

## 2024/2427/P – Ground floor, 529 Finchley Road



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2024/2427/P -Ground floor unit, 529 Finchley Road



529 Finchley Road – Application relates to ground floor commercial unit



Side elevation – onto Ingham Road

|   |                            |   |                                     |                                  |            |
|---|----------------------------|---|-------------------------------------|----------------------------------|------------|
| <b>Delegated Report</b>   |                            | <b>Analysis sheet</b>   |                                     | <b>Expiry Date:</b>              | 23/08/2024 |
|   |                            | N/A / attached  |                                     | <b>Consultation Expiry Date:</b> | 19/07/2024 |
| <b>Officer</b>  |                            |   | <b>Application Number(s)</b>        |                                  |            |
| Adam Greenhalgh   |                            |   | 2024/2427/P                         |                                  |            |
| <b>Application Address</b>  |                            |   | <b>Drawing Numbers</b>              |                                  |            |
| 529 Finchley Road<br>London<br>NW3 7BG  |                            |   |                                     |                                  |            |
| <b>PO 3/4</b>   | <b>Area Team Signature</b> | <b>C&amp;UD</b>   | <b>Authorised Officer Signature</b> |                                  |            |
|   |                            |   |                                     |                                  |            |
| <b>Proposal(s)</b>  |                            |   |                                     |                                  |            |
| Change of use of ground floor from commercial (Class E) to residential (1 x 1 bed 2 person flat) (Class C3) |                            |   |                                     |                                  |            |
| <b>Recommendation(s):</b>   |                            | Grant Prior Approval subject to a legal agreement                 |                                     |                                  |            |
| <b>Application Type:</b>  |                            | GPDO Prior Approval Class MA Change of use of Class E to Class C3 |                                     |                                  |            |

|   |   |    |                   |    |
|---|---|----|-------------------|----|
| Conditions or Reasons for Refusal:                    | Refer to Draft Decision Notice  |    |                   |    |
| Informatives:   |   |    |                   |    |
| Consultations   |   |    |                   |    |
| Adjoining Occupiers:                                  | No. of responses  | 00 | No. of objections | 00 |
| Summary of consultation responses:                    | A site notice was displayed on 03/07/2024 (expiry 27/07/2024).  |    |                   |    |
| Fortune Green and West Hampstead Neighbourhood Forum: | No responses were received from the neighbouring occupiers.   |    |                   |    |
|   | The Fortune Green and West Hampstead Neighbourhood Forum object on the grounds that Policy 12 of the Fortune Green and West Hampstead Neighbourhood Plan states “Development in Fortune Green and West Hampstead shall promote economic growth and employment. Developments that provide sites and premises for business, commercial and employment use will be supported. Development of commercial and mixed use premises and sites shall promote economic growth and employment, where viable and appropriate by: ‘A presumption in favour of retaining existing employment sites’ |    |                   |    |
|   | Officer response: The loss of employment floorspace is not a condition upon which applications for ‘prior approval’ under Class MA can be considered. While ‘prior approval’ applications under Class MA are subject to certain conditions (set out in Section 4 below) the loss of employment floorspace is not a condition which a ‘prior approval’ application must meet.  |    |                   |    |

## Site Description

The application relates to the ground floor unit at 529 Finchley Road. It currently comprises a retail unit (Class E). It has an entrance door at the front and a service area at the rear. There is a separate entrance and stairs to the residential units above on Ingham Road. The site is not located within a Conservation Area.

## Relevant History

**2023/5180/P** - Erection of part single/part three storey rear extension and rooftop alterations (including 1st floor, 2nd floor and rooftop rear terraces) to provide 4 flats (3x one-bed and 1x three-bed) together with refuse and cycle provisions. Reduced area of retail floorspace on ground floor – **refused 28/02/2024**

**2021/2539/P** - Erection of a part 1, part 2 and part 3-storey rear extension, alterations to windows, creation of rear roof terraces at 1st and 2nd floors, and creation of 5 x 1-bedroom flats – non-determination (would have refused) 11/01/2023 – **appeal dismissed 11/05/2023**

## Relevant policies/legislation

**The Town and Country Planning (General Permitted Development) Order 2015 (as amended): Part 3, Class MA**

**Part 2A of the Environmental Protection Act 1990**

**Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012**

**Technical housing standards – nationally described space standards 2015**

**National Planning Policy Framework (2023)**

**LB Camden Local Plan 2017**

**Fortune Green West Hampstead Neighbourhood Plan 2015**

### 1. Proposal

- 1.1. The application seeks Prior Approval permission under Schedule 2, Part 3, Class MA of the GPDO (2015 as amended) for change of use of (part of) the ground floor from commercial premises (Class E1) to Class C3 (1 x 1 bed 2 person 53 sq m flat).
- 1.2. The application drawings include upper floor plans and elevations (both existing and proposed). The application form and covering letter confirm that the application relates to the ground floor commercial unit only.

#### **Prior approval procedure**

- 1.3. The Town and Country Planning (General Permitted Development) (Amendment) (England) Order (GPDO) 2015, Schedule 2, Part 3, Class MA, allows for the change of use of a building from a use falling within Class E, to a use falling within Class C3 (dwellings) of that Schedule, subject to a prior approval process as well as conditions. Class M(c) – (f) also allows for buildings operations reasonably necessary to convert the building.
- 1.4. Development that fits the criteria set out in MA.1 (a) - (g) is permitted by this class, subject to a number of conditions listed within sub-paragraph MA.2 (a) - (i). The 'Prior approval procedure' requires the developer to apply to the LPA for a determination as to whether prior approval of the authority having regard to (a) transport and highways impacts (b) contamination risks in relation to the building (c) flooding risks in relation to the building (d) noise impacts from commercial premises (e) the impact of that change of use on the character or sustainability of the conservation area (f) the provision of adequate light in all habitable rooms (g) the introduction of residential use in an area of industry, waste management, storage and distribution etc. (h) the loss of nursery/health centre provision (i) fire safety impacts (if applicable)
- 1.5. Article 3 – Permitted Development of the General Permitted Development Order states: -
- 1.6. '(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse:—  
(a) where the gross internal floor area is less than 37 square metres in size; or  
(b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015(a)' This came into force on 6<sup>th</sup> April 2021.

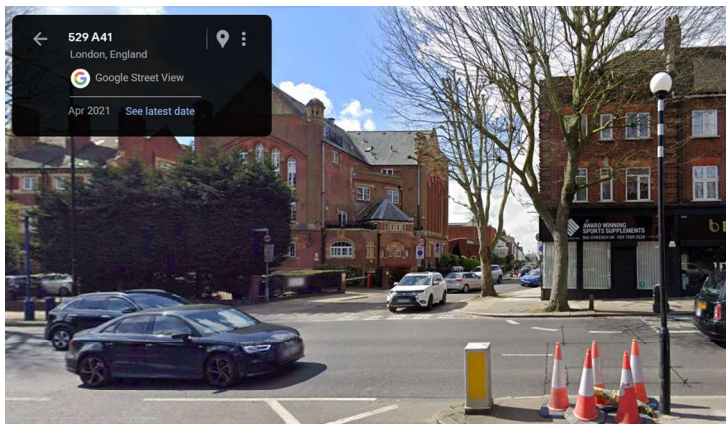
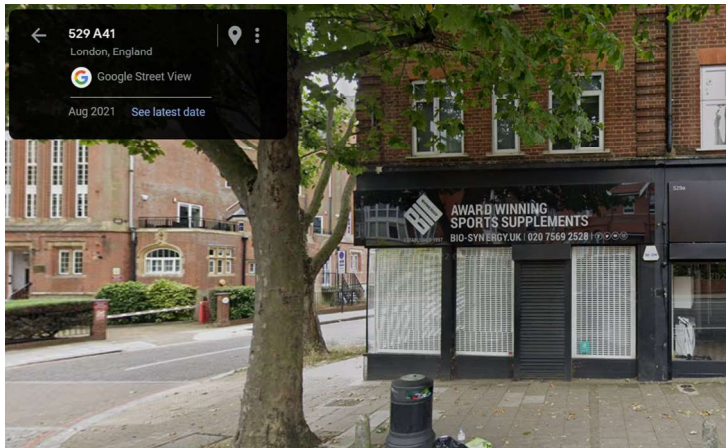
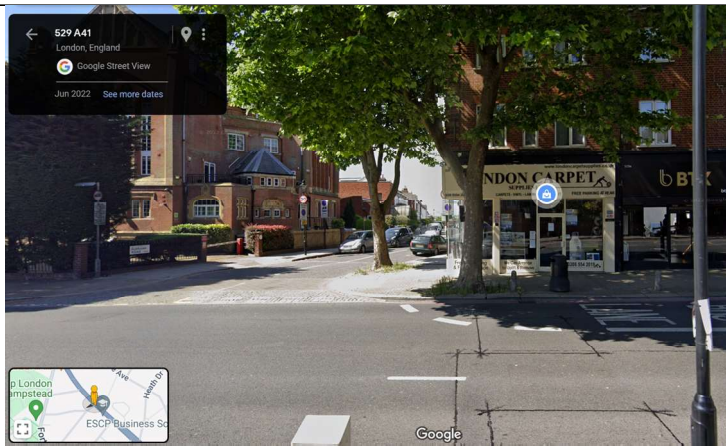
### 2.0 **Assessment under Part 3, Class MA of the GPDO : Compliance with Paragraph MA.1**

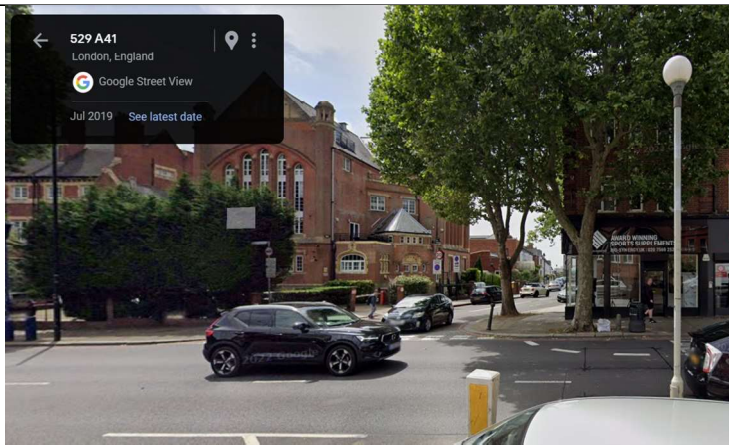
Development is not permitted by Class MA

#### **(a) Omitted from revised GPDO 2021**

#### **(b) Unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;**

Proposal complies: Google Maps images (investigated by the Council) indicate that the premises were in use as a shop (i.e. Class E) in June 2022, August 2021, April 2021, Dec 2020, July 2019.





**(c) Omitted from revised GPDO 2021**

**(d) If land covered by, or within the curtilage of, the building**

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

Proposal complies: The application site does not fall within any of the areas indicated at points to (i) to (v);

**(e) If the building is within:**

- (i) an area of outstanding natural beauty;**
- (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(1);**
- (iii) the Broads;**
- (iv) a National Park; or**
- (v) a World Heritage Site**

Proposal complies: The application site does not fall within any of the areas indicated at points (i) to (v);

**(f) If the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or**

Proposal complies: The site is not occupied under an agricultural tenancy.

**(g) Before 1 August 2022, if :—**

- (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and**
- (ii) The development would not be permitted under class O immediately**

**after 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.**

NOT APPLICABLE: – The application is not made before 1 August 2022

**3.0 Article 3 – Permitted Development of the GPDO – (9A) Schedule 2:**

‘(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse:—

(a) where the gross internal floor area is less than 37 square metres in size; or

(b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015(a)’ This came into force on 6<sup>th</sup> April 2021

Proposal complies: (a) The residential unit would be 53 sq m in area and (b) the layout and room sizes would comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015(a).

**4.0 Compliance with Paragraph MA.2**

The proposal must also comply with the conditions (a) – (i) under MA.2. These are now considered in turn:

**(a) Transport and highways impacts of the development, particularly to ensure safe site access**

4.1. In line with Policy T1 of the Camden Local Plan, cycle parking at developments should be provided in accordance with the London Plan standards. For 1 bedroom 2 person units the requirement is for 1.5 spaces per unit. Whilst no formal cycle parking facilities are shown on the proposed ground floor plan, it is considered that sufficient space exists within the rear courtyard or internally within the 1.8 sqm cupboard to accommodate cycles if required. The requirement for formal cycle parking facilities can be waived in this instance.

4.2. In accordance with Policy T2 of the Camden Local Plan, the new residential unit should be secured as Residents parking permit (car) free by means of a Section 106 Agreement. This will prevent the future occupants from adding to existing on-street parking pressures, traffic congestion and air pollution whilst encouraging the use of more sustainable modes of transport such as walking, cycling and public transport. The site benefits from a rear service yard, accessed from Burrard Road, which could be used for the parking of motor vehicles. It is considered that it would be beneficial in terms of Policy T2 if this car parking space could be removed from the plans by converting the rear service yard back into a garden and access to it provided from the rear of the residential unit.

4.3. As no external alterations are proposed, it is considered unnecessary to secure a Construction Management Plan for this development.

4.4. A highways contribution is not considered necessary for this development

**(b) Contamination risks in relation to the building**

4.5. The previous commercial use (carpet shop) is not a use which would have resulted in site contamination. It is unlikely that there would be noxious substances that will be injurious to future occupiers health or well-being.

**(c) Flooding risks in relation to the building,**

- 4.6. A Flood Risk Assessment has been submitted. This concludes that the site is considered to be at low risk from all sources of flooding. The DEFRA mapping shows a modelled flood depth of up to 150mm on the northern side of the road to the side. This flooding is pooling within the road and is considered not to pose a risk to the site. In addition to not being at undue risk of flooding the premises would provide a ground floor evacuation route (i.e. door) onto Finchley Road in the event of any flood.

**(d) Impacts of noise from commercial premises on the intended occupiers of the development**

- 4.7. The unit is part of a small parade of shops and none of the Class E uses are sources of noise. In addition to this there is no heavy industry or such like in close proximity. Mitigation from external noise would also be secured by way of the Building Regulations.

4.8. **(e) Where:**

**(i) The building is located in a conservation area, and**

**(ii) The development involves a change of use of the whole or part of the ground floor**

- **the impact of that change of use on the character or sustainability of the conservation area;**

NOT APPLICABLE – The building is not located in a Conservation Area

**(f) The provision of adequate natural light in all habitable rooms of the dwellinghouse(s)**

The application drawings show that the bedroom and living room would both have windows within the front (east facing) elevation of the building. While it is quite possible that alterations may be undertaken to these windows (which are shown as 'full height' shop style windows), a suitable front elevation could be formed with appropriate windows to provide sufficient light to both habitable rooms.

**(g) The impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for generally heavy industry, waste management, storage and distribution, or a mix of such uses; and**

The area where the application site lies is not considered to be important for general heavy industry, waste management, storage and distribution, or a mix of such uses. It is not anticipated that any such uses would be likely to impact adversely upon the amenity of the future occupiers.

**(h) Where the development involves loss of services provided by**

**a. A registered nursery, or**

**b. A health centre maintained under section 2 or 3 of the National Health Service Act 2006,**

**c. The impact on the local provision of the type of the service lost.**

- 4.9 The proposed development would not involve loss of a registered nursery or a health centre maintained under section 2 or 3 of the National Health Service Act 2006.

**(i) Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.**

4.10 Due to the size and siting of the proposal, a fire safety statement is not necessary.

## **5.0 CONCLUSION**

5.1 The proposal complies with the criteria in MA.1 of Schedule 2, Part 3. Subject to a S106 legal agreement to prevent future occupiers from obtaining car parking permits, the proposal complies with the conditions in MA.2.

## **6.0 RECOMMENDATION**

6.1 Grant subject to a Section 106 legal agreement.

***The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 19<sup>th</sup> August 2024, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to [www.camden.gov.uk](http://www.camden.gov.uk) and search for 'Members Briefing'.***

Application ref: 2024/2427/P  
Contact: Adam Greenhalgh  
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Date: 8 August 2024

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Broomfield  
Chelmsford  
CM1 7AD

Dear Sir/Madam

## DECISION

In accordance with section 60 (2B) and (2C) of the Town and Country Planning Act 1990 (as amended by section 4(1) of the Growth and Infrastructure Act 2013)

Process set out by condition MA.2 of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)

Certificate of Lawfulness (Proposed) Prior Approval granted

The Council, as local planning authority, hereby confirm that their **prior approval is granted** for the proposed development at the address shown below, as described by the description shown below, and in accordance with the information that the developer provided to the local planning authority:

**Address of the proposed development:**  
**529 Finchley Road**  
**London**  
**NW3 7BG**

### **Description of the proposed development:**

Change of use of ground floor from commercial (Class E) to residential (1 x 1 bed 2 person flat) (Class C3)

### **Details approved by the local planning authority:**

Drawing Nos: 1783-01B Existing plans (incl. ground floor plan), 1783/10 Rev A  
Proposed plans (and elevations)

Flood Risk Assessment and SUDS report (City and Urban - 28/06/2024)

Condition(s):

Informative(s):

- 1 It is a requirement of the above condition that any new dwellinghouse hereby approved shall remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.
- 2 It is a requirement of the above condition that the development must be completed within a period of 3 years starting with the date prior approval is granted.
- 3 This proposal may be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL. Both CILs are collected by Camden Council after a liable scheme has started, and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement. We issue formal CIL liability notices setting out how much you may have to pay once a liable party has been established. CIL payments will be subject to indexation in line with construction costs index. You can visit our planning website at [www.camden.gov.uk/cil](http://www.camden.gov.uk/cil) for more information, including guidance on your liability, charges, how to pay and who to contact for more advice. Camden adopted new CIL rates in October 2020 which can be viewed at the above link.
- 4 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 5 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 6 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at [www.camden.gov.uk](http://www.camden.gov.uk)) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours

Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice in regard to your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Daniel Pope  
Chief Planning Officer

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[www.camden.gov.uk/dmfeedback](http://www.camden.gov.uk/dmfeedback). We will use the information you give us to help improve our services.