

# CLASS MA CHANGE OF USE FROM COMMERCIAL (CLASS E) TO TWO RESIDENTIAL FLATS

7 Mansfield Road, London



**Cedar Planning**

E: [Info@cedarplanning.co.uk](mailto:Info@cedarplanning.co.uk)

W: [www.cedarplanning.co.uk](http://www.cedarplanning.co.uk)



**Resi-Plan Ltd**

E: [enquiry@resi-plan.co.uk](mailto:enquiry@resi-plan.co.uk)

W: [www.resi-plan.com](http://www.resi-plan.com)

## **1. Introduction**

- 1.1 This Planning Statement has been produced by Cedar Planning, in conjunction with Resi-Plan Ltd, to support an application to confirm that the Prior Approval of the Council is not required for the change of use of 7 Mansfield Road, London, NW3 2JD to two residential flats. This Planning Statement should be read in conjunction with the supporting plans and evidence.
- 1.2 7 Mansfield Road is a two-storey end-of-terrace property, which is located to the south of Mansfield Road (B518). It has previously been used for commercial purposes as a toyshop. It is understood that the property benefits from permitted development rights as set out in the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2021.
- 1.3 The site forms part of a small parade of commercial premises at ground floor, and is in an area with a mix of residential, commercial and public service uses. It is located in a highly sustainable location, with Gospel Oak Overground Station located just a short walk away from the site. Other services and facilities include convenience stores, public houses, cafes, schools and employment opportunities located within walking distance of the site. Directly to the west of the site is No. 9 Mansfield Road, which we understand contains 4 x self-contained residential dwellings. A substantial area of open space is located near to the site in the form of Hampstead Heath.
- 1.4 The sustainable location of the site is confirmed by the sites PTAL rating of 4, which is considered to be 'good'.

- 1.5 This application follows a recent refusal by the Council, and further evidence is provided through this Statement and other evidence to demonstrate that the proposal fully complies with the requirements set out in Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2021.

## **2 Proposal**

- 2.1 The proposal seeks to convert the existing commercial premises into two residential flats. At ground floor level, a 1-bedroom residential flat (Class C3) would be provided, with a further 1-bedroom flat to be provided at first floor level. Each habitable room is provided with sufficient natural light.
- 2.2 Space is provided for cycle and bin storage to the side of the property, which is located behind an existing door, screening these uses from the street scene. As demonstrated by the site location plan, the site ownership includes an area at the front of the property, which could provide an alternative space for bicycle/bin storage if deemed necessary. The proposal does not require any external changes to the property.
- 2.3 It is noted that an application was recently refused at the application site. Reason 1 of that refusal is no longer applicable as this application is now made under the premiss of a Prior Approval application under Class MA Permitted Development Rights.
- 2.4 Reason 2 of that refusal has been addressed by the applicant, as the plans have been amended to clearly indicate that the roof lights on the ground floor are existing. Similarly, a roof hatch is located on the roof. This application does not propose to change this into a roof light.
- 2.5 Reason 3 of that refusal relates to a lack of evidence to demonstrate that the premises has been in use within Class E for a continuous period of 2 years. Evidence is provided later on in this report to confirm that the premises has been in continuous use within Class E for a number of years.

### 3 Justification

- 3.1 The application is made under the provisions of Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2021 ('the GDPO').
- 3.2 Various forms of development are permitted under the GDPO, subject to limitations and conditions. One such form of development is the change of use of a property within Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) to dwellinghouses.
- 3.3 In terms of the criteria for Class MA confirms that development is not permitted if:

***a) n/a***

- 3.4 Criterion A of this Permitted Development Right was removed by recent amendments to the GDPO. Therefore, it is no longer relevant to this application.

***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;***

- 3.5 The host property has been used as a toyshop (Kristin Baybars) for a substantial period of time, well in excess of the 2 years required by the GDPO. Information from Business Rates Valuation confirms that the premises has a rateable value for use as a 'shop and premises'. The use of the premises as a toyshop for a number of decades is also well documented in a number of press articles<sup>1</sup>.

- 3.6 The Use Class Order confirms that buildings used “*for the display or retail sale of goods, other than hot food, principally to visiting members of the public*” fall within Class E of the Use Class Order. The sale of toys clearly falls within this definition. As such, the property complies with this criterion, having been in continuous use for a number of decades.

**c) n/a**

- 3.7 Criterion C has recently been removed as a requirement, and as such no longer applies.

**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;**

- 3.8 The Council's Policies Map confirms that the site is not covered by any of the relevant designations above, and that the site is not located within the curtilage of a listed building or scheduled monument.

**(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;**
- (iii) the Broads;**
- (iv) a National Park; or**
- (v) a World Heritage Site;**

- 3.9 The site is not located within any of the above designations.

**(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**

3.10 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 have been permitted under Class O immediately before 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.**

3.11 The application is made after this date, and complies with this criteria.

### **Class MA Conditions**

3.12 As indicated above, the proposal complies with the relevant criteria above, and as such the Prior Approval of the Council is required to consider a number of criteria set out within Class MA of the GDPO. Consideration of these Prior Approval matters is set out below.

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

3.13 As previously stated, the site is located in a highly sustainable location, with a range of sustainable transport modes and services and facilities located within close proximity to the site.

3.14 It is considered that the existing lawful use of the building (Use Class E) would generate a higher volume of vehicular movements when compared to two small residential units.

- 3.15 The proposal would provide ample opportunities for the safe storage of bicycles to the site of the property, which would encourage the uptake of sustainable transport. Furthermore, as illustrated on the site plan, the site ownership includes land to the front of the property, which could be used for the storage of bicycles if necessary. As such, it is considered that the proposal complies with this criterion.

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

- 3.16 The site is not known to be contaminated and given the previous use of the building as a toy shop it is not considered that the proposal would give rise to contamination risks.

***c) Flooding risks in relation to the building;***

- 3.17 The site is located within Flood Zone 1 – the lowest risk of flooding from rivers and the sea.

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

- 3.18 The site is located in an area which contains a mix of residential, commercial and service uses. In this regard, the property adjoins a commercial use, however given its use as a retail store, any noise pollution concerns will be limited. Furthermore, the site is not impacted by any extraction fans or units from any nearby food and drink outlets.
- 3.19 A public house is located a short distance from the site, at the junction of Oak Village and Gordon House Road. It is noted that there are a number of residential uses which are located within a much closer proximity to this application site, therefore the likelihood of noise pollution concerns are low. It is also noted that the property to the west of the site is a residential property, and is understood to have been in residential use for a number of years.



Furthermore, given the urban location in which the site is located, it is considered that the public house would only give rise to a negligible increase in noise.

**(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;**

- 3.20 As confirmed by the Council's Policies Map the site is not located within a Conservation Area. As such, this criteria does not apply to this proposal.

**f) The provision of adequate natural light in all habitable rooms of the dwellinghouses;**

- 3.21 The GDPO defines 'habitable rooms' as: "any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms".
- 3.22 The host property contains a number of sizeable windows, which are to be utilised to provide adequate natural light to all habitable rooms. Rooms where no windows are provided are to be used solely as 'non-habitable rooms' e.g. bathrooms and store rooms. At ground floor level, the property has sizeable windows which will provide a substantial amount of natural light to the front bedroom. An existing rooflight at the property will provide adequate natural light to the living/dining room at the centre of the property.
- 3.23 At first floor level, each individual room will be provided with adequate natural light through appropriately sized windows. As such, it is considered that the proposal complies with this requirement.

**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 general or heavy industry, waste management, storage and distribution, or a mix of such uses;**

- 3.24 The proposal would not introduce a residential use into an area listed above. As such, it complies with this criterion.

**h) where the development involves the loss of services provided by - (i) a registered nursery, or (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost.**

- 3.25 The proposal does not involve the loss of either a registered nursery or health centre.

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

- 3.26 The building is not 18 metres or more in height and does not contain 7 or more storeys. As such, there is not a requirement to meet this criterion.

#### ***'Paragraph W'***

- 3.27 The provisions of Paragraph W require amongst other requirements for developments to meet the Government's minimum space standards. As indicated on the relevant plans, the proposal would provide 2 x 1-bedroom flats of 76sqm and 41sqm. Both of these flats are in excess of the 37sqm minimum required by the space standards.

#### **4 Conclusion**

- 4.1 Having regard to the evidence and justification set out in this Planning Statement and the relevant plans which support this application, it is considered that the proposal conforms with the criteria and conditions of the GDPO. As such, it is respectfully requested that consent is granted for this proposal.
- 4.2 Should the Local Planning Authority require any further information or clarity, we would be happy to assist.