceptable in highway safety terms. The applicant has referred to other premises, including Queen's College Preparatory School in Portland Place) where the entrance/exit door opens inwards. However, this school has entrances doors at 59 and 61 Portland Place, which are set back from the pavement edge, behind front basement lightwells. Details of the means of escape arrangements in these buildings and in other building in Duke's Mews, are unknown.

It is possible that the entrance door to the application site could be recessed, or otherwise altered, to address the means of escape and highway safety issue. Should

any external alterations be necessary, the applicant would be required to seek further advice as to whether this would require separate planning approval.

### **8.13 Conclusion**

Subject to appropriate operational controls, the proposed nursery use could be acceptable in amenity and highways terms. The Sub-Committee is therefore asked to consider whether the benefits in providing a replacement day nursery in the Marylebone area outweighs policy objections to the loss of the existing residential use.

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

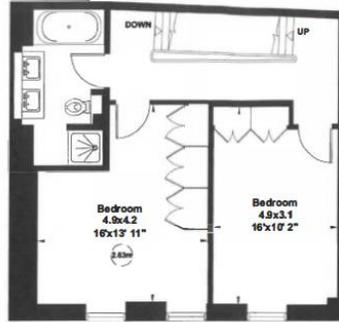
**IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIER BY EMAIL AT [sspurrier@westminster.gov.uk](mailto:sspurrier@westminster.gov.uk).**

**9 KEY DRAWINGS**

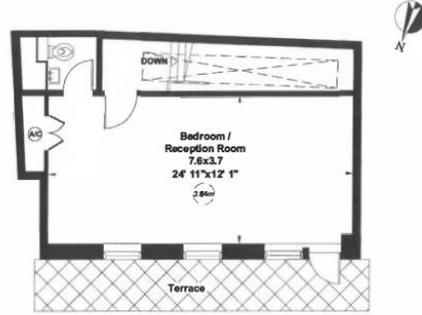
Existing plans

**Dukes Mews, W1**  
 Gross internal area (approx.)  
 248 Sq m (2670 Sq ft)

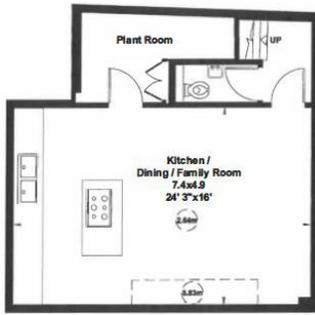
Floor Plan by **capitalgroup** 020 8571 7722



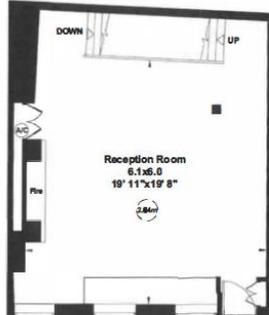
**Second Floor**



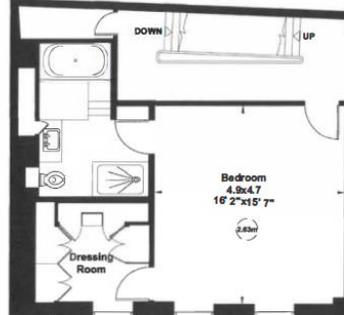
**Third Floor**



**Lower Ground Floor**



**Ground Floor**



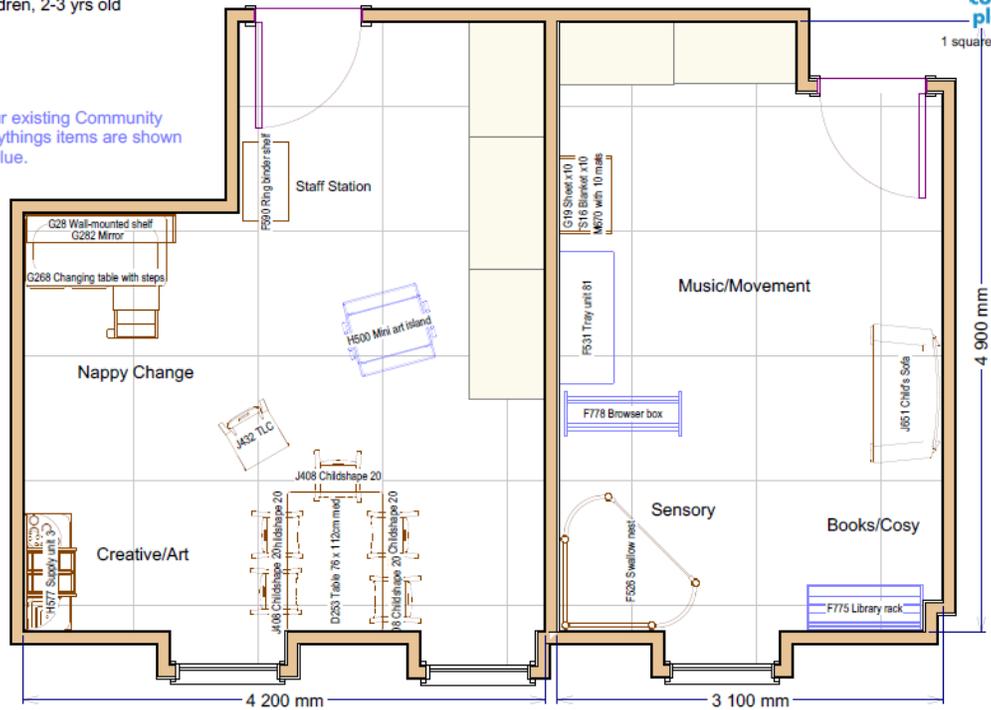
**First Floor**



**New Marylebone Village Nursery School**  
2-3's Second floor rooms  
25 Children, 2-3 yrs old



Your existing Community Playthings items are shown in blue.



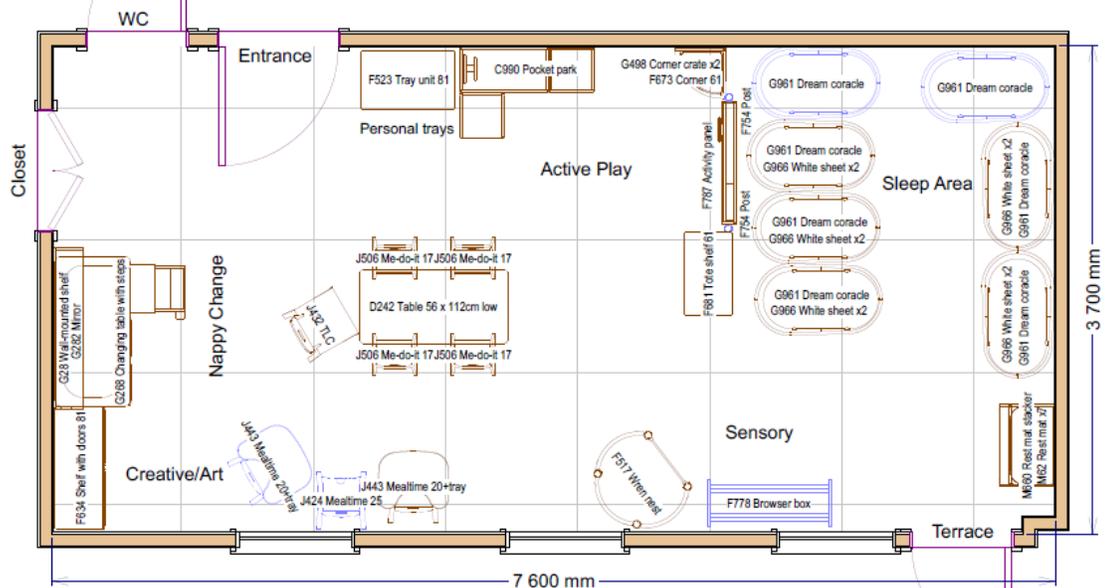
This room layout is not intended to be used as architectural or building advice.

Phone: 0800 387 457 www.CommunityPlaythings.co.uk 18/04/2018

**New Marylebone Village Nursery School**  
Baby Room  
14 Children, 0-2 yrs old



Your existing Community Playthings items are shown in blue.



This room layout is not intended to be used as architectural or building advice.

Phone: 0800 387 457 www.CommunityPlaythings.co.uk 18/04/2018

**DRAFT DECISION LETTER**

**Address:** 5 Duke's Mews, London, W1U 3ES,

**Proposal:** Use of lower ground, ground and three upper floors as nursery (Class D1)

**Reference:** 18/02749/FULL

**Plan Nos:** Site plan, existing building layouts

FOR INFORMATION ONLY: Proposed to third floor plans (indicative layouts only)

**Case Officer:** Sara Spurrier

**Direct Tel. No.** 020 7641 3934

**Recommended Condition(s) and Reason(s)**

**1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.**

**Reason:**

For the avoidance of doubt and in the interests of proper planning.

**2 Children shall be permitted within the nursery premises between 08.00 hours and 18.00 hours on Monday to Friday only**

**Reason:**

To protect neighbouring residents from noise nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

**3 The third floor terrace shall not be used as a play space.**

**Reason:**

To protect neighbouring residents from noise nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

**4 You must keep the doors and windows in the nursery closed other than for access and egress (doors) or for maintenance purposes.**

**Reason:**

To protect neighbouring residents from noise nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

**5 You must use the premises only as a day nursery (Class D1) and for no other purpose,**

including any other use within Class D1 of the Town and Country Planning (Use Classes) Order 1987 (or any equivalent class in any order that may replace it).

**Reason:**

In accordance with the submitted application and because of the special circumstances of this case and to make sure it meets SOC 1 of our Unitary Development Plan that we adopted in January 2007

**6 Upon cessation of the nursery use hereby approved (Class D1), the premises shall revert to use as a single family dwelling house (Class C3)**

**Reason:**

In accordance with policy SOC 1 of our Unitary Development Plan that we adopted in January 2007 and policy S14 of the City Plan (November 2017)

**7 You must apply to us for approval of details of secure cycle storage (2 spaces) for the nursery use. You must not commence the use until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to the occupation of the premise as a nursery. You must not use the cycle storage for any other purpose.**

**Reason:**

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

**8 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the nursery. (C14EC)**

**Reason:**

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

**9 No waste shall be stored on the public highway**

**Reason:**

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

**10 All servicing must take place between 0800 and 1800 hours on Monday to Friday only.. Servicing includes the loading and unloading of goods and putting rubbish outside the building. (C23DA)**

**Reason:**

To avoid blocking the surrounding streets and to protect the environment of people in

neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

11 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

**Reason:**

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

12 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the nursery use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the nursery use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

(a) The location of most affected noise sensitive receptor location and the most affected window of it;

(b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;

(c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;

(d) The lowest existing LA90, 15 mins measurement recorded under (c) above;

**(e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;**

**(f) The proposed maximum noise level to be emitted by the activity.**

**Reason:**

**Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.**

**13 You must apply to us for approval of a management plan to show how you will prevent the nursery use from causing nuisance for people in the area, including people who live in nearby buildings, and from adversely affecting the local highway operation. You must not start the nursery use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the nursery is in use and all internal measures detailed to prevent noise and vibration disturbance to adjoining residential properties must be completed prior to the commencement of the use and retained for as long as the nursery is in operation.**

**Reason:**

**To make sure that the use will not cause nuisance for people in the area and in neighbouring properties or adversely affect the operation of the local highway network. This is as set out in S29, S32 and S41 of Westminster's City Plan (November 2016) and SOC 1, ENV 6, TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007.**

**14 No children shall be delivered to or collected from the nursery hereby approved from vehicles accessing Duke's Mews.**

**Reason:**

**To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25 and TRANS 20 of our Unitary Development Plan that we adopted in January 2007 (R23AC)**

**Informative(s):**

**1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.**

**2 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)**

**3 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)**

**4 This permission does not allow any work which would change the outside appearance of the property. (I18AA)**

**5 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)**

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.